

MICHIGAN Net Operating Loss Schedule MI-1045

Attachment 29

Type or print in blue or black ink.

Form with fields for Year (YYYY), Month-Year (MM-YYYY), Filer's First Name, M.I., Last Name, Filer's Full Social Security No., and Spouse's Full Social Security No.

1. [ ] Check the box to forgo the entire carryback period for the farming NOL. When you check the box, you are electing to carry the farming NOL forward instead of carrying it back to previous years. Once the election is made, it is irrevocable.

PART 1: COMPUTE THE NET OPERATING LOSS (NOL)

2. Adjusted Gross Income (AGI). Enter the amount from MI-1040, line 10 of the loss year ..... 2. [ ] [00]

Additions. Enter the corresponding amounts from Schedule 1.

Table with 3 columns: Description, Line Number, and Amount. Rows include Gains from Michigan column, Losses attributable to other states, Net loss from federal column, Oil, gas, and nonferrous metallic mineral expenses, and Federal net operating loss deduction.

Subtractions. Enter the corresponding amounts from Schedule 1.

Table with 3 columns: Description, Line Number, and Amount. Rows include Gains from federal column, Income attributable to another state, Oil, gas, and nonferrous metallic minerals income, Miscellaneous subtractions, and Michigan NOL before required modifications.

Modifications. Complete Part 2 before continuing.

Table with 3 columns: Description, Line Number, and Amount. Rows include Excess nonbusiness deductions, Excess capital loss, Michigan sourced adjustments, Total Modifications, and Michigan NOL.

PART 2: EXCESS NONBUSINESS DEDUCTIONS

Michigan-sourced Nonbusiness Deductions

Table with 3 columns: Description, Line Number, and Amount. Rows include Payments to a retirement plan, Alimony deducted, Other adjustments to income, and Subtotal.

Michigan-sourced Nonbusiness Income

Table with 3 columns: Description, Line Number, and Amount. Rows include Interest income, Dividend income, Net nonbusiness capital gains, Pension, IRA and annuities, Taxable alimony, Subtotal, and Excess nonbusiness deductions.

## Instructions for Michigan Net Operating Loss Schedule (Schedule MI-1045)

### Purpose

**Michigan Net Operating Loss Schedule (Schedule MI-1045)** is used to compute the Michigan net operating loss (NOL) and is now filed with the loss year return (including e-filed returns).

**Michigan Net Operating Loss Deduction (Form 5674)** is used to compute the current year Michigan NOL deduction. Form 5674 is required to claim an NOL deduction on Schedule 1.

**Michigan Net Operating Loss Carryforward** deduction is claimed on Michigan Schedule 1. A completed Schedule MI-1045 for the loss year(s) and Form 5674 are required before an NOL carryforward deduction can be claimed.

**Michigan Farming Loss Carryback Refund Request (Form 5603)**, is used to claim a refund from a farming loss carryback.

### Federal Tax Cuts and Jobs Act of 2017

The federal Tax Cuts and Jobs Act (TCJA) of 2017 limits business losses that are included in adjusted gross income (AGI) for 2021 and future tax years. The limitation is computed by aggregating business income and business losses. If the computation results in a loss, the Internal Revenue Code (IRC) 461(l) limits business losses in excess of business income. The limitation is adjusted for inflation each year. Losses in excess of the limitation are not included in AGI and become an NOL available to claim in the following year computed on the *Michigan Excess Business Loss* Form MI-461.

### Federal CARES Act of 2020

For tax years 2018, 2019, and 2020 the federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act) replaced many of the provisions of the federal TCJA. The 2020 Schedule MI-1045 accommodates the changes set by the CARES Act and should be used if you are claiming a loss created in 2018, 2019 or 2020.

### Terminology

Due to the federal TCJA, limitations were imposed on NOL deductions for losses incurred in 2018 and future tax years. This created two groups of NOLs. For Michigan forms and instructions these are identified as Group 1 NOLs and Group 2 NOLs. Group 2 NOLs are further divided into two subcategories as Group 2 CARES and Group 2 TCJA.

- **Group 1 NOLs** are those created in 2017 and prior.
- **Group 2 NOLs:**
  - **Group 2 CARES NOLs** are those created in 2018, 2019 and 2020. The carryforward of these NOL deductions are limited to 80 percent of Michigan taxable income before exemptions and previously claimed NOL deductions beginning in tax year 2021.

- **Group 2 TCJA NOLs** are those created in 2021 and future tax years. These NOL deductions are limited to 80 percent of Michigan taxable income before exemptions and previously claimed NOL deductions.

The TCJA eliminates most NOL carrybacks for NOLs incurred in tax years after 2020 and allows the NOL to be carried forward indefinitely until fully absorbed. A two-year carryback is available for farming NOLs.

### What is a Net Operating Loss?

An NOL occurs when business loss exceeds income in a particular year. In general terms, a federal NOL is computed by starting with federal taxable income and making the following modifications by eliminating:

- Capital losses in excess of capital gains and any excluded capital gains. The excess capital loss deduction is calculated on a U.S. Form 1045 *Schedule A*, line 21 or 22. An excess capital loss includes a U.S. Form *Schedule D* loss that is limited to \$3,000. The capital loss may be greater than \$3,000 if nonbusiness capital losses were offset by business gains that are also reported on U.S. Form *Schedule D*.

**Example:** U.S. Form 1045, *Schedule A*, line 22 computed a \$15,000 excess capital loss. The \$15,000 excess capital loss cannot be used to increase the NOL.

- NOL carryovers from other years
- Excess of nonbusiness deductions over nonbusiness income

**Example:** \$10,000 nonbusiness stock loss and \$50,000 gain from the sale of a business asset (U.S. Form 4797) produce a U.S. Form *Schedule D* gain of \$40,000. The \$10,000 stock loss is nonbusiness and cannot be used to increase an NOL.

If the end result is negative, a federal NOL has been created for use in another tax year. For additional information on federal NOLs, see Internal Revenue Service (IRS) Publication 536.

### The Michigan NOL

The Michigan NOL is computed independently of the federal NOL. The calculation of a Michigan NOL follows the same general format as the federal NOL calculation but begins with federal AGI rather than federal taxable income. Therefore, federal itemized or standard deductions that may be used to create or contribute to the federal NOL are not considered when calculating the Michigan NOL. The Michigan NOL is subject to the allocation and apportionment provisions of Chapter 3 of the Income Tax Act which excludes income and loss attributable to other states. Additionally, income from the production of oil and gas and nonferrous metallic mineral extraction subject to Michigan severance tax and expenses of production are excluded.

To determine whether an NOL was incurred from Michigan sources, regardless of whether or not there was a corresponding federal NOL, complete the Schedule MI-1045 for the year of the loss.

The Michigan NOL may be carried over in the same manner and to the same time periods as provided for in IRC 172 in effect for the year the loss was incurred. An NOL must be claimed in consecutive years. If there is a change in filing status, Michigan follows federal regulations. Additionally, the amount of the combined Michigan NOL carryover must be reduced by any Michigan sourced excess capital loss and other modifications required under IRC 172 or elections under IRC 965 claimed in the previous carryover year.

For additional information regarding NOLs, see IRS Publication 536 and *Michigan Revenue Administrative Bulletin 2020-23*.

### Nonresidents and Part-Year Residents

Nonresidents and part-year residents may also be entitled to a Michigan NOL deduction. Only Michigan-sourced income or loss may create a Michigan NOL. Complete Schedule MI-1045 to determine if a Michigan NOL was incurred. In a carryforward year, enter the total amount of the federal NOL deduction included in AGI on *Michigan Nonresident and Part-Year Resident Schedule* (Schedule NR), line 11, column C. The Michigan NOL deduction is computed on Form 5674 and claimed as a subtraction on the Michigan Schedule 1.

**NOTE:** Do not report a Michigan NOL deduction on Michigan Schedule NR or claim the federal NOL deduction as an addition on Michigan Schedule 1.

## Line-by-Line Instructions for Schedule MI-1045

*Lines not listed are explained on the form.*

### Part 1: Compute the Net Operating Loss

To complete Part 1, use entries from your *Michigan Individual Income Tax Return* (MI-1040) and Michigan Schedule 1 for the year the loss occurred.

**Line 12:** Miscellaneous subtractions are limited to:

- Losses from the disposal of property reported in the Michigan column of MI-1040D, line 13, or MI-4797, line 18b
- Adjustments for out of state business activity not reported on another line of Schedule 1 or this form.

**Line 15:** Complete Part 2 and enter amount from line 30 on this line.

**Line 16:** The excess capital loss deduction must be calculated on a U.S. Form *1045 Schedule A*, line 21 or 22, then entered on this line.

**Line 17:** Enter the following Michigan sourced adjustments from U.S. Form *1040 Schedule 1*, used to arrive at federal AGI:

- Deduction for self-employment tax
- Deduction for self-employed health insurance
- Educator expenses and/or moving expenses

### Amending the NOL

If you file an amended MI-1040 for a loss year which changes your NOL, you must include the applicable amended MI-1045 for the loss year. Provide all required supporting documentation to substantiate the change. If you need to amend an NOL carryforward, see the applicable year's MI-1040 booklet on filing an amended MI-1040. Include all required documentation to substantiate the change. An NOL must be claimed in consecutive years. Do not amend Form MI-1040 to request a refund for the carryback year, see Form 5603 to claim a farming loss carryback.

### Statute of Limitations for NOL Refund Claims

A claim for a refund based on an NOL must be filed within the four-year statute of limitations period (open tax year). If an NOL is sustained in a year that is outside the four-year statute of limitations period (closed tax year), a taxpayer may still claim the NOL deduction in open tax years. However, the election to forgo the carryback of an NOL is not allowed if the NOL was established outside the statute of limitations period. The taxpayer must calculate the amount of the Michigan NOL that would have been absorbed by Michigan taxable income before exemptions in the closed tax year(s) to determine the amount that can be carried forward to the first open tax year(s). Treasury may redetermine the correct taxable income before exemptions in a closed tax year to ascertain either the amount of an NOL or the amount of an NOL deduction absorbed in the closed tax year(s) to determine the correct NOL carryforward to the first open tax year.

**Line 19:** This is the Group 2 NOL available to claim as a carryforward to the next tax year on Form 5674 or carryback on Form 5603, if eligible.

### Part 2: Excess Nonbusiness Deductions

To complete Part 2, use the Michigan portion of entries from your U.S. Form *1040* for the year the loss occurred. Michigan follows the general NOL provisions of IRC 172 for determining nonbusiness deductions. See IRC Reg 1.172-3 for more information.

**Lines 20 through 22:** Enter the Michigan-sourced nonbusiness deductions from U.S. Form *1040 Schedule 1*.

**Lines 24 through 28:** Enter the Michigan-sourced nonbusiness income included in line 14.

# Required Supporting Documentation

To help reduce processing delays, review the following to ensure all supporting documents are included when establishing an NOL.

- U.S. Form *1040*
- U.S. Form *1040 Schedule(s) 1, A, B, C, D, E, F*
- U.S. Form *4797*
- U.S. Form *4835*
- U.S. Form *1045 Schedule A*
- Schedule K-1(s)*
- MI-1041 and final *Schedule K-1* from the U.S. Form *1041* when an NOL is created from the termination of a trust
- For all business activity, provide a statement indicating the type and location (city and state) of each source of income or loss. For assistance, refer to the “Business, Rental & Royalty Activity Worksheet” available on Treasury’s website.
- Any other applicable documentation to support the NOL.