

March 11, 2020

	Yes	No
DOR Administrative Costs/Savings		X

Department of Revenue
Analysis of H.F. 4143 (Davids) /S.F. 4012 (Rest)

	Fund Impact			
	<u>F.Y. 2020</u>	<u>F.Y. 2021</u>	<u>F.Y. 2022</u>	<u>F.Y. 2023</u>
			(000's)	
General Fund	\$0	(\$17,900)	(\$17,500)	(\$22,100)

Effective for NOL carryovers calculated beginning with tax year 2020. The loss year recalculation goes back to tax year 2014.

EXPLANATION OF THE BILL

Current Law: For the loss year, C-corporations determine their net operating loss (NOL) by multiplying the total loss by the apportionment percentage for that year.

The apportionment percentage is 0% if a taxpayer has no Minnesota or total sales. In this case, the amount of NOL attributed to the loss year is \$0 because the total loss is multiplied by apportionment percent of 0%.

For tax year 2013 and earlier returns if a taxpayer had no sales, an administrative rule allowed taxpayers to reweight the apportionment percentage using property and payroll factors. Beginning in tax year 2014, the apportionment percentage is the ratio of Minnesota sales to total sales. The use of one factor to calculate an apportionment percent is called 100% sales weighting.

Proposed Law: The bill would allow “qualifying corporations” to recalculate the amount of loss attributed to a loss year. Qualifying corporations are corporations that apportion income and have zero in both the numerator (Minnesota sales) and denominator (total sales) of the apportionment formula. Also, qualifying corporations must have their principle address and place of business in Minnesota.

If a corporation is a qualifying corporation, the apportioned loss attributed to a loss year changes from 0% to 100%. The bill uses the term “an apportionment ratio of one” to describe a 100% apportionment percentage.

The ability to recalculate the amount of loss attributed to a loss year, changes the amount of loss for tax years beginning with tax year 2014.

REVENUE ANALYSIS DETAIL

- Data from the past three years show corporations are generating an average of \$3.2 billion of apportioned losses.
- The estimate assumes 5% of current-year losses would be apportioned to Minnesota due to the proposed law change.

REVENUE ANALYSIS DETAIL (Cont.)

- For any one loss year, it is assumed that between 0.6% and 1% of the total accumulated NOL would be used to reduce income. Over a period of six years, the total 5% of losses is assumed to be claimed.
- The recomputed losses for tax years 2014-2019 are reduced by 20% to reflect carryovers assigned to closed tax years.
- The ability to recalculate loss amounts increases the total stock of NOLs. Profitable companies may purchase companies with NOLs based on the value of their NOLs. These purchases greatly shorten the time frame where NOLs are used to reduce income.
- Due to a retroactive effective date, all of the tax year 2020 revenue loss is allocated to FY 2021. Tax year revenue losses from other tax years are allocated 30/70 to fiscal years.
- When fully phased in, the bill would have an annual revenue loss of at least \$25 million.

Minnesota Department of Revenue
Tax Research Division
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