

IRS Clarifies Extended Carry Back of Net Operating Losses

AUGUST 2010

Worker, Homeownership, and Business Assistance Act of 2009 allows taxpayers to carry back applicable net operating losses for a period of 3, 4 or 5 years



Building Trusting and Long-lasting Relationships Through Experience, Intelligent Problem Solving and a Passion for the Possible.

On November 6, 2009, Congress passed legislation allowing taxpayers to elect a greater carry back period for net operating losses (“NOLs”) generated in tax years 2008 or 2009. The original carry back period of two years was extended to allow taxpayers to recover taxes paid three, four or five years prior to the year of loss.

Applicable net operating losses are losses generated in a taxable year ending after December 31, 2007 and beginning before January 1, 2010. For fiscal year taxpayers, this may include tax years ending during 2010.

In addition to extending the NOL carry back period, the Act also removed the 90% limitation on the use of Alternative Minimum Tax NOLs for which the election has been made. Based on a recent IRS notice, taxpayers who have NOLs in the extended carry back years should consider making this election to remove the 90% limitation and thereby allow use of 100% of the applicable NOL in years after the loss was generated.

To benefit from this notice, an election under Section 172(b)(1)(H) must be made by the due date (including extensions) for filing the return for the taxpayer’s year beginning in 2009. For calendar year taxpayers the extended due date for making the election and filing the return is September 15, 2010.

Please contact a member of the TPC team for assistance in making this time sensitive election.

Managing Director
Larry Salus
312.235.3319

Lawrence.Salus@TPCtax.com

Managing Director
Susan Alexander
312.235.3320

Susan.Alexander@TPCtax.com

We are required by regulation to inform you that any tax advice contained in this communication (or in any attachment) is not intended or written to be used, and cannot be used by any taxpayer, for the purpose of: (i) avoiding U.S. federal, state, or local tax penalties or (ii) promoting, marketing, or recommending to another party any transaction or matter addressed in this communication (or any attachment).

For more information on True Partners Consulting please go to www.TPCtax.com