



2008 Montana Net Operating Loss

15-30-117, MCA and 42.15.318, ARM
 For tax year January 1 - December 31, 2008
 Fiscal tax year beginning _____, 2008, ending _____, 20__

Schedule A

1. Enter the amount from your 2008 Montana Form 2, line 43. (Estates and trusts, enter taxable income increased by the total of the charitable deduction, income distribution deduction, and exemption amount.)	1.		
2. Enter non-business capital losses before limitation as a positive number.	2.		
3. Enter non-business capital gains (without regard to any section 1202 exclusion.)	3.		
4. If line 2 is more than line 3, enter the difference; otherwise, enter zero.	4.		
5. If line 3 is more than line 2, enter the difference; otherwise, enter zero.	5.		
6. Enter non-business deductions. See instructions.	6.		
7. Enter non-business income other than capital gains. See instructions.	7.		
8. Add lines 5 and 7 and enter the result here.	8.		
9. If line 6 is more than line 8, enter the difference; otherwise, enter zero.	9.		
10. If line 8 is more than line 6, enter the difference; otherwise, enter zero. Do not enter more than the amount on line 5.	10.		
11. Enter business capital losses before limitation as a positive number.	11.		
12. Enter business capital gains (without regard to any section 1202 exclusion)	12.		
13. Add lines 10 and 12 and enter the result here.	13.		
14. Subtract line 13 from line 11 and enter the result. If zero or less, enter zero.	14.		
15. Add lines 4 and 14 and enter the result here.	15.		
16. Enter the loss, if any, from line 16 of Schedule D (Form 1040). Estates and trusts, enter the loss, if any, from line 15, column (3), of Schedule D (Form 1041). Enter as a positive number. If there is no loss on that line (and no section 1202 exclusion), skip lines 16 through 21 and enter on line 22 the amount from line 15.	16.		
17. Enter section 1202 exclusion as a positive number.	17.		
18. Subtract line 17 from line 16 and enter the result. If zero or less, enter zero.	18.		
19. Enter the loss, if any, from line 21 of Schedule D (Form 1040). Estates and trusts, enter the loss, if any, from line 16 of Schedule D (Form 1041). Enter as a positive number.	19.		
20. If line 18 is more than line 19, enter the difference; otherwise, enter zero.	20.		
21. If line 19 is more than line 18, enter the difference; otherwise, enter zero.	21.		
22. Subtract line 20 from line 15 and enter the result. If zero or less, enter zero.	22.		
23. Domestic production activities deduction from Form 2, line 35 or included on Form FID-3, line 31.....	23.		
24. Enter NOL deduction for losses from other years as a positive number.	24.		
25. NOL. Combine lines 1, 9, 17, 21 through 24. If the result is less than zero, enter it here and on Form NOL, top of page 2, Schedule B. If the result is zero or more, you do not have an NOL.	25.		

Carryback Election

Check here if you elect to forgo the carryback of a 2008 NOL. This election has to be made by the due date (including extension) for filing your 2008 income tax return.

If you are a farmer, indicate here the carryback period you are claiming.

Example: 5 year carryback.

If you have a loss from an Eligible Small Business, indicate the carryback period you are electing. (2008 only - see instructions)

NOL Carryover - Schedule B

This application is filed to carry back:	Enter net operating loss (Schedule A, Line 25) \$ _____	This is for the calendar year _____, or other tax year beginning _____, 2008, ending _____, 20____
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Complete one column before going to the next column. You start with the earliest carryback year.	_____ preceding tax year ending _____	_____ preceding tax year ending _____	_____ preceding tax year ending _____
1. Enter NOL deduction as a positive number (see instructions).			
2. Enter Montana taxable income before 2008 NOL carryback (see instructions). Estates and trusts, increase this amount by the sum of the charitable deduction and income distribution deduction.			
3. Enter net capital loss deduction (see instructions).			
4. Enter section 1202 exclusion as a positive number.			
5. Domestic production activities deduction.			
6. Enter adjustment to Montana adjusted gross income (see instructions).			
7. Enter adjustment to Montana itemized deductions (see instructions).			
8. Individuals, enter deduction for exemptions. Estates and trusts, enter exemption amount.			
9. Modified taxable income. Add lines 2 through 8. If the result is zero or less, enter zero.			
10. Subtract line 9 from line 1 and enter result. If the result is zero or less, enter zero. This is your NOL carryover (see instructions).			
Adjustments to Itemized Deductions (Individuals Only)			
Complete lines 11 through 38 for the carryback year(s) for which you itemized deductions.			
11. Enter Montana adjusted gross income before 2008 NOL carryback.			
12. Add lines 3 through 6 above and enter result.			
13. Modified adjusted gross income. Add lines 11 and 12 and enter result.			
14. Enter medical expenses from Form 2, Schedule III after 7.5% adjustment (or as previously adjusted). Do not include medical or long-term care insurance premium payments.			
15. Enter medical expenses from Form 2, Schedule III before 7.5% adjustment (or as previously adjusted). Do not include medical or long-term care insurance premium payments.			
16. Multiply line 13 by 7.5% (0.075) and enter result.			
17. Subtract line 16 from line 15 and enter result. If the result is zero or less, enter zero.			
18. Subtract line 17 from line 14 and enter result.			
19. Qualified mortgage insurance premiums from Form 2, Schedule III (or as previously adjusted)			
20. Refigured qualified mortgage insurance premiums (see instructions)			
21. Subtract line 20 from line 19			

NOL Carryover - Schedule B (continued)

Complete one column before going to the next column. You start with the earliest carryback year.	_____ preceding tax year ending _____	_____ preceding tax year ending _____	_____ preceding tax year ending _____	_____ preceding tax year ending _____	_____ preceding tax year ending _____
22. Enter modified adjusted gross income from line 13 on Schedule B, page 2.					
23. Enter as a positive number any NOL carryback from a year before 2008 that was deducted to figure line 11 on Schedule B, page 2.					
24. Add lines 22 and 23 and enter the result.					
25. Enter charitable contributions from Form 2, Schedule III, lines 17, 18 and 19 (or as previously adjusted).					
26. Enter refigured charitable contributions (see instructions).					
27. Subtract line 26 from line 25 and enter the result.					
28. Enter casualty and theft losses from Form 4684, line 18 (or as previously adjusted).					
29. Enter casualty and theft losses from Form 4684, line 16 (or as previously adjusted).					
30. Multiply line 22 by 10% (0.10) and enter the result.					
31. Subtract line 30 from line 29 and enter result. If zero or less, enter zero.					
32. Subtract line 31 from line 28 and enter the result.					
33. Enter miscellaneous itemized deductions from Form 2, Schedule III after 2% adjustment (or as previously adjusted).					
34. Enter miscellaneous itemized deductions from Form 2, Schedule III before 2% adjustment (or as previously adjusted).					
35. Multiply line 22 by 2% (0.02) and enter the result.					
36. Subtract line 35 from line 34 and enter the result. If zero or less, enter zero.					
37. Subtract line 36 from line 33 and enter the result.					
38. Complete the itemized deductions limitation worksheet included in the instructions for Form NOL if line 22 is more than the applicable amount shown below.					
• \$132,950 for 2001 (\$66,475 if married filing separately).					
• \$137,300 for 2002 (\$68,650 if married filing separately).					
• \$139,500 for 2003 (\$69,750 if married filing separately).					
• \$142,700 for 2004 (\$71,350 if married filing separately).					
• \$145,950 for 2005 (\$72,975 if married filing separately).					
• \$150,500 for 2006 (\$75,250 if married filing separately).					
• \$156,400 for 2007 (\$78,200 if married filing separately).					
If the itemized deductions limitation is not applicable, combine lines 18, 21, 27, 32 and 37; enter the results here and on line 7 (page 2)					

2008 Montana Form NOL Instructions

Reference: 15-30-117, MCA and 42.15.318, ARM

What's New?

Election for eligible small business carryback. An eligible small business (ESB) can elect a 3, 4, or 5-year carryback period for the part of its 2008 NOL that is an eligible small business loss. Montana conforms to the federal rules for these loss carrybacks. To make this election, fill out the box on Schedule A of Form NOL. Once made, the election is irrevocable. See page 2 of these instructions for more information.

Deduction for mortgage insurance premiums refigured. If you deducted mortgage insurance premiums in 2007 and you are carrying back an NOL to that year, you may have to refigure your deduction using modified adjusted gross income (Form NOL, Schedule B, line 13) instead of adjusted gross income.

Introduction

You may have a Montana net operating loss (NOL) if your deductions for the year are more than your income for the year. Your NOL year is the year that an NOL occurs. Your NOL is either carried back or carried forward and deducted from your income in another year or years.

To have an NOL, your loss has to generally be caused by deductions from your:

- trade or business,
- work as an employee,
- casualty and theft losses,
- moving expenses, or
- rental property.

A loss from operating a business is the most common reason for an NOL.

Non-Resident, Part-year Resident and Composite Tax Return Participants

As a non-resident or a part-year resident, you cannot create a Montana net operating loss when your Montana source income (loss) that you reported on Montana Form 2, Schedule IV, line 16, is a loss. When calculating your net operating loss as a non-resident or a part-year resident you have to include in your calculation both your Montana and non-Montana source income that is included on Form 2, line 43.

If you are participating in a composite return filed by your partnership or S corporation, you cannot create a Montana net operating loss because your partnership or S corporation reported a Montana loss on the composite return. In order for you to generate a Montana net operating loss as a participating partner or shareholder, you have to file a Montana Form 2 reporting your total Montana and non-Montana source income.

How to Figure an NOL

There are rules that limit what you can deduct when figuring your NOL. In general, you are not allowed to include the following items in determining your NOL:

- any deduction for personal exemptions,
- capital losses in excess of capital gains,
- the section 1202 exclusion of 50% of the gain from the sale or exchange of qualified small business stock,
- nonbusiness deductions in excess of nonbusiness income,
- the domestic production activities deduction, or
- net operating loss deduction.

If your marital or filing status has changed, the federal rules and instructions applicable to these changes in filing status apply when computing your NOL, the carrybacks and carryforwards and the refund limits.

If you are a non-resident who owns a business that operates both in and outside of Montana, you have to follow the division of income provisions of the Multistate Tax Compact and the principles of allocation and apportionment to determine the amount of your business-wide loss that is attributable to Montana.

Schedule A

Use Form NOL, Schedule A to figure your NOL.

Line 1. Enter the amount from your 2008 Montana Form 2 line 43. If this is a negative amount, you may have an NOL.

Line 6 – Nonbusiness deductions. Enter on line 6 your deductions that are not related to your trade or business or your employment. Examples of these deductions are:

- alimony,
- contributions to an IRA or other self-employed retirement plan,
- itemized deductions (except for casualty and theft losses and any employee business expenses), and
- the standard deduction (if you do not itemize your deductions).

Do not enter your business deductions that are related to your trade or business on line 6. Examples of these deductions are:

- federal income tax paid on business profits,
- moving expenses,
- the deduction of one-half of your self-employment tax or your deduction for self-employed health insurance,
- rental losses,
- loss on the sale or exchange of business real estate or depreciable property,

- your share of a business loss from a partnership or S corporation,
- ordinary loss on the sale or exchange of stock in a small business corporation or a small business investment company,
- casualty and theft losses (even if they involve nonbusiness property) and employee business expenses (such as union dues, uniforms, tools, education expenses, and travel and transportation expenses) when you itemized your deductions,
- loss on the sale of an accounts receivable (if you use an accrual method of accounting),
- interest and litigation expenses on state and federal income taxes related to your business, and
- unrecovered investment in a pension or annuity claimed on a decedent's final return.

When determining the portion of deductible expenses attributable to income from your trade or business, the expenses have to be multiplied by the ratio of your net income from the trade or business to your Montana adjusted gross income.

When determining the portion of federal tax attributable to income from your trade or business, the federal tax has to be multiplied by the ratio of your net business income to your Montana adjusted gross income for the year the federal tax was incurred.

Line 7 – Nonbusiness Income. Enter on line 7 only your income that is not related to your trade or business or your employment. For example, enter your annuity income, dividends, and interest on investments. Also, include your share of nonbusiness income from your partnerships and S corporations. Do not include on line 7 the income you received from your trade or business or your employment. This includes your salaries and wages, self-employment income, and your share of business income from partnerships and S corporations. Also, do not include your rental income or ordinary gain from the sale or other disposition of business real estate or depreciable business property.

Line 17 – Adjustment for Section 1202 Exclusion. Enter on line 17 any gain you excluded under section 1202 on the sale or exchange of qualified small business stock.

Line 19 through Line 22 – Adjustments for Capital Losses. Your amount deductible for capital losses is limited based on whether these losses are business capital losses or nonbusiness capital losses.

Nonbusiness capital losses. You can deduct your nonbusiness capital losses (line 2) up to only the amount of your nonbusiness capital gains without taking into account any section 1202 exclusion (line 3). If your nonbusiness capital losses are more than your nonbusiness capital gains without taking into account any section 1202 exclusion, you cannot deduct the excess.

Business capital losses. You can deduct your business capital losses (line 11) up to only the total of:

- your nonbusiness capital gains that are more than the total of your nonbusiness capital losses and excess nonbusiness deductions (line 10), and
- your total business capital gains without regard to any section 1202 exclusion (line 12).

Line 23 – NOL's from other years. You cannot deduct any of your NOL carryovers or carrybacks from other years. Enter the total amount of your NOL deduction for losses from other years.

When to Use Your NOL

Generally, if you have an NOL for a tax year ending in 2008, you have to carry back the entire amount of the NOL to the two tax years before your NOL year (this is called the carryback period), and then carry forward any of your remaining NOL for up to 20 years after your NOL year (this is called the carryforward period). However, you can choose not to carry back your NOL and only carry it forward. You cannot deduct any part of your NOL that remains after the 20-year carryforward period.

NOL year. This is the year in which your NOL occurred.

Exceptions to Two-Year Carryback Rule

You can qualify for a longer carryback period if you have eligible losses or farming losses.

Eligible loss. The carryback period for eligible losses is three years. You have an eligible loss if any part of your NOL is:

- from a casualty or theft, or
- attributable to a presidentially declared disaster for a qualified small business.

Qualified Small Business. You have a qualified small business if you are a sole proprietorship or a partnership that has average annual gross receipts (reduced by returns and allowances) of \$5 million or less during a three-year period ending with the tax year of your NOL. If your business did not exist for the entire three-year period, use the period your business was in existence.

Eligible Small Business (ESB) Loss. An ESB is a small business as defined in section 172(b)(1)(F)(iii), except that the average annual gross receipts can be up to \$15 million. If you have a qualifying loss, you can elect to carryback the loss for 3, 4 or 5 years, instead of 2 years. If you filed your return on time without making the election, you can still make the election on an amended return filed by November 30, 2009. Once you make the election, it is irrevocable. If you are electing to use a 3, 4, or 5 year carryback, you need to file an amended Form 2 for the earliest year of the carryback. Please attach a statement to the amended return stating that you are taking the ESB election.

Farm Loss. When you have a farm loss, your carryback period is five years. Your farming loss is the smaller of:

- the amount that would be the NOL for the tax year if only the income and deductions attributable to your farming businesses were taken into account, or
- the NOL for the tax year.

Farming Business. You have a farming business if your trade or business is involved with the:

- cultivation of land,
- raising or harvesting or any agricultural or horticultural commodity,
- operating a nursery or sod farm,
- raising or harvesting a tree bearing fruit, nuts, or other crops, or ornamental trees.
- the raising, shearing, feeding, caring for, training and management of animals is also considered a farming business.

You do not have a farming business if:

- you perform contract harvesting,
- someone else grows or raises an agricultural or horticultural commodity for you, or
- you merely buy or sell plants or animals grown or raised by someone else.

Waiving the Five-year Carryback

You can choose to treat a farming loss as if it were not a farming loss. If you make this choice, your carryback period will be two years. To make this choice, indicate the carryback years in the box provided for you on Schedule A before the due date (including extensions). Once you waive the five-year carryback, you cannot revoke it. If you choose not to carryback any of your farming loss, check the appropriate box on Schedule A that states that you are electing to forgo the carryback, and carryforward your farming loss.

Waiving the Carryback Period

You can choose not to carryback your NOL. If you make this choice, then you can use your NOL only during the 20-year carryforward period. If you want to make this choice, check the box on Schedule A, electing to forgo the carryback of your NOL. This election has to be made by the due date (including extension of time) for filing your tax return for the tax year of your NOL. Once you elect to waive the carryback period, you cannot revoke it. If you choose to waive the carryback period for more than one NOL, you have to make a separate election for each of your NOL years.

Schedule B

You will have to complete and file Schedule B to determine your NOL deduction for each carryback year and the amount that will be carried forward, if it has not already been fully absorbed.

If your NOL is more than your Montana modified taxable income for the earliest year that it is carried to, you will have to file Schedule B to figure the amount of your NOL that will be carried to the next tax year. The amount of your carryover is the excess, if any, of your NOL carryback over your modified taxable income for that earlier year. Your Montana modified taxable income is the amount figured on line 9 of Form NOL, Schedule B.

If you carry two or more NOLs to a tax year, figure your modified taxable income by deducting the NOLs in the order that they were incurred.

Line 1 – Enter the amount shown on Form NOL, Schedule A to the appropriate carryback year. See “When to Use an NOL” discussion above to determine your carryback year.

If your NOL is not fully absorbed in a year that it is carried to, complete Schedule B to figure the amount of your NOL carryover to the next year.

Line 2 – Do not take into account on this line any NOL carryback or carryforward.

Line 3 – Net Capital Loss Deduction

Individuals. Enter as a positive number the amount, if any, shown (or as previously adjusted) on Schedule D (Form 1040). If you are married filing separately for Montana, include the capital loss limitation adjustment in calculating your Montana adjusted gross income.

Estates and trusts. Enter as a positive number the amount, if any, shown (or as previously adjusted) on Schedule D (Form 1041).

Line 4 – Section 1202 Exclusion. Enter as a positive number any gain that you excluded under section 1202 on the sale or exchange of qualified small business stock.

Line 6 – Adjustments to Montana Adjusted Gross Income. If you entered an amount on lines 3, 4 or 5, you have to refigure certain income and deductions based on your Montana adjusted gross income.

These include:

- the special allowance for passive activity losses from rental real estate activities,
- IRA deductions,
- student loan interest deduction,
- tuition and fees deduction,
- Montana taxable social security benefits, and
- excludable savings bond interest.

Note: Legislation passed by the 2007 Montana Legislature allows taxpayers who are married but filing separate returns to report the same amount on their state return as their federal return. Therefore, if your NOL was generated in 2007, you are not required to make adjustments for items (a) through (d) above.

For purposes of figuring your adjustment to each of these items, your Montana adjusted gross income is increased by the total of the amounts on lines 3, 4 and 5.

Line 7 – Adjustment to Itemized Deductions.

Individuals. Skip this line if, for the applicable carryback year:

- you did not itemize deductions, or
- the amounts on Schedule B, lines 3, 4 and 5, are zero.

Otherwise, complete lines 11 through 38 and enter on line 7 the amount from line 38 (or, if applicable, line 14 of the itemized deduction worksheet located at the end of these instructions).

Line 10 – NOL Carryover. After completing all applicable columns, carry forward to 2009 the amount, if any, on line 10 of the column for the first preceding tax year.

Line 20 – Refigured Qualified Mortgage Insurance Premiums. If line 13 on Schedule B is more than \$100,000 complete the deduction worksheet below. If line 13 is \$100,000 or less, you do not need to complete the

worksheet. Instead, enter the amount from line 19 on line 20 and enter \$0 on line 21.

Qualified Mortgage Insurance Premiums Deduction Worksheet - Line 20

1. Enter the total premiums you paid in 2007 for qualified mortgage insurance for a contract issued after December 31, 2006.1. _____
2. Enter the amount from Form NOL Schedule B, line 13.2. _____
3. Enter \$100,000.3. _____
4. Is the amount on line 2 more than the amount on line 3?
 No. Your deduction is not limited. Enter the amount from line 19 on line 20 of Form NOL Schedule B, and enter -0- on line 21. **Do not** complete the rest of this worksheet.
 Yes. Subtract line 3 from line 2. If the result is not a multiple of \$1,000, increase it to the next multiple of \$1,000. For example, increase \$425 to \$1,000, increase \$2,025 to \$3,000, etc.4. _____
5. Divide line 4 by \$10,000. Enter the result as a decimal. If the result is 1.0 or more, enter 1.0.5. _____
6. Multiply line 1 by line 5.6. _____
7. **Refigured qualified mortgage insurance premiums deduction.** Subtract line 6 from line 1. Enter the result here and on Form NOL Schedule B, line 20.....7. _____

Line 26 – Refigured Charitable Contributions. Refigure your charitable contributions using line 24 as your adjusted gross income unless, for any preceding tax year:

- you entered an amount other than zero on line 23, and
- you had any items of income or deductions based on adjusted gross income that are listed in the instructions for line 6 of Schedule B above.

Line 38 – Complete the following worksheet if on line 22, Schedule B is more than:

- \$132,950 for 2001 (\$66,475 if married filing separately)
- \$137,300 for 2002 (\$68,650 if married filing separately)
- \$139,500 for 2003 (\$69,750 if married filing separately)
- \$142,700 for 2004 (\$71,350 if married filing separately)
- \$145,950 for 2005 (\$72,975 if married filing separately)
- \$150,500 for 2006 (\$75,250 if married filing separately)
- \$156,400 for 2007 (\$78,200 if married filing separately)

Schedule C

Use Schedule C, Form NOL to summarize your NOL absorption.

NOL Generated. Enter the amount of your NOL generated as reported on Schedule A, line 25.

NOL Absorbed. Enter the amount of your NOL absorbed as reported on Schedule B, line 8.

NOL Balance. Remaining balance of your NOL to be applied to your next carryover period.

If you have questions, please call us toll free at (866) 859-2254 (in Helena, 444-6900).

Itemized Deductions Limitation Worksheet

Enter applicable carryover year (Example: 2004) →				
1. Add the amounts from Form NOL, Schedule B, lines 17, 20, 26, 31 and 36 and the corresponding amounts from Form 2: <ul style="list-style-type: none"> • Medical and long term care insurance premiums, • Federal taxes, real estate, motor vehicle, other taxes, • Home mortgage and investment interest, • Child and Dependent Care Expense, Form 2441-M • Gambling losses. 				
2. Add the amounts from Form NOL, Schedule B, lines 17 and 31 and the corresponding amounts from Form 2: <ul style="list-style-type: none"> • Medical and long term care insurance premiums, • Federal income taxes, • Investment interest, • Child and Dependent Care Expense, Form 2441-M, • Gambling losses. 				
3. Subtract line 2 from line 1 and enter the result. If the result is zero or less, stop here; combine the amounts from Form NOL, Schedule B, lines 18, 21, 27, 32 and 37, and enter the result on line 38 and on line 7 of Form NOL, Schedule B.				
4. Multiply line 3 by 80% (0.80) and enter the result.				
5. Enter the amount from Form NOL, Schedule B, line 22.				
6. Enter the applicable amount: <ul style="list-style-type: none"> • \$132,950 for 2001 (\$66,475 if married filing separately). • \$137,300 for 2002 (\$68,650 if married filing separately). • \$139,500 for 2003 (\$69,750 if married filing separately). • \$142,700 for 2004 (\$71,350 if married filing separately). • \$145,950 for 2005 (\$72,975 if married filing separately). • \$150,500 for 2006 (\$75,250 if married filing separately). • \$156,400 for 2007 (\$78,200 if married filing separately). 				
7. Subtract line 6 from line 5 and enter the result.				
8. Multiply line 7 by 3% (0.03) and enter the result.				
9. Enter the smaller of line 4 or line 8.				
10. Is the applicable carryback year 2006 or 2007? <input type="checkbox"/> No. Skip lines 10 and 11, go to line 12. <input type="checkbox"/> Yes. Divide line 9 by 3.0.				
11. Subtract line 10 from line 9.				
12. Is the applicable carryback year 2006 or 2007? <input type="checkbox"/> No. Subtract line 9 from line 1. <input type="checkbox"/> Yes. Subtract line 11 from line 1.				
13. Enter the total of itemized deductions from Form 2 as originally computed.				
14. Subtract line 12 from line 13. Enter the difference here and on line 7 of Form NOL Schedule B.				