

# Maximize Your 2020 NOL to Get Five Year's Income Tax Refunds

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The CARES Act passed earlier this year made major changes to many income tax provisions including the ability for all taxpayers to carry back net operating losses (NOL) five years. The previous law only allowed farmers to carry back losses two years. The new provision allows all individuals and C corporations the ability to carry back these losses five years and get refunds of any taxes owed for the period 2015-2019.

As an example, assume Sue had total net taxable income of \$3 million during 2015-2019 and paid \$1 million in taxes. If she generates a 2020 NOL of \$3 million, she can file a carryback and receive \$1 million of tax refunds.

Many of you are saying I don't want to incur a cash loss of \$3 million to get \$1 million back. That still leaves me in a \$2 million hole. The good news is that this does not require a cash loss.

One option is to invest in an orchard or vineyard. Most of the value associated with these properties are depreciable assets such as trees, vines, irrigation equipment and trellises. All of these assets qualify for 100% bonus depreciation in 2020. This allows the farmer who invest in these assets to take a full deduction

and if a NOL is created; carry it back five years and get a refund.

However, note that I used the word farmer. If you are simply an investor, the resulting net deduction will likely be limited to only offsetting passive income and no NOL will be created. You must be an active farmer with material participation to achieve a deductible loss. A review of these requirements with your tax advisor is necessary before making this investment.

The bottom line is tax refunds are possible in 2020 with an orchard or vineyard investment. However, you need to know and follow the rules to maximize these tax refunds.