



News Release

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Deadlines Near for Business to Choose Expanded NOL Election; Sept. 15 for Many Corporations, Oct. 15 for Individuals

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WASHINGTON — Eligible taxpayers must act soon if they want to take advantage of the expanded business loss carryback option included in this year's Recovery law. According to the Internal Revenue Service, eligible calendar-year corporations have until Sept. 15, and eligible individuals have until Oct. 15 to choose this special option.

This carryback provision offers small businesses that lost money in 2008 an excellent way to quickly get some much needed cash if they were profitable in previous years. This option is only available for a limited time, so small businesses should consider it carefully and act before it's too late.

Under the American Recovery and Reinvestment Act (ARRA), enacted in February, many small businesses that had expenses exceeding their income for 2008 can choose to carry the resulting loss back for up to five years, instead of the usual two. This means that a business that had a net operating loss (NOL) in 2008 could carry that loss as far back as tax-year 2003, rather than the usual 2006. Not only could this mean a special tax refund, but the refund could be larger, because the loss is being spread over as many as five tax years, rather than just two.

This option may be particularly helpful to any eligible small business with a large loss in 2008. A small business that chooses this option can benefit by:

- Offsetting the loss against income earned in up to five prior tax years,
- Getting a refund of taxes paid up to five years ago,
- Using up part or all of the loss now, rather than waiting to claim it on future tax returns.

Under ARRA, eligible taxpayers can choose to carry back a NOL arising in a taxable year beginning or ending in 2008 for three, four or five years instead of two. Eligible taxpayers are eligible small businesses (ESB) that have no more than an average of \$15 million in gross receipts over a three-year period ending with the tax year of the NOL. This includes a sole proprietor that qualifies as an ESB, an individual partner in a partnership that qualifies as an ESB and a shareholder in an S corporation that qualifies as an ESB. This choice may be made for only one tax year.

Taxpayers must choose this special carryback by either:

- Attaching a statement to an income tax return for the tax year that begins or ends in 2008 or,
- Claiming a refund on Form 1045, Application for Tentative Refund or Form 1139, Corporation Application for Tentative Refund, or on an amended return for the tax year to which the NOL is being carried back.

Most taxpayers still have time to choose the special carryback and get a refund. A calendar-year corporation that qualifies as an ESB must make this choice by Sept. 15, 2009. For individuals, the deadline is Oct. 15, 2009. Deadlines vary for fiscal-year taxpayers, depending upon when their fiscal year ends and whether they are making the choice for the tax year that ends or begins in 2008.

A calendar-year taxpayer that chooses the special carryback by attaching a statement to the income tax return has until December 31, 2009, to claim the refund on Form 1045 or 1139, or 3 years after the due date (including extensions) for filing the 2008 income tax return to claim a refund on an amended return.

These forms, along with answers to frequently-asked questions about this special carryback, and other details can be found on IRS.gov.