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Subject: Section 168(k)(4) and ATNOL carryback

As promised, here is a summary why a recomputation of the minimum tax credit carryover is required if a taxpayer carries back an ATNOL:

The **minimum tax credit** for any taxable year is the **adjusted net minimum tax** imposed for prior years (less the amount of minimum tax credit used in prior years). Section 53(b).

In the case of a corporation (the taxpayer in this case), the **adjusted net minimum tax** for any taxable year is the amount of **net minimum tax** for the year. Section 53(d)(1)(iii)(II).

The **net minimum tax** means the tax imposed by section 55 (the "AMT"). Section 53(d)(1)(A).

The AMT is the excess of the **tentative minimum tax** for the taxable year, over the regular tax for the year. Section 55(a). The tentative minimum tax is a percentage of so much of a taxpayer's **alternative minimum taxable income (AMTI)** as exceeds an exemption amount. Section 55(b). AMTI is taxable income of a taxpayer for the taxable year, determined with the adjustments and preferences described in sections 56, 57, and 58. Section 55(b)(2).

Among the adjustments listed in section 56 used in computing AMTI is the adjustment under section 56(a)(4) for the **alternative tax net operating loss deduction (ATNOL deduction)**. The ATNOL deduction is allowed in computing AMTI in lieu of the net operating loss deduction allowed under section 172. The ATNOL deduction is defined in section 56(d) as the NOL deduction allowable under section 172 with certain adjustments.

Section 172(a) allows an **NOL deduction** in computing taxable income for the taxable year. The NOL deduction includes **NOL carrybacks** to such taxable year.

There's nothing in the AMT provisions that treats the effect of an ATNOL deduction in computing AMTI any different than the effect of an NOL deduction in computing taxable income. In other words, the ATNOL deduction (including an ATNOL carryback) reduces AMTI.

The AMT liability is based on a percentage of a taxpayer's AMTI (through the tentative minimum tax). Consequently, anything that reduces AMTI (such as an ATNOL deduction) will reduce a taxpayer's AMT. A reduction in a taxpayer's AMT will also be a reduction of the taxpayer's adjusted net minimum tax, which determines the amount of a taxpayer's minimum tax credit.

Consequently, an ATNOL carryback to a prior taxable year can reduce AMT imposed in that prior year and, as a result, the amount of minimum tax credit available for use by the taxpayer in a later year.-