

OKLAHOMA TAX COMMISSION

**REVENUE IMPACT STATEMENT
FIRST REGULAR SESSION, FIFTY-EIGHTH OKLAHOMA LEGISLATURE**

DATE OF IMPACT STATEMENT: March 19, 2021

BILL NUMBER: HB 2880 **STATUS AND DATE OF BILL:** Engrossed 3/8/21

AUTHORS: House Wallace Senate Howard

TAX TYPE (S): Income **SUBJECT:** Deduction

PROPOSAL: Amendatory

HB 2880 proposes to amend 68 O.S. § 2358 (A)(3) relating to Oklahoma net operating losses by allowing losses occurring in tax years prior to 2018 to be carried forward and allowing excess business loss for tax year 2021 and subsequent tax years, which is disallowed under the Internal Revenue Code but is treated as a federal net operating loss carryforward, to be carryforward as a loss for Oklahoma income tax purposes.

EFFECTIVE DATE: November 1, 2021

REVENUE IMPACT:

Insert dollar amount (plus or minus) of the expected change in state revenues due to this proposed legislation.

FY 22: Unknown decrease in income tax collections.

Mar 19, 2021
DATE

Rick Miller
DIVISION DIRECTOR

mck

3/19/2021
DATE

Huan Gong
HUAN GONG, ECONOMIST

3/22/21
DATE

[Signature]
FOR THE COMMISSION

The revenue impact provided herein is an estimate of the potential impact on the collection or apportionment of tax revenues affected by the proposed legislation. It is not intended to be an estimate of the overall fiscal impact on the state budget if the proposed legislation is enacted.

ATTACHMENT TO REVENUE IMPACT – HB 2880 [Engrossed] Prepared 3/19/21

HB 2880 proposes to amend 68 O.S. § 2358 (A)(3) relating to Oklahoma net operating losses by allowing losses occurring in tax years prior to 2018 to be carried forward¹ and allowing excess business loss for tax year 2021 and subsequent tax years, which is disallowed under the Internal Revenue Code but is treated as a federal net operating loss (NOL) carryforward, to be carryforward as a loss for Oklahoma income tax purposes.

The Tax Cut and Jobs Act of 2017 disallowed non-corporate taxpayers a deduction of excess business losses in the year of the loss. Excess business losses are defined as a taxpayer's loss in excess of income for a trade or business income, generally in excess of \$250,000 for a single filer or \$500,000 for a joint return. These losses are treated as excess business losses and are carried forward in the form of a NOL for federal purposes, but are not NOLs. This federal tax provision is operational for tax years 2018 through 2025, but has been suspended under the CARES Act for tax years 2018-2020. Since these are not NOLs under IRC § 172, current Oklahoma law does not allow them to be used in calculating Oklahoma taxable income.

It is unknown the amount of losses which will now be allowed as a carryforward for tax year 2021 and subsequent years under this proposal. An unknown decrease in income tax collections is expected for tax year 2022. Because taxpayers know the amount of their 2021 NOL, it is possible changes to withholding and estimated tax remittances could occur in 2022; a potential unknown decrease in income tax collections could occur in FY22.

¹ Under current law, an Oklahoma NOL may be carried forward. An Oklahoma net operating loss (NOL) shall be separately determined by reference to Section 172 of the Internal Revenue Code as modified by the Oklahoma Income Tax Act and shall be allowed without regard to the existence of a Federal NOL. The loss carryback and carryforward periods shall be determined solely by reference to Section 172 of the Internal Revenue Code. The CARES Act allows a NOL to be carried back for up to 5 tax years for tax years 2018-2020.