

DEPARTMENT OF TAXATION

2026 Fiscal Impact Statement

1. **Patron** Vivian E. Watts

3. **Committee** House Finance

4. **Title** Corporate Income Tax: Taxable Income; Net Operating Loss.

2. **Bill Number** HB 958

House of Origin:

X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

The bill would create a Virginia corporate income tax net operating loss deduction, beginning in Taxable Year 2027, in an amount equal to the aggregate Virginia net operating losses for such taxable year, plus any transitional net operating loss deduction, pursuant to a calculation in the bill, and subject to certain other adjustments in the bill. A corporation's Virginia taxable income, after all other adjustments, allocation, and apportionment, would be prohibited from being reduced below zero by a Virginia net operating loss deduction.

The bill would also include procedures for corporate income tax returns prepared on a consolidated or a combined basis.

Under current law, Virginia does not have its own net operating loss. Instead, it piggybacks off of the federal net operating loss deduction, with certain required state modifications.

The bill would be effective for taxable years beginning on and after January 1, 2027.

6. **Budget amendment necessary:** No.

7. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department") considers this bill as routine, and does not require additional funding.

Because of the implementation and release schedule for the Integrated Revenue Management System ("IRMS") replacement project, this legislation will not be impacted by such project if enacted during the 2026 Regular Session of the General Assembly. For

more information on the new system implementation releases, see the [2025 Status Report on the Replacement of the Integrated Revenue Management System](#) (IRMS).

Revenue Impact

This bill would have an unknown, likely minimal General Fund revenue impact. Under current law, Virginia reflects net operating loss deductions by starting from federal taxable income, so losses are already recognized for state purposes. This bill would codify a Virginia-specific net operating loss deduction with specific rules, including an 80% cap on NOL use, no reduction below zero of Virginia taxable income, and anti-duplication rules for combined/consolidated filers. Therefore, any impact is expected to be minimal.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Federal NOLs

A net operating loss, or NOL, occurs when a taxpayer's allowable tax deductions are greater than their taxable income for a given year. Generally, after a taxpayer generates an NOL, it is carried forward or back to be used to offset or reduce taxable income in other taxable years. For the year(s) in which such an NOL is utilized, the taxpayer is allowed a net operating loss deduction ("NOLD").

After changes made by the Tax Cuts and Jobs Act of 2017 ("TCJA"), NOLs arising in tax years beginning after December 31, 2017, generally may no longer be carried back but can be carried forward indefinitely, with no expiration. Post-TCJA NOLs are only eligible to offset 80 percent of taxable income in a future period. Pre-TCJA NOL rules remain unchanged, with NOLs eligible to offset 100 percent of taxable income and a general rule that NOLs must be carried back to the two preceding tax years with any excess carried forward for a period of 20 years before they expire if unused.

The Coronavirus Aid, Relief, and Economic Security Act of 2020 ("CARES Act") retroactively restored the NOL carryback by allowing NOLs from 2018, 2019, and 2020 to be carried back up to five years. The CARES Act also temporarily delayed the imposition of the 80 percent limit until after December 31, 2020.

Apportionment

At the state level, multistate taxpayers must divide or "apportion" their income between the various states in which they operate for state income tax purposes. This is referred to as "apportionment," and in Virginia, multistate taxpayers must apportion their income to Virginia based on the amount of payroll, property and sales (double weighted) the taxpayer has in Virginia as compared with the overall totals of these amounts.

Pre vs. Post Apportionment

When determining what portion of a multistate taxpayer's NOL or NOLD should be applied to the taxpayer's state income tax return, states have taken two different approaches:

- The pre-apportionment method—requiring taxpayers to calculate these amounts prior to apportioning their income to the states, and
- The post apportionment method—requiring taxpayers to calculate these amounts after apportioning their income to the state.

Virginia and a minority of other states have adopted the pre-apportionment method, while the majority of states use the post-apportionment method.

Current Law

For each federal provision that Virginia deconforms from, taxpayers are required to make Fixed Date Conformity ("FDC") modifications to their federal taxable income ("FTI") for Virginia income tax purposes. These FDC modifications also are included in Virginia taxpayer's NOL and NOLD calculation.

Virginia conforms to the changes made to the NOL deduction by the TCJA. Virginia continues to deconform from the five-year carryback of certain federal NOL deductions generated in the 2008 or 2009 taxable years. In addition, Virginia continues to deconform from the temporary suspension of certain NOL limitations for Taxable Years 2018, 2019, and 2020 made by the Coronavirus Aid, Relief, and Economic Security ("CARES") Act.

Virginia requires corporations to make certain additions and subtractions, including FDC modifications, to their FTI to calculate their Virginia taxable income ("VTI"). Just as FTI is modified by Virginia additions and subtractions, so federal NOLs are also subject to Virginia modification from the loss year that follow the federal NOL to the year the loss is used. Thus, if the federal NOL is used in a carryback or carryover year, the net amount of these Virginia additions and subtractions will be applied in the same ratio to the applicable year. After all modifications, including the FDC modifications explained below, are applied the taxpayer then multiplies the federal NOLD by the taxpayer's apportionment formula for the year of use to arrive at the amount of the NOLD for Virginia purposes. Under current Virginia law the federal NOLD may be used only to reduce FTI, and a federal NOLD cannot create or increase a NOL.

The impact of FDC modifications on a taxpayer's NOLD is significant, even apart from the potential changes in a taxpayer's apportionment factors from the year of the loss to the year the loss is taken. Taxpayers may be required to make and track multiple FDC adjustments over multiple years for each item of FTI that Virginia has deconformed from for the loss year and each year to which the loss has been carried on their federal returns. Only then can the taxpayer determine the amount of the federal NOLD available for Virginia purposes, to which Virginia modifications (described above) from the loss year must also be applied based on the portion of FTI (modified by FDC) deemed to have been offset by federal NOLD (modified by FDC).

Study Regarding the Treatment of Net Operating Losses in Virginia

Item 257(F) of the 2025 Appropriation Act (House Bill 1600, Chapter 725) required the Department to convene a workgroup to study the treatment of net operating losses (“NOLs”) in Virginia when compared to other states and to make recommendations to simplify such treatment in Virginia. On October 31, 2025, the workgroup filed its [Treatment of Net Operating Losses in Virginia Final Report](#). This legislation was the result of such report.

Proposal

The bill would create a Virginia corporate income tax net operating loss deduction, beginning in Taxable Year 2027, in an amount equal to the aggregate Virginia net operating losses for such taxable year, plus any transitional net operating loss deduction, pursuant to a calculation in the bill, and subject to certain other adjustments in the bill. A corporation's Virginia taxable income, after all other adjustments, allocation, and apportionment, would be prohibited from being reduced below zero by a Virginia net operating loss deduction.

The bill would also include procedures for corporate income tax returns prepared on a consolidated or a combined basis.

Under current law, Virginia does not have its own net operating loss. Instead, it piggybacks off of the federal net operating loss deduction, with certain required state modifications.

This bill would also provide transitional rules.

For purposes of a consolidated Virginia income tax return, the Virginia net operating loss deduction would be computed and applied on a consolidated basis.

For purposes of a combined Virginia income tax return, each corporation named therein would compute and apply the Virginia net operating loss deduction on a separate basis. To the extent that one affiliate's current loss offsets another affiliate's current income on a combined Virginia income tax return, such loss would not be carried forward and deducted in subsequent taxable years.

The Department would be required to develop guidelines, exempt from the Administrative Process Act, for implementing these changes to NOLs.

The bill would be effective for taxable years beginning on and after January 1, 2027.

cc : Secretary of Finance

Date: 02/01/2026 JLOF
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