

STATE OF HAWAII — DEPARTMENT OF TAXATION  
**APPLICATION FOR TENTATIVE REFUND FROM CARRYBACK  
OF NET OPERATING LOSS**



**Do Not Attach to Your Income Tax Return — File Separately to Expedite Processing  
For use by individuals, estates, or trusts.**

(NOTE: References to “married” and “spouse” are also references to “in a civil union” and “civil union partner,” respectively.)

CAUTION: *Nonresidents and part-year residents (Form N-15 filers) cannot file this form. See Instructions.*

Please Type or Print	Name(s)		Federal Employer I.D. No. if any		
	Address (number and street)		Your social security number		
	City or town, State and Postal/ZIP code		Spouse's social security number		
<b>1</b> Return for year of net operating loss		(a) Tax year ended	(b) Date filed		
		<b>2</b> Amount of net operating loss (see Instructions) \$ _____			
<b>CAUTION:</b> For net operating losses arising in tax years ending after December 31, 2017, only farming net operating losses may be carried back 2 years.		<b>3</b> (a) Preceding tax year(s) affected by carryback		(b) Did spouse file a separate return?	
		2nd		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		1st		<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>4</b> If you changed your accounting period, give date permission to change was granted _____					
<b>5</b> Have you filed a petition in the Tax Appeal Court for the year or years to which the loss is to be applied? . . . . . <input type="checkbox"/> Yes <input type="checkbox"/> No					

Computation of Decrease in Tax	2nd preceding tax year ended _____		1st preceding tax year ended _____	
	(a) Before carryback	(b) After carryback	(c) Before carryback	(d) After carryback
<b>6</b> Adjusted gross income as last determined . . . . .				
<b>7</b> Net operating loss deduction resulting from carryback (attach computation) (see Instructions). . . . .				
<b>8</b> Line 6 minus line 7 . . . . .				
<b>9</b> Deductions (see Instructions) . . . . .				
<b>10</b> Line 8 minus line 9 . . . . .				
<b>11</b> Exemptions . . . . .				
<b>12</b> Taxable income (line 10 minus line 11) . . . . .				
<b>13</b> Income tax . . . . .				
<b>14</b> Refundable tax credits . . . . .				
<b>15</b> Line 13 minus line 14 . . . . .				
<b>16</b> Nonrefundable tax credits (see Instructions) . . . . .				
<b>17</b> Total tax liability (line 15 minus line 16) . . . . .				
<b>18</b> Enter amount from line 17 . . . . . <span style="font-size: 2em; vertical-align: middle;">{</span> column (b)				
<b>19</b> Decrease in tax, line 17 minus line 18 . . . . .				

**ATTACH A COPY OF YOUR ORIGINAL FEDERAL RETURN FOR THE LOSS YEAR (See Instructions.)**

**Declaration**

I declare, under the penalties set forth in section 231-36, HRS, that I have examined this application, including any accompanying schedules and statements, and, to the best of my knowledge and belief, it is true, correct, and complete.

Your signature	Date	Spouse's signature (If joint return, both must sign)	Date

**Schedule A (Form N-109)—Computation of Net Operating Loss**

<b>1</b>	Adjusted gross income from Form N-11 or N-15 (estates and trusts, start on line 3) . . . . .				<b>1</b>		
<b>2</b>	Deductions (applies to individuals only):						
<b>a</b>	Enter the amount of your total itemized deductions OR standard deduction from Form N-11 or N-15 (Form N-15 filers, see Instructions) . . . . .	<b>2a</b>					
<b>b</b>	Exemptions from Form N-11 or N-15 . . . . .	<b>2b</b>					
<b>c</b>	Add lines 2a and 2b . . . . .				<b>2c</b>	(	)
<b>3</b>	Combine lines 1 and 2c (estates and trusts, enter your taxable income) . . . . .				<b>3</b>		
<b>Note:</b> If line 3 is zero or more, do not complete the rest of the schedule. You do not have a net operating loss.							
<b>Adjustments:</b>							
<b>4</b>	Exemptions from line 2b above (estates and trusts, enter exemption from your tax return) . . . . .				<b>4</b>		
<b>5 a</b>	Enter the excess of your nonbusiness capital losses over your nonbusiness capital gains . . . . .	<b>5a</b>					
<b>b</b>	Enter the excess of your business capital losses over your business capital gains plus nonbusiness capital gains not used in figuring line 8c . . . . .	<b>5b</b>					
<b>c</b>	Enter total of lines 5a and 5b but not more than your capital loss limitation . . . . .				<b>5c</b>		
<b>6 a</b>	Enter the amount of interest income from Hawaii or any of the Hawaii counties' obligations. . . . .	<b>6a</b>					
<b>b</b>	Enter the amount of interest expense related to income not taxable by Hawaii. . . . .	<b>6b</b>					
<b>c</b>	Line 6a minus line 6b . . . . .				<b>6c</b>		
<b>7</b>	Net operating loss deduction from other years . . . . .				<b>7</b>		
<b>8 a</b>	Nonbusiness deductions (attach supporting documentation) . . . . .	<b>8a</b>					
<b>b</b>	Nonbusiness income plus the excess of your nonbusiness capital gains over your nonbusiness capital losses . . . . .	<b>8b</b>					
<b>c</b>	Line 8a minus line 8b. If 8b is more than 8a, enter zero . . . . .				<b>8c</b>		
<b>9</b>	Add lines 4, 5c, 6c, 7 and 8c . . . . .				<b>9</b>		
<b>10</b>	Combine lines 3 and 9. This is your net operating loss. (see Instructions) . . . . .				<b>10</b>		

**Caution:** If the amount entered on line 10 is zero or more, you do not have a net operating loss.

**Instructions for Schedule A (Form N-109) — Computation of Net Operating Loss**

**Use this schedule to figure your net operating loss (NOL) that is available for carryback (farming NOL only) or carryforward.**

**Note:** If you are a nonresident or part-year resident (Form N-15 filer), you cannot file Form N-109. However, you may use this schedule to figure your NOL that is available for carryback or carryforward. You will need to figure two NOL amounts: (1) Your Total NOL (using amounts from Form N-15, Column A), and (2) Your Hawaii NOL (using amounts from Form N-15, Column B).

**Line 1.**—Individuals, enter your adjusted gross income.

**Line 2a.**—Individuals, enter your itemized deductions, after any limitations, or standard deduction.

*Form N-15 filers who itemized deductions:* When computing your Total NOL, enter your total itemized deductions calculated as if you were a full-year resident. When computing your Hawaii NOL, enter your Hawaii itemized deductions from Form N-15.

**Line 2b.**—Individuals, enter the amount of your personal exemptions.

**Line 5.**—If your business capital gains plus your nonbusiness capital gains not used in figuring line 8c exceed your business capital losses, enter zero on line 5b. If you have a net capital loss for the year, do not include in line 5c your net capital loss not allowed this year because of the

capital loss limitation. For more information, see federal regulations section 1.172-3.

**Line 8a and b.**—Nonbusiness income and deductions are those not connected with a trade or business. For example:

Your standard deduction is a nonbusiness deduction.

Itemized deductions, if elected, are usually nonbusiness, except for state income taxes related to a trade or business, casualty loss deductions, and any employee business expenses such as union dues, uniforms, tools and educational expenses.

Salaries and wages you received are trade or business income.

Gain or loss on sale or other disposition of real or depreciable property used in your trade or business is considered business income or loss.

Rental income or loss is business income or loss.

Loss on the sale of accounts receivable, if such accounts arose under the accrual method of accounting in your business, is included as a business deduction.

Casualty losses and theft losses are considered attributable to your trade or business. This is true even if it involves nonbusiness property.

Your proportionate share of a partnership's income or loss is considered business income or loss.

Losses on stock in small business corporations which qualify as ordinary losses are business losses.

Shareholders of an electing small business corporation (S Corporation) see Internal Revenue Code section 1366, for tax treatment of pass-thru items to shareholders.

Loss resulting from the sale or exchange of small business investment company stock, which qualifies as an ordinary loss, is considered as a loss attributable to your trade or business.

The deduction allowed for payment made by a self-employed person to a retirement plan is treated as a nonbusiness deduction.

**Note:** Nonbusiness income does not include pensions, social security benefits, and other income that is exempt from Hawaii income tax.

**Line 10.**—If you are carrying back your farming NOL, enter on page 1, line 2, the lesser of (1) the amount which would be the NOL for the taxable year if only income and deductions attributable to farming businesses are taken into account, or (2) the amount of the NOL on line 10.

Form N-15 filers, do not enter an amount on page 1, line 2. You must file an amended return on Form N-15 to carry back your NOL.

STATE OF HAWAII — DEPARTMENT OF TAXATION  
**GENERAL INSTRUCTIONS FOR APPLICATION FOR TENTATIVE  
REFUND FROM CARRYBACK OF NET OPERATING LOSS (NOL)**

**FOR USE BY INDIVIDUALS, ESTATES, OR TRUSTS**

*(Section references are to the Internal Revenue Code unless otherwise specified)*

**CHANGES TO NOTE**

- For net operating losses arising in tax years ending after December 31, 2017, Act 27, Session Laws of Hawaii 2018, eliminates NOL carrybacks (except for farming NOLs which are permitted a two-year carryback), and allows unused NOLs to be carried forward indefinitely.
- For net operating losses arising in tax years beginning after December 31, 2017, Act 27, Session Laws of Hawaii 2018, limits the NOL deduction to 80% of taxable income.
- For tax years beginning after December 31, 2017, and before January 1, 2026, Act 27, Session Laws of Hawaii 2018, limits the amount of losses from the trades or businesses of noncorporate taxpayers that the taxpayer can claim each year. Taxpayers can't deduct losses in excess of a threshold amount in the current year. The amount of the excess business loss is treated as an NOL carryover to later tax years. Use federal Form 461 to figure the excess business loss.

**A. WHO MAY FILE AN APPLICATION.**—An application for a tentative carryback adjustment may be filed by any individual, estate, trust, or fiduciary who desires a quick refund of taxes which are affected by the carryback of a farming NOL.

A "farming loss" means the lesser of (1) the amount which would be the NOL for the taxable year if only income and deductions attributable to farming businesses are taken into account, or (2) the amount of the NOL for such taxable year.

**Note:** NOLs are limited by IRC section 461(l), so the NOL carryback generally will not exceed \$250,000 (\$500,000 for joint returns). See the Instructions for federal Form 461, Limitation on Business Losses.

**Note:** If you are a nonresident or part-year resident (Form N-15 filer), you cannot file Form N-109. However, you may use Schedule A (Form N-109) to figure your NOL that is available for carryback or carryforward. You must file an amended return on Form N-15 to carry back your farming NOL. See Item G, Amended Return, for information on filing an amended return.

A taxpayer has an option on whether or not to carry a farming loss back first before carrying it forward. *This form should only be used by those taxpayers choosing to carry their farming losses back.*

**Election Not to Carryback.** You may elect to carry the farming NOL forward instead of first carrying it back to prior years. If you make this election, then you can use your farming NOL only in the carryforward period.

To make this election, attach a statement to your original return filed by the due date (including extensions) for the farming NOL year. This statement must state that you are electing to waive the carryback period under section 235-7(d), HRS, and IRC section 172(b)(1)(B)(iv).

If you filed your original return on time but did not file the statement with it, you can make

this election on an amended return filed within 6 months of the original due date of the return, but not including any extension. Attach a statement to your amended return, and write "Filed pursuant to 26 C.F.R. 301.9100-2" at the top of the statement. Also include the statement noted above that you are waiving the carryback period.

Once you elect to waive the carryback period, it cannot be changed later.

If you do not file this statement on time, the carryback period cannot be waived and you must first carry the farming NOL back before carrying it forward.

However, no part of any farming NOL incurred outside of the State prior to beginning business in the State may be included in such election.

**Change in Filing Status.** Special rules apply if you filed a joint return (or a separate return) for some but not all of the tax years involved in figuring an NOL carryback. For details, see federal Publication 536. Attach a computation showing how you figured the carryback.

**B. TIME AND PLACE FOR FILING.**—This form must be filed with the Hawaii Department of Taxation at P.O. Box 3559, Honolulu, Hawaii 96811-3559, and must be filed on or after the date of filing of the return for the taxable year of the NOL and within 12 months from the end of such taxable year. Do not attach this form to your income tax return.

**Note:** If you fail to meet the foregoing limitation, you may file an amended return within three years of the due date prescribed for filing the return, including extensions, for the NOL year or the period agreed to under a written extension of time, whichever is later.

**C. RECOMPUTATION OF TAX LIABILITY.**—To arrive at the decrease in the tax previously determined, recompute the tax after taking the carryback(s) into account. Form N-11 or N-40 and instructions for the applicable year will be helpful in making this recomputation.

Figure the amount of decrease, attributable to the carryback, in tax previously determined for each tax year before the tax year of the NOL. The tax previously determined will be the tax shown on the return as filed, increased by any amounts assessed (or collected without assessment) as deficiencies before the date of the filing of the application, and decreased by any amounts abated, credited, refunded, or otherwise repaid prior to that date.

After figuring the tax previously determined, figure the decrease in tax previously determined attributable to the carryback and any related adjustments on the basis of the items of tax taken into account in computing the tax previously determined. In determining any decrease attributable to the carryback or any related adjustment, items must be taken into account only to the extent that they were reported on the return, or were reflected in amounts assessed (or collected without assessment) as deficiencies, or in amounts

abated, credited, refunded, or otherwise repaid, before the date of filing the application.

Deductions (except the charitable contributions deduction) which are limited, for example, by taxable income or adjusted gross income, are to be recomputed after carryback of the NOL.

If the amount of any tax for any taxable year is unpaid, including any installment not yet due, at the date of filing the application, enter the unpaid amount of such tax in the appropriate column.

**Note:** As provided by statute, adjustment to refundable tax credits, except the credit for child and dependent care expenses, must be claimed on or before the end of the year following the year for which the credits are claimed.

**D. ALLOWANCE OF ADJUSTMENT.**—The Director of Taxation will act on this application within 90 days from whichever of the following two dates is later:

1. The date on which this application is filed; or
2. The last day of the month in which falls the last date prescribed by law (including any extension of time granted) for filing the return for the taxable year of the NOL from which the carryback results.

**E. DISALLOWANCE OF APPLICATION.**—Any application which contains material omissions or computation errors which the Director of Taxation deems cannot be corrected within the 90-day period may be disallowed. This application for a tentative carryback adjustment does not constitute a claim for credit or refund. If this application is disallowed in whole or in part, no suit based thereon may be maintained in any court for the recovery of the tax. The taxpayer may, however, file a regular claim for credit or refund on an amended return at any time before the expiration of the applicable period of limitation, as further explained in Item G.

**F. EXCESS ALLOWANCES.**—Any amount applied, credited, or refunded on the basis of this application which is later determined by the Department of Taxation to be excessive may be assessed as a deficiency as if it were due to a mathematical or clerical error appearing on the return.

**G. AMENDED RETURN.**—An individual, estate, trust, or fiduciary may obtain a refund by filing an amended return. A separate amended return must be filed for each year that a refund is requested. Generally, the amended return must be filed within 3 years after the due date of the return for the tax year of the NOL.

If you are an individual, fill in the amended return oval and the NOL Carryback oval at the top of Form N-11 or Form N-15. Complete your amended return with all of the correct information. Attach Schedule AMD, Explanation of Changes on Amended Return, to the income tax return. Also attach all forms and statements required to file a complete return. If you are claiming any tax credits, remember to attach the required forms, such as Schedule CR and Schedule X, even if

**FORM N-109  
(REV. 2018)**

you claimed the credits on the original return. A copy of your original federal income tax return for the loss year must also be attached.

**H. YEARS TO WHICH YOU MAY CARRY AN NOL.**— For NOLs arising in tax years ending after December 31, 2017, NOL carrybacks are eliminated (except for farming NOLs which are permitted a two-year carryback), and unused NOLs may be carried forward indefinitely.

Any amount of the loss not used to offset 80% of the taxable income (adjusted, as explained in Item K) for the second preceding year is carried to the first preceding year. Where the loss is not entirely used to offset 80% of the taxable income (adjusted) in the 2 preceding years, the balance may be carried forward indefinitely.

**I. NOL DEDUCTION.**—The sum of your NOL carrybacks and carryovers is your NOL deduction for the tax year to which carried. Before you can figure your NOL deduction for the year, you must first determine what part of any NOLs for any earlier or later tax years represents carryovers or carrybacks to the tax year under consideration. When you have more than one NOL to be carried to the same tax year, apply the loss from the earliest year first.

**J. COMPUTATION WHEN THE NOL IS FULLY ABSORBED IN THE EARLIEST PRECEDING TAX YEAR.**—In figuring your tax liability for the year to which the NOL is carried and fully absorbed, the deduction for charitable contributions is determined without regard to any NOL carryback. Any other deductions claimed, based on or limited to a percentage of your adjusted gross income (such as medical expenses) must be refigured on the basis of your adjusted gross income, determined after application of the NOL carryback. Also, any credits based on or limited by the tax may be figured on the tax liability as determined after application of the NOL carryback.

**K. COMPUTATION WHEN THE NOL IS NOT FULLY ABSORBED IN PRECEDING TAX YEAR(S).**—The amount of an NOL which you may carry to the next year, after applying it to a prior year or years, is the excess, if any, of the

NOL carryback over 80% of the taxable income of such prior year(s) figured with the following modifications:

(1) Your deduction for capital losses must not be more than the capital gains included in gross income.

(2) You are not permitted any deduction for the excess of a net long-term capital gain over a net short-term capital loss.

(3) Your taxable income for the prior tax year(s) is determined without taking into account the NOL carryback from the loss year or any later tax year. NOLs, otherwise allowable as carrybacks or carryovers, occurring in tax years before such loss year, are taken into account in figuring the taxable income for the prior tax year.

(4) You may not claim any personal exemptions.

(5) Any deductions claimed, except charitable contributions, which are based on or limited to a percentage of adjusted gross income (such as medical expenses) must be refigured on the basis of the adjusted gross income after application of adjustments (1), (2), and (3) above. The deduction for charitable contributions is determined using the same adjustments except that you do not take into account any NOLs being carried back.

The taxable income as modified is to be considered not less than zero.

**L. ATTACHMENTS.**—Attach a copy of your original federal income tax return for the loss year to Form N-109. If a copy of your federal return is not attached, the processing of your return and refund may be delayed.

**Line-By-Line Instructions For Form N-109**

Enter in columns (a) and (c), your tax for the applicable carryback year as shown on your original or amended return. If the return was examined, enter the amounts that were determined as a result of the examination.

**Line 2. Amount of net operating loss.** — Enter the lesser of (1) the amount which would be

the NOL for the taxable year if only income and deductions attributable to farming businesses are taken into account, or (2) the amount of the NOL on page 2, Schedule A, line 10.

**Line 7. Net operating loss deduction resulting from carryback.** — Your NOL deduction is limited to 80% of taxable income.

**Line 9. Deductions.** — Individuals — Enter the amount of your itemized deductions, after any limitations, or the standard deduction amount if you did not itemize your deductions.

If your Hawaii adjusted gross income was more than \$83,400, and you were not able to deduct all of your itemized deductions, enter the amount you were able to deduct as calculated on the Total Itemized Deductions Worksheet in your Form N-11 instruction booklet.

The standard deduction amounts are \$2,200 for single or married filing separately filers; \$3,212 for head of household filers; and \$4,400 for married filing jointly or qualifying widow(er) filers.

**Line 11. Exemptions.** — Individuals — Enter \$1,144 times the number of exemptions claimed.

Those qualifying for the disability exemption use the appropriate amounts instead of the above.

**Line 13. Income Tax.** — Refigure your tax after the carryback to determine the tax decrease. Include in the tax before carryback, amounts shown on your original or amended return, and later adjusted, based on an examination of your return.

Attach a detailed computation of the new tax liability shown on line 13, columns (b) and (d). The tax form and instructions for the applicable year will be helpful in making this computation. Include in the amount on line 13 any tax from Forms N-2, N-103, N-152, N-312, N-318, N-338, N-344, N-348, N-405, N-586, or N-814.

**Line 16. Nonrefundable tax credits.** — Enter the total of your nonrefundable tax credits. Do not enter an amount that is more than the amount of your adjusted income tax liability on line 15. If line 15 is zero or less, enter zero on line 16.