



Note: The NOL addition modification code has been changed for tax years after 2013; click to see page 12.

## Publication 145

# Net Operating Losses (NOLs) For New York State Resident Individuals, Estates, And Trusts

**Note:** A Publication is an informational document that addresses a particular topic of interest to taxpayers. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information contained in a publication. Publications are updated regularly and are accurate on the date issued. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.

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## Section I. General information

This publication is a guide for full-year New York State residents who have a net operating loss (NOL) for federal income tax purposes. The information in this publication does not apply to taxpayers who are nonresidents or part-year residents of New York State in the federal loss year or in a carryback or carryforward year (except when indicated in [Form IT-203-I, Instructions for Form IT-203](#)).

For federal information, see federal [Publication 536, Net Operating Losses \(NOLs\) for Individuals, Estates, and Trusts](#).

### Definitions

A *net operating loss* (NOL) is the amount by which certain deductions exceed your gross income on your federal income tax return for the tax year.

*NOL year* means the year in which your net operating loss occurs.

*NOL deduction* is the amount of NOL that you are allowed to deduct.

### NOL for federal income tax purposes

If your federal adjusted gross income (individuals) or federal taxable income (estates or trusts) is less than zero (a loss) for a tax year, you may have an NOL. However, there are rules that limit what you can deduct when determining if your loss is an NOL. Therefore, to determine if your loss is an NOL and to compute the amount of your federal NOL deduction, you **must** complete federal [Form 1045, Application for Tentative Refund](#).

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

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

You can use an NOL by deducting it from your federal income in another tax year or years. However, special computation rules and limitations apply when deducting an NOL in another tax year.

Partnerships and S corporations generally cannot use an NOL. However, if you are a partner in a partnership or a shareholder in an S corporation, you

can use your separate share of the partnership or S corporation business income and business deductions to compute an individual NOL.

### **Federal carryback and carryforward rules**

Generally, you must carry back the entire amount of your NOL (as computed on Form 1045, Schedule A) to the 2 years before the NOL year (the carryback period), and then carry over any remaining NOL up to 20 years after the NOL year (the carryforward period). However, you can choose to waive the carryback option and only carry the NOL forward. (For exceptions to the 2-year carryback rule, see federal Publication 536.)

General rules when claiming an NOL for federal income tax purposes:

- If your NOL is more than your federal taxable income for the year you carry it to, you may have an NOL carryover.
- If you carry the NOL back to an earlier year, your NOL deduction for the next succeeding tax year is the carried back NOL amount minus the NOL deduction you use in that earlier year. (See federal Form 1045, Schedule B, *NOL Carryover*.)
- If you have an NOL amount to carry over from the current tax year to the next tax year, compute the amount of federal NOL to carry forward using the worksheet in the current tax year's federal Publication 536.

### **NOL for New York State income tax purposes**

Your federal NOL is used to determine the amount of the NOL deduction, if any, that is allowed on your New York return. Therefore, if you are a resident and you do not have an NOL for federal income tax purposes, you cannot have an NOL deduction for New York State income tax purposes.

For New York State income tax purposes, your NOL deduction for a carryback or carryforward year is limited to the lesser of your:

- federal NOL deduction for that year, **or**
- federal taxable income for that year (computed without the NOL deduction).

**Note:** No New York addition or subtraction modifications to federal adjusted gross income or itemized deductions are considered when computing the amount of NOL deduction allowed for New York State income tax purposes, even if a modification is directly related to the item that generated the loss. Therefore, it is possible for you to owe New York income tax in the carryback or carryforward year even though you do not owe any federal income tax for that year. It is also possible to compute a negative New York taxable income. However, a negative New York taxable income does not generate an additional NOL carryover amount for New York State income tax purposes.

Since the computation of your New York State (and New York City and Yonkers) income tax is based on the information you reported on your federal income tax return, you will need to keep accurate records to show the computation of your NOL and the application of any amounts deducted as an NOL carryback or carryforward on your federal returns.

In addition, for New York State income tax purposes, you **must** carry back and/or carry forward your NOL to the same tax year or years that the NOL is carried back or carried forward for federal income tax purposes (see *Federal carryback and carryforward rules* on page 5).

**New York City resident income tax** – The NOL carryback and carryforward rules for a full-year New York State resident also apply when computing the New York City resident income tax for a full-year New York City resident.

**New York carryback rules**

If you file federal Form 1045 or an amended federal return to carryback your NOL, you must also file an amended New York State income tax return for that carryback year.

The amount of NOL deduction to be applied in a carryback year on your New York State amended tax return is determined as follows:

- For the first carryback year, the amount of NOL deduction allowed on your New York State amended tax return is the NOL amount from federal Form 1045, Schedule A, **or** your federal taxable income for the carryback year as shown on your **original** federal return for that tax year (your federal taxable income computed without the NOL deduction), whichever is less.
- If you do not use up your NOL in the first carryback year for federal purposes, you must compute the amount of NOL available to carry over to the next carryback year using federal Form 1045, Schedule B, *NOL Carryover*. The amount of NOL deduction allowed on your New York State amended tax return for the next carryback year is the amount from Schedule B, line 1, *NOL deduction*, **or** line 2, *Taxable income before NOL carryback*, whichever is less.
- If you do not use up your NOL in a carryback year or years, and you have an NOL carryover for federal income tax purposes, see *New York carryforward rules* on page 7.

For information on how to claim and report an NOL carryback deduction, see *Claiming an NOL carryback* on page 7. For an example of how to apply an NOL in a carryback year, see *Example 1 – NOL carryback for a full-year New York State resident* on page 15.

## New York carryforward rules

As previously stated, for New York State income tax purposes, you are limited to your NOL deduction (from federal Form 1045) or federal taxable income (computed without the NOL deduction), whichever is less. Therefore, to determine the NOL deduction allowed for a carryforward year, you will need to compute your federal taxable income for the carryforward year **as if** you did not have an NOL deduction.

If the amount of your NOL deduction is less than your federal taxable income (computed without the NOL deduction), you are allowed the same NOL deduction amount for New York State income tax purposes as claimed on your federal return. However, if your NOL deduction is limited to your federal taxable income (computed without the NOL deduction), you must compute an NOL addition modification for New York State income tax purposes.

For information on how to claim and report an NOL carryforward deduction, see *Claiming an NOL carryforward* on page 11. For an example of how to apply an NOL in a carryforward year, see *Example 2 – NOL carryforward for a full-year New York State resident* on page 17.

## Section II. Claiming and reporting an NOL deduction on your New York State income tax return

The following sections describe how to properly claim and report an NOL deduction. Where necessary, specific information is provided for tax years 2013 and after, and for tax years before 2013.

For any carryback or carryforward year where the amount of NOL deduction allowed for New York purposes is limited, the difference between the NOL deduction allowed on your federal income tax return and the NOL deduction allowed for New York State income tax purposes must be accounted for.

Beginning with New York State income tax returns for tax years 2013 and after, the difference will be accounted for by the use of a New York addition modification to federal adjusted gross income (individuals) or federal taxable income (estates and trusts).

**Note:** Forms for tax years prior to 2013 did not provide for this addition modification.

### Claiming an NOL carryback

A separate amended New York State income tax return must be completed for each carryback year for which an NOL deduction is claimed and/or a refund is requested.

The following federal information should be submitted with your amended New York State return(s):

## Individuals

- A copy of your federal Form 1040, *U.S. Individual Income Tax Return*, and federal Schedule A, *Itemized Deductions*, if applicable, for the **loss** year. In addition, provide any other federal schedules or statements that are related to the loss. If your NOL will have an effect on more than one tax year, this federal information is only required to be submitted with the amended return for the first carryback year.
- A copy of your federal NOL computation, including federal Form 1045, *Application for Tentative Refund*, and all related schedules. You do not have to include the alternative minimum tax NOL computation.
- A copy of your original federal income tax return and Schedule A, *Itemized Deductions*, if applicable, for the **carryback year**. No additional federal schedules or statements are required.
- A copy of any federal documentation (if available) showing the IRS has accepted your NOL carryback claim.

## Estates and trusts

- A copy of your federal Form 1041, *U.S. Income Tax Return for Estates and Trusts*, for the **loss** year. In addition, provide any federal schedules or statements that are related to the loss. If your NOL will have an effect on more than one tax year, the federal information for the loss year is only required to be submitted with the amended return for the first carryback year.
- A copy of your federal NOL computation, including federal Form 1045, *Application for Tentative Refund*, and all related schedules. You do not have to include the alternative minimum tax NOL computation.
- A copy of your original federal Form 1041 for the **carryback year**. No additional federal schedules or statements are required.
- A copy of any federal documentation (if available) showing the IRS has accepted your federal NOL carryback claim.

## Tax years before 2013

**Individuals** – You must complete a separate Form IT-201-X, *Amended Resident Income Tax Return*, for each carryback year for which an NOL deduction is claimed and/or a refund is requested.

In general, the amounts reported as *Federal income and adjustments*, on Form IT-201-X, must be the same as the amounts reported on your amended federal income tax return for the same carryback year. However,

if your NOL deduction for New York income tax purposes is limited to your federal taxable income (computed without the NOL deduction), you are required to report that limited deduction amount on the *Other income* line of your Form IT-201-X, even though it is different from the amount reported on the *Other income* line of your amended federal return. You will **not** be required to compute and report an NOL addition modification as discussed on page 7.

If the NOL deduction allowed for New York income tax purposes is the same as your federal NOL deduction, you will report the same NOL deduction amount on the *Other income* line of your Form IT-201-X as reported on the *Other income* line of your amended federal return.

**Note:** If you did not file an amended federal income tax return and only filed federal Form 1045, you must complete Form IT-201-X as if you had filed an amended federal return.

For specific instructions on how to claim an NOL deduction on Form IT-201-X, see the following:

- For tax years before 2010, see [Important Notice N-10-12](#), *Form IT-113-X, Claim for Credit or Refund of Personal Income Tax, has been discontinued*. This notice provides specific instructions on how to claim an NOL on your Form IT-201-X.
- For tax years 2010, 2011, and 2012, see the Form IT-201-X instructions for the applicable tax year.

**Estates and trusts** – You must complete a separate amended Form IT-205, *Fiduciary Income Tax Return*, for each carryback year for which an NOL deduction is claimed and/or a refund is requested.

- Write **NOL** and the year of the loss at the top of your return.
- Include on the line for *Other income*, the lesser amount from federal Form 1045, *Schedule B, NOL Carryover*, line 1 or line 2.

**Note:** In general, the amounts reported on your amended Form IT-205, *Schedule A – Details of federal taxable income of a fiduciary of a resident estate or trust*, must be the same as the amounts reported on your amended federal Form 1041 for the same tax year.

However, if your NOL deduction for New York income tax purposes is limited to your federal taxable income (computed without the NOL deduction), you are required to report that limited deduction amount on the *Other income* line of your amended Form IT-205 even though it is different from the amount reported on the *Other income* line of your amended federal

Form 1041. You will not be required to compute and report an NOL addition modification as discussed on page 7.

If the NOL deduction allowed for New York income tax purposes is the same as your federal NOL deduction, you will report the same amount on the *Other income* line as reported on the *Other income* line of your amended federal Form 1041.

**Tax years 2013 and after**

Use the *NOL Worksheet* on page 21 to compute the NOL deduction allowed for New York income tax purposes and, if applicable, your NOL addition modification.

**Individuals** – You must complete a separate Form IT-201-X, *Amended Resident Income Tax Return*, for each carryback year for which an NOL deduction is claimed and/or a refund is requested. Refer to the instructions for Form IT-201-X for information on how to complete your amended return.

**Estates and trusts** – You must complete a separate amended Form IT-205, *Fiduciary Income Tax Return*, for each carryback year for which an NOL deduction is claimed and/or a refund is requested. Refer to the instructions for Form IT-205 for information on how to complete your amended return.

**Itemized deductions and New York State income tax credits**

**Itemized deduction** – If you itemized your deductions on your federal and New York State income tax returns in a carryback year, and you were subject to the New York itemized deduction adjustment, you may need to recompute your New York itemized deduction on your amended return, to reflect the decrease in your New York adjusted gross income.

**New York State income tax credits** – You **may** become eligible to claim certain income-based New York State or New York City income tax credits if your New York adjusted gross income is decreased in a carryback year.

You can claim New York State and New York City tax credits, if eligible, by completing the appropriate form and submitting it with your amended New York State income tax return for the carryback year. For information on New York State and New York City [income tax credits](#), visit our Web site.

**Statute of limitations for claiming a refund due to an NOL carryback**

Generally, your NOL carryback claim for refund must be filed within three years from the date the loss year return was due (including any extensions). Therefore, the statute of limitations for claiming an income tax refund based on an NOL carryback is the same as the statute for filing an amended return or claim for refund for the NOL year. If a due date (including extensions) falls on a Saturday, Sunday, or legal holiday, you may file on the next business day.

Example: *You are a calendar year taxpayer, you have an NOL for tax year 2011, and you timely file your 2011 income tax return. For federal income tax purposes, you are allowed to carry back the NOL two years to tax year 2009. You must file your 2009 amended New York State tax return claiming a refund based on your NOL carryback from tax year 2011 by April 15, 2015.*

**Interest on refunds of income tax caused by a carryback**

If the carryback of an NOL results in an overpayment of tax in a carryback year, that overpayment is not considered to have been made prior to the due date of the income tax return for the loss year. Therefore, no interest is allowed on a refund that results from an NOL claimed in a carryback year if it is credited or paid:

- within 45 days after the due date for filing the return in the loss year (determined without regard to any extension of time to file), or
- within 45 days after the amended return for the carryback year is filed, whichever is later.

**Penalty and interest due on an original liability in a carryback year**

Penalties and interest are assessed based on the original tax liability for the carryback year from the due date of the original return for the carryback year, to the due date of the loss year return.

- If an NOL carryback results in the elimination of the tax due on a deficiency for a carryback year, you are still liable for the penalty and interest based on that original deficiency.
- If an NOL carryback results in a reduced amount of tax due on a deficiency for a carryback year, you are liable for the penalty and interest based on the original deficiency. In addition, penalties and interest will continue to accrue on the reduced tax amount from the due date of the loss year return.

**Claiming an NOL carryforward**

Use the *NOL Worksheet* on page 21 to compute the NOL deduction allowed for New York income tax purposes and, if applicable, the NOL addition modification.

If you are allowed the same NOL deduction amount for New York State income tax purposes as claimed on your federal return, you do not report an NOL addition modification.

If your NOL deduction is limited to your federal taxable income (computed without the NOL deduction), you must compute and report an NOL addition modification.

**Individuals**

When completing your [Form IT-201](#), the amounts reported in the *Federal income and adjustments* section of your Form IT-201 must be the same as the amounts reported on your federal income tax return.

for tax year 2013, or code  
A-215 for tax years after 2013,

If you must compute and report an NOL addition modification, use code A-25 and include the NOL addition modification amount in the money column of your return.

### **Estates and trusts**

When completing your [Form IT-205](#), the amounts you report on Schedule A must be the same as the amounts you report on your federal income tax return.

If you must compute and report an NOL addition modification:

- include the NOL addition modification amount in the money column on line 2, *New York modifications relating to amounts allocated to principal*; and
- identify the amount included on line 2 as a *New York NOL addition modification* in a statement submitted with your Form IT-205.

### **Yonkers nonresident earnings tax**

The Yonkers nonresident earnings tax is imposed only upon wages as defined in Internal Revenue Code (IRC) section 3401(a), and net earnings from self-employment as defined in IRC section 1402(a).

NOLs are not allowed in the computation of your Yonkers nonresident earnings tax (see the [instructions for Form Y-203](#), *Yonkers Nonresident Earnings Tax Return*). However, the Tax Law provides that in no event will you pay a tax higher than you would have paid had you been subject to the resident income tax surcharge imposed by Yonkers.

Since NOLs are allowed in the computation of the Yonkers resident income tax surcharge, if you have an NOL carryback or carryforward, you should compute the Yonkers income tax surcharge as if you are a resident to see if it would result in a lower amount than the nonresident earnings tax.

If the Yonkers resident income tax surcharge is less than your Yonkers nonresident earnings tax, follow the instructions for Form Y-203 and submit a separate schedule with Form Y-203 showing your computation.

## **Section III. Minimum income tax**

If you are an individual or the fiduciary of an estate or trust with total New York items of tax preference greater than the allowable specific deduction of \$5,000 (\$2,500 if you are married and filing separately), you must complete Form IT-220, *Minimum Income Tax*, and submit it with your New York State income tax return.

### **Subtraction for the amount of NOL remaining as a carryover**

If you are required to file Form IT-220 for the year of the loss, and you have any NOL remaining as a carryover to a succeeding tax year, you must subtract the amount of the NOL carryover from your New York items of tax preference. First reduce your New York items of tax preference by the specific deduction and your New York personal income tax (after credits) for the year. Then subtract the amount of your NOL carryover, but only enough to bring your items of tax preference to zero.

### **Restoration of the NOL deduction**

If you are required to make the NOL carryforward subtraction (as described above) on Form IT-220 in a prior year, for the succeeding tax year or years you must treat any amount of NOL carryover that reduces the federal taxable income for that succeeding year, and which was used as a subtraction to reduce items of tax preference in a prior tax year, as a New York item of tax preference. This is referred to as the *New York addition for restoration of NOL deduction* on Form IT-220.

The following rules are used to determine the amount of the New York addition for restoration of NOL deduction for a year in which only part of the NOL carryover deduction is applied against federal taxable income, or where not all of the NOL carryover remaining in a prior year was used as a subtraction to reduce items of tax preference in that year.

1. The portion of the NOL carryover that was not used to reduce items of tax preference in a prior year is deemed to be applied first.
2. The portion of NOL carryover available for the current year that was used to reduce items of tax preference in the prior year is applied next. You must include the amount of this portion that is used to reduce your federal taxable income for the current year as your New York addition of restoration of NOL deduction.
3. Using the rules described above in step 1 and 2, you must fully apply an NOL carryover that is available from an earlier tax year before applying any NOL carryover from a succeeding year.

See *Example 3 – Minimum income tax reduction for an NOL for a full-year New York State resident* on page 19.

### **Tax benefit rule**

If you have an NOL, you may be able to further reduce your items of tax preference under the tax benefit rule if you have negative New York taxable income.

If you have an NOL and are also eligible to use the tax benefit rule, the items of tax preference for the loss year must first be reduced by the NOL carryover reduction previously described before any reduction is made under the tax benefit rule. For more information concerning the tax benefit rule, see [TSB-M-87\(4\)I](#), *Minimum Income Tax New York State Tax Benefit Rule*.

## Section IV. Losses from *Ponzi-type* fraudulent investment arrangements

The Internal Revenue Service (IRS) has issued [Revenue Ruling 2009-9](#), which describes the tax rules that apply to losses from *Ponzi-type* fraudulent investment arrangements. The IRS also issued [Revenue Procedure 2009-20](#), providing an optional *safe harbor* procedure for computing and reporting losses for which the discovery year is a tax year beginning after December 31, 2007.

In general, the losses described in Revenue Procedure 2009-20 may be deducted as theft losses. If these deductions exceed income, they can generate federal NOLs that can be carried back or forward to other tax years.

The Tax Department recognizes the federal *safe harbor* for purposes of computing New York itemized deductions for personal income tax purposes. Accordingly, if the federal theft loss deduction is computed based upon the safe harbor, that amount is used in computing the New York itemized deduction. However, for New York State purposes, itemized deductions are subject to certain limitations. Therefore, in the loss year, you may not get the same benefit for New York purposes as for federal purposes.

For more information, see [TSB-M-09\(7\)I](#), *New York State Income Tax Treatment of Losses from “Ponzi-type” Fraudulent Investment Arrangements*.

## Section IV. Examples and NOL worksheet

### Example 1 – NOL carryback for a full-year New York State resident

John Smith runs his own business. For federal income tax purposes, in tax year 2012, John's deductions exceed his income by \$60,000. He had no federal adjustments to income to report on his return. Therefore, John's federal adjusted gross income (FAGI), as shown on his federal income tax return, is a negative \$60,000.

To figure whether or not he has an NOL, John completes federal Form 1045, *Application for Tentative Refund*, Schedule A, *NOL*. John's completed Schedule A computation results in an NOL of \$55,000. John elects to carry back this NOL, and therefore the NOL is carried back two years (to tax year 2010).

In choosing to carry back the NOL to his 2010 federal income tax return, John must also complete federal Form 1045, Schedule B, *NOL Carryover*, to determine the amount of NOL, if any, that he can carry over to tax year 2011.

For tax years 2010 through 2012, assume that John is a full-year New York State resident, single, and takes the standard deduction on his income tax returns.

John's original federal income tax return information is shown in *Chart 1*.

**Chart 1 – Original federal tax information for tax years 2010 – 2012**

Tax Year	FAGI	Federal standard deduction	Federal personal exemption	Federal taxable income
2010	\$50,000	\$5,700	\$3,650	\$40,650
2011	30,000	5,800	3,700	20,500
2012	(60,000)	5,950	3,800	0

John applies his 2012 NOL, for federal purposes, as shown in *Chart 2*.

**Chart 2 – Federal income tax information after the NOL carryback**

Tax year	NOL deduction	FAGI after NOL	Federal taxable income after the NOL deduction	NOL carryover (Form 1045, Schedule B)
2010	\$55,000	(\$5,000)	0	\$10,700
2011	\$10,700	\$19,300	\$9,800	0

John’s original New York State tax information for tax years 2010 through 2012 is shown in *Chart 3*.

**Chart 3 – Original New York State income tax return information**

<b>Tax Year</b>	<b>FAGI</b>	<b>New York modifications</b>	<b>New York adjusted gross income (NYAGI)</b>
2010	\$50,000	(\$3,000)	\$47,000
2011	\$30,000	\$4,000	\$34,000
2012	(\$60,000)	(\$5,000)	(\$65,000)

For New York income tax purposes, John applies his 2012 NOL as shown in *Chart 4*.

**Chart 4 – Amended New York State income tax return information**

<b>Tax year</b>	<b>Amended FAGI as reported on Form 1040</b>	<b>Amended FAGI as reported on Form IT-201-X</b>	<b>New York modifications</b>	<b>NYAGI (after NOL)</b>
2010	(\$5,000)	\$9,350	(\$3,000)	\$6,350
2011	\$19,300	\$19,300	\$4,000	\$23,300

For each carryback year, the amount of NOL allowed for New York income tax purposes is limited to the lesser of John’s federal NOL deduction amount **or** his federal taxable income computed without the NOL deduction.

- For 2010, John’s NOL deduction is limited to the lesser of his federal NOL deduction (\$55,000), or his federal taxable income computed without the NOL (\$40,650). Accordingly, he is limited to an NOL deduction of \$40,650 for New York State income tax purposes.

When John completes his 2010 Form IT-201-X, *Federal income and adjustments* section, line 15, *Other income*, he will report an NOL deduction amount of \$40,650. He will not report the same amount as shown on the *Other income* line of his amended federal Form 1040 (line 21). Accordingly, his amended FAGI is reported on Form IT-201-X as \$9,350 (\$50,000 - 40,650).

- For 2011, John’s NOL deduction is limited to the lesser of his federal NOL deduction (\$10,700), or his federal taxable income computed without the NOL (\$20,500). Accordingly, John is allowed an NOL deduction of \$10,700 (the same NOL deduction amount as shown on his amended federal Form 1040).

When John completes his 2011 Form IT-201-X, *Federal income and adjustments* section, line 15, *Other income*, he reports the same NOL deduction amount as reported for federal purposes (\$10,700). Therefore, his amended FAGI as reported on Form IT-201-X is \$19,300.

## Example 2 – NOL carryforward for a full-year New York State resident

Sue Jones runs her own business. For federal income tax purposes, in tax year 2012, Sue’s federal deductions exceed her income by \$25,000. She has no federal adjustments to income to report on her tax return. Therefore, Sue’s federal adjusted gross income (FAGI), as shown on her 2012 federal income tax return, is a negative \$25,000.

To figure whether or not she has an NOL, Sue completes federal Form 1045, *Application for Tentative Refund*, Schedule A, *NOL*. Sue’s completed Schedule A results in an NOL of \$20,500. Sue elects not to carry the NOL back, but to carry it forward to her 2013 federal income tax return.

For purposes of this example, assume that Sue is a full-year New York State resident, single, and that she takes the standard deduction on her income tax returns.

Sue’s 2013 federal income tax information is shown in *Chart 1*. (To determine if she has any NOL to carryover to tax year 2014, Sue will need to refer to federal Publication 536 for tax year 2013.)

**Chart 1 – Federal income tax information for tax year 2013**

Total federal income before NOL deduction	NOL deduction	FAGI after NOL deduction	Federal standard deduction	Federal exemption	Federal taxable income
\$24,500	(\$20,500)	\$4,000	\$6,100	\$3,900	0

The amount of NOL deduction allowed for New York income tax purposes is limited to the lesser of Sue’s federal NOL deduction amount (\$20,500) or federal taxable income computed without the NOL.

To compute the NOL deduction allowed for New York income tax purposes, Sue completes the *NOL Worksheet*. Following the instructions for line 2 of the worksheet, Sue computes her federal taxable income for 2013 without the NOL deduction to be \$14,500 (\$24,500 - 6,100 - 3,900). Her entries on the *NOL Worksheet* are as follows:

### NOL Worksheet

1. Enter as a positive number the federal NOL deduction as shown on your federal income tax return.	1. \$20,500
2. Enter your federal taxable income computed <b>without</b> the NOL deduction from line 1. If the result is less than zero, enter 0.	2. \$14,500
3. Enter the lesser of line 1 or line 2. This is the amount of NOL deduction you are allowed when computing your New York adjusted gross income. (If the amount on line 3 is less than the amount on line 1, complete Part 2, below.)	3. \$14,500

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Because line 3 is less than line 1, Sue must compute an NOL addition modification. To compute the amount that must be reported as an NOL addition modification on her 2013 New York State Form IT-201, Sue completes Part 2 (lines 4 through 6) on the *NOL Worksheet*. Her entries are as follows:

4. Enter the amount from Part 1, line 1.	4. \$20,500
5. Enter the amount from Part 1, line 3.	5. \$14,500
6. Subtract line 5 from line 4 and enter the result. If the result is less than zero, enter 0. <b>This is your NOL addition modification.</b>	6. \$ 6,000

Sue's 2013 New York State income tax information is shown in Chart 2. (Assume Sue's only modification to be reported on her Form IT-201 for tax year 2013 is the NOL addition modification.)

**Chart 2 – New York State tax information for tax year 2013**

<b>FAGI</b>	<b>NOL addition modification</b>	<b>New York adjusted gross income</b>
\$4,000	\$6,000	\$10,000

### Example 3 – Minimum income tax reduction for an NOL for a full-year New York State resident

For federal income tax purposes, Sam has a federal NOL for tax year 2011 in the amount of \$100,000. Sam elects to carry the NOL forward to tax year 2012 for federal income tax purposes.

Sam's total New York items of tax preference for tax year 2011 are \$50,000. For purposes of this example, assume that Sam is a full-year resident of New York State for tax years 2011, 2012, and 2013.

#### Tax year 2011 – Form IT-220, *Minimum Income Tax*

For tax year 2011, Sam's New York items of tax preference exceed the sum of the specific deduction and his New York State income tax after credits. Therefore, the amount of NOL that is available as a carryforward to tax year 2012 (\$100,000) may be used to reduce his items of tax preference in the loss year.

Based on the above information, there is no New York State minimum taxable income for tax year 2011 as shown in the following computations (line references are from 2011 Form IT-220):

1. Total New York items of tax preference (line 15)		1. \$50,000
2. Specific deduction (line 16)	2. \$5,000	
3. New York State income tax after credits (line 18)	3. 0	
4. Add lines 2 and 3 and enter the result.		4. 5,000
5. Subtract line 4 from line 1 and enter the result.		5. \$45,000
<b>6. Available NOL carryover</b> (line 20).		6. \$45,000
7. Subtract line 6 from line 5. <b>Minimum taxable income</b> (line 21)		7. 0

Of the \$100,000 federal NOL carryover to 2012, \$45,000 is the *Available net operating loss carryover* for purposes of Form IT-220 (line 20). The \$45,000 has been used to reduce Sam's New York items of tax preference in 2011 (\$55,000 of his federal NOL carryover has not been used).

#### Tax year 2012

- For federal income tax purposes, Sam has a \$100,000 NOL carryover to report on his 2012 federal income tax return.
- Sam's 2012 federal taxable income computed without the NOL deduction is \$80,000.
- \$45,000 of Sam's \$100,000 federal NOL carryover was used to reduce New York items of tax preference in 2011 (the loss year). The remaining \$55,000 of federal NOL carryover was not used to reduce New York items of tax preference in the loss year.
- For tax year 2012, Sam is allowed an NOL deduction of \$80,000 for New York State income tax purposes. The first \$55,000 of the \$80,000 was **not** used to reduce New York items of tax preference in tax year 2011 and the remaining \$25,000 (\$80,000 - \$55,000) was used to reduce New York items of tax preference in tax year 2011. Therefore, \$25,000 must be treated as a New York item of tax preference in tax year 2012 and must be reported on Sam's 2012 Form IT-220, line 7, *New York addition for restoration of net operating loss*.

**Tax year 2013**

- For federal income tax purposes, Sam has a \$20,000 NOL carryover to report on his 2013 federal income tax return (\$100,000 - \$80,000). Sam's federal taxable income computed without the NOL deduction is \$35,000.
- Sam's \$20,000 NOL is used to reduce his 2013 federal taxable income. Therefore, the full \$20,000 must be treated as a New York item of tax preference in 2013, and must be reported on Sam's 2013 Form IT-220, line 7, *New York addition for restoration of net operating loss deduction*.

## NOL Worksheet

### Part 1 – New York State NOL deduction computation

1. Enter as a positive number the NOL deduction as shown on your federal income tax return.	1.
2. Enter your federal taxable income computed <b>without</b> the NOL deduction from line 1. If the result is less than zero, enter 0.	2.
3. Enter the lesser of line 1 or line 2. This is the amount of NOL deduction you are allowed when computing your New York adjusted gross income. (If the amount on line 3 is less than the amount on line 1, complete Part 2, below.)	3.

Line 1 – **Individuals** – Enter the amount of NOL deduction included on the *Other income* line on your Form 1040, *U.S. Individual Income Tax Return*.

**Estates and trusts** – Use the amount of NOL deduction included with other deductions not subject to the 2% limit on federal Form 1041, *U.S Income Tax return for Estates and Trusts*.

Line 2 – Your federal taxable income computed **without** the NOL deduction:

- For a carryback year, enter your federal taxable income as shown on your original federal income tax return.
- For a carryforward year, you must compute your federal taxable income **as if** you did not have the NOL deduction shown on line 1.

**Note:** You may need to recompute certain federal items of income and deduction that are limited based on federal adjusted gross income. Additionally, if you use an actual federal return as a tool to determine your federal taxable income *as if* you did not have an NOL, **do not** file it with the IRS. However, you should keep it as part of your records.

### Part 2 – NOL addition modification

If your NOL deduction allowed (*line 3* above) is less than the amount on *line 1* (above), the NOL deduction allowed for New York State income tax purposes is less than the NOL amount used to compute your federal adjusted gross income (FAGI) for the same tax year. To account for the difference between the NOL amount used to compute your FAGI and the NOL amount allowed in the computation of your New York adjusted gross income, you must compute and report an NOL addition modification.

Use the amounts from *line 1* and *line 3*, above, to compute the amount that must be reported as an NOL addition modification on your New York State income tax return.

4. Enter the amount from <i>Part 1</i> , line 1.	4.
5. Enter the amount from <i>Part 1</i> , line 3.	5.
6. Subtract line 5 from line 4 and enter the result. If the result is less than zero, enter 0. <b>This is your NOL addition modification.</b>	6.

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