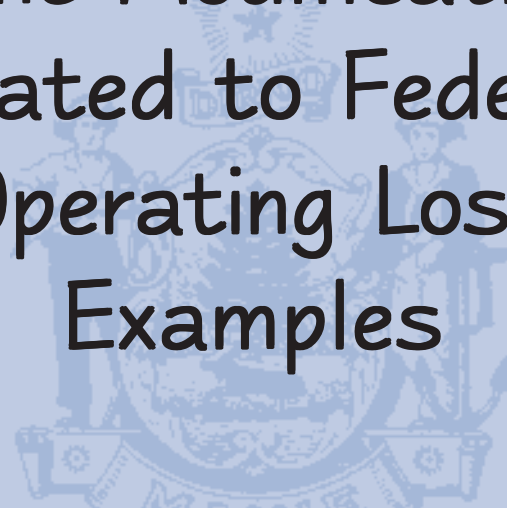


Guidance Document

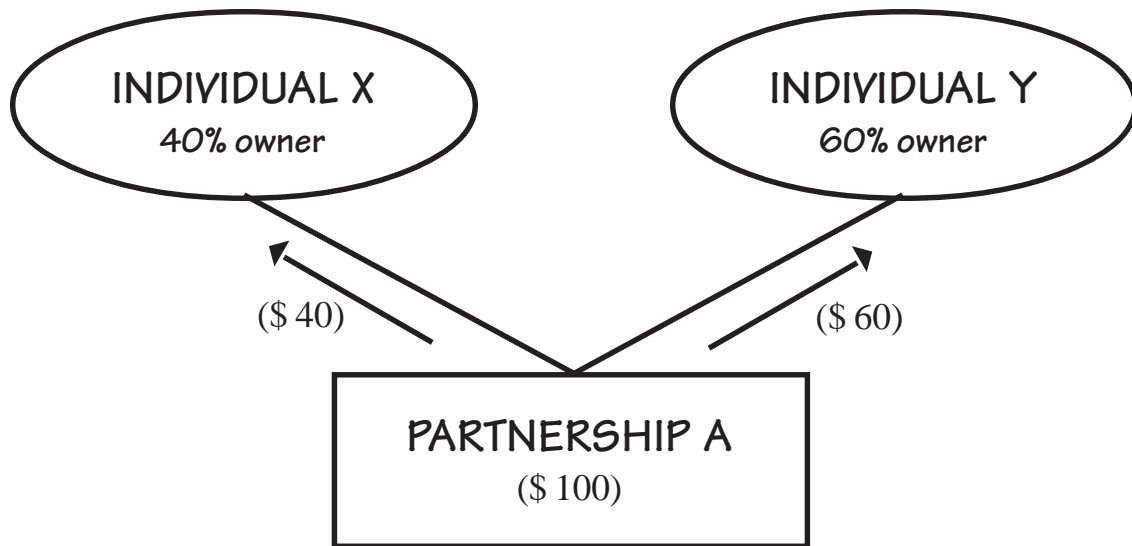


Maine Modifications
Related to Federal
Net Operating Losses –
Examples
Individuals

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DIAGRAM SHOWING THE PROCESS OF CLAIMING A NET OPERATING LOSS MODIFICATION BY AN INDIVIDUAL MEMBER OF A PASS-THROUGH ENTITY



Income and loss are generated by the entity (Partnership A) and pass through to the members (Individual X and Individual Y). For a net operating loss (“NOL”), the entity calculates the amount of the total federal loss and the portion that is applicable to each member. In the diagram above, if Partnership A incurred a loss of \$100 in 2004, a \$40 loss passes through to Individual X and a \$60 loss would pass through to Individual Y. Each member then applies the passed through loss to his or her ordinary income on Form 1040.

FREQUENTLY ASKED QUESTIONS

Q1. I have a net operating loss reported to me from a pass-through entity. Can I use this loss against all of my income?

A1. Yes. A net operating loss can be used to offset an individual's entire income

Q2. If my federal carryover is limited in a particular year, can I use the excess amount to reduce my Maine income?

A2. No. The amount of federal NOL carryover is the total amount Maine will accept. The only way you can reduce income additionally at the state level is if you are recapturing a prior year's Maine addition modification due to federal carryback of a net operating loss.

Q3. If a C corporation elects S corporation status, can the individual shareholders recapture the net operating loss addition modifications that were imposed on the business prior to the S corporation election?

A3. Yes. Recapture modifications, related to net operating losses add-backs imposed on C corporations, scheduled for tax years beginning on or after January 1, 2005, may be claimed by individual shareholders of an electing S corporation. Prior to tax year 2005, those subtraction modifications could not be utilized by the individual shareholders.

PART 1 -- ACCOUNTING FOR TAX YEAR 2000 (and earlier year) LOSSES

Chapter 1.1 – Addition Modifications

Example #1 – NOL in 2000, all of the loss is carried back.

The taxpayer has a federal net operating loss of \$90,000 in tax year 2000. The entire loss is carried back; \$40,000 is applied to 1998 and \$50,000 to 1999. From 1993 through 2000, Maine was in conformity with the Internal Revenue Code regarding net operating losses, so all federal carryback amounts were accepted for Maine income tax purposes. In the year of the loss, however, the taxpayer was required to add to income an amount equal to the NOL incurred in that year and carried back federally. This is shown in the example below, where a \$90,000 Maine addition modification is entered in the column for tax year 2000. This addition modification is required under 36 MRSA, § 5122(1)(D).

	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
Federal Income, prior to NOL	\$40,000	\$50,000	(\$90,000)	\$25,000	\$70,000
<u>NOL carryback/carryforward</u>	(\$40,000)	(\$50,000)			
Federal Adjusted Gross Income	\$0	\$0	(\$90,000)	\$25,000	\$70,000
Maine general modification:					
NOL Modifications:					
Addition	\$3,000	\$4,000	\$5,000	\$6,000	\$7,000
§5122(1)(D)			\$90,000		
§5122(1)(E)					
§5122(1)(H)					
§5122(1)(M)					
§5122(2)(H)					
Maine Adjusted Gross Income	\$3,000	\$4,000	\$5,000	\$31,000	\$77,000

The addition modification in the this example brings federal income for the taxpayer to zero. Therefore, since the taxpayer has used the full amount of the loss to reduce prior years' income, the addition modification prevents the taxpayer from eliminating other Maine addition modifications in the year of the loss. In the above example, the addition under § 5122(1)(D) keeps the taxpayer from avoiding tax on the \$5,000 general modification in addition to reducing income in 1998 and 1999 by a total of \$90,000.

Example #2 – NOL in 2000, some of the loss is carried back, some is carried forward.

The taxpayer has a federal net operating loss of \$90,000 in tax year 2000. Part of the loss (\$70,000) is carried back; \$20,000 is applied to 1998 and \$50,000 to 1999. From 1993 through 2000, Maine was in conformity with the Internal Revenue Code regarding net operating losses, so all federal carryback amounts were accepted for Maine income tax purposes. In the year of the loss, however, the taxpayer was required to add to income an amount equal to the NOL incurred in that year and carried back federally. This is shown in the example below, where a \$70,000 Maine addition modification is entered in the column for tax year 2000. This addition modification is required under 36 MRSA, § 5122(1)(D). In this example, a second addition modification is required (*see* 36 MRSA, § 5122(1)(E)) to offset the reduction of Maine income in the year of the loss. Since only a portion of the loss is carried back, the entire amount of the loss is not required to be added back to Maine income. As a result, the amount

that is used as a federal carryforward is available in the year of the loss to offset Maine addition modifications. In this example, \$5,000 of Maine income is offset by the \$20,000 carried forward federally. In order to prevent the loss carryforward from reducing income twice, Maine requires an addition modification for amounts previously offset by NOL amounts carried forward at the federal level. This modification is located in the example below under tax year 2001 as an addition of \$5,000.

	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	
Federal Income, prior to NOL	\$40,000	\$50,000	(\$90,000)	\$25,000	\$70,000	
<u>NOL carryback/carryforward</u>	(\$20,000)	(\$50,000)		(\$20,000)		
Federal Adjusted Gross Income	\$20,000	\$0	(\$90,000)	\$5,000	\$70,000	
Maine general modification:	Addition	\$3,000	\$4,000	\$5,000	\$6,000	\$7,000
NOL Modifications:	§5122(1)(D)		\$70,000			
	§5122(1)(E)			\$5,000		
	§5122(1)(H)					
	§5122(1)(M)					
	§5122(2)(H)					
Maine Adjusted Gross Income	\$23,000	\$4,000	(\$15,000)	\$16,000	\$77,000	

In the above example, the addition under § 5122(1)(E) allows the taxpayer to avoid tax on the \$5,000 general modification in 2000, but reduces income in future years by the full carryover amount. Of the \$20,000 carried forward federally, \$5,000 is used to offset Maine income in 2000. Therefore, the \$20,000 carryforward must be reduced by that \$5,000 in 2001, at the end of the carryforward period.

Example #3 – NOL in 2000, all of the loss is carried forward

The taxpayer has a federal net operating loss of \$90,000 in tax year 2000. The entire amount of the loss is carried forward: \$25,000 to 2001 and \$65,000 to 2002. From 1993 through 2000, Maine was in conformity with the Internal Revenue Code regarding net operating losses, so all federal carryforward amounts were accepted for Maine income tax purposes. In this example, however, an addition modification is required (*see* 36 MRSA § 5122(1)(E)) to offset the reduction of Maine income in the year of the loss. The amount that is used as a federal carryforward is available in the year of the loss to offset Maine addition modifications. In this example, \$5,000 of Maine income is offset by the \$90,000 carried forward federally. In order to prevent the loss carryforward from reducing income twice, Maine requires an addition modification for amounts previously offset by NOL amounts carried forward at the federal level. This modification is located in the example below under tax year 2002 as an addition of \$5,000.

	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	
Federal Income, prior to NOL	\$40,000	\$50,000	(\$90,000)	\$25,000	\$70,000	
<u>NOL carryback/carryforward</u>				(\$25,000)	(\$65,000)	
Federal Adjusted Gross Income	\$40,000	\$50,000	(\$90,000)	\$0	\$5,000	
Maine general modification:	Addition	\$3,000	\$4,000	\$5,000	\$6,000	\$7,000
NOL Modifications:	§5122(1)(D)					
	§5122(1)(E)				\$5,000	
	§5122(1)(H)					
	§5122(1)(M)					
	§5122(2)(H)					
Maine Adjusted Gross Income	\$43,000	\$54,000	(\$85,000)	\$6,000	\$17,000	

In the above example, the addition under § 5122(1)(E) keeps the taxpayer from avoiding tax on the \$5,000 general modification in 2000, as well as reducing income in future years by the full carryover amount. Of the \$90,000 carried forward federally, \$5,000 is used to offset Maine income in 2000. Therefore, the \$90,000 carryforward must be reduced, at the end of the carryforward period, by that \$5,000 in 2002.

Chapter 1.2 – Subtraction Modifications

Example #4 – NOL in 2000, all of the loss is carried back two years

The taxpayer has a federal net operating loss of \$90,000 in tax year 2000. The entire loss is carried back; \$40,000 is applied to 1998 and \$50,000 to 1999. From 1993 through 2000, Maine was in conformity with the Internal Revenue Code regarding net operating losses, so all federal carryback amounts were accepted for Maine income tax purposes. In the year of the loss, however, the taxpayer was required to add to income an amount equal to the NOL incurred in that year and carried back federally. This is shown in the example below, where a \$90,000 Maine addition modification is entered in the column for tax year 2000. This addition modification is required under 36 MRSA, § 5122(1)(D).

	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
Federal Income, prior to NOL	\$40,000	\$50,000	(\$90,000)	\$25,000	\$70,000
<u>NOL carryback/carryforward</u>	(\$40,000)	(\$50,000)			
Federal Adjusted Gross Income	\$0	\$0	(\$90,000)	\$25,000	\$70,000
Maine general modification:					
NOL Modifications:					
Subtraction	(\$3,000)	(\$4,000)	(\$5,000)	(\$6,000)	(\$7,000)
§5122(1)(D)			\$90,000		
§5122(1)(E)					
§5122(1)(H)					
§5122(1)(M)					
§5122(2)(H)					
Maine Adjusted Gross Income	(\$3,000)	(\$4,000)	(\$5,000)	\$19,000	\$63,000

The addition modification in the this example brings the federal income for the taxpayer to zero. In the above example, the addition under § 5122(1)(D) has no substantial effect, since negative income amounts due to subtraction modifications do not create a separate Maine NOL.

Example #5 – NOL in 2000, some of the loss is carried back, some is carried forward

The taxpayer has a federal net operating loss of \$90,000 in tax year 2000. Part of the loss (\$70,000) is carried back; \$20,000 is applied to 1998 and \$50,000 to 1999. From 1993 through 2000, Maine was in conformity with the Internal Revenue Code regarding net operating losses, so all federal carryback amounts were accepted for Maine income tax purposes. In the year of the loss, however, the taxpayer was required to add to income an amount equal to the NOL incurred in that year and carried back federally. This is shown in the example below, where a \$70,000 Maine addition modification is entered in the column for tax year 2000. This addition modification is required under 36 MRSA, § 5122(1)(D).

	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
Federal Income, prior to NOL	\$40,000	\$50,000	(\$90,000)	\$25,000	\$70,000
<u>NOL carryback/carryforward</u>	(\$20,000)	(\$50,000)		(\$20,000)	
Federal Adjusted Gross Income	\$20,000	\$0	(\$90,000)	\$5,000	\$70,000
Maine general modification:					
NOL Modifications:					
Subtraction	(\$3,000)	(\$4,000)	(\$5,000)	(\$6,000)	(\$7,000)
§5122(1)(D)			\$70,000		
§5122(1)(E)					
§5122(1)(H)					
§5122(1)(M)					
§5122(2)(H)					
Maine Adjusted Gross Income	\$17,000	(\$4,000)	(\$25,000)	(\$1,000)	\$63,000

In the above example, the addition under § 5122(1)(D) has no substantial effect, since negative income amounts due to subtraction modifications do not create a separate Maine NOL.

Example #6 – NOL in 2000, all of the loss is carried forward

The taxpayer has a federal net operating loss of \$90,000 in tax year 2000. The entire amount of the loss is carried forward, \$25,000 to 2001 and \$65,000 to 2002. From 1993 through 2000, Maine was in conformity with the Internal Revenue Code regarding net operating losses, so all federal carryforward amounts were accepted for Maine income tax purposes. In this example, no NOL modification is required.

	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
Federal Income, prior to NOL	\$40,000	\$50,000	(\$90,000)	\$25,000	\$70,000
<u>NOL carryback/carryforward</u>				(\$25,000)	(\$65,000)
Federal Adjusted Gross Income	\$40,000	\$50,000	(\$90,000)	\$0	\$5,000
Maine general modification:					
NOL Modifications:					
Subtraction	(\$3,000)	(\$4,000)	(\$5,000)	(\$6,000)	(\$7,000)
§5122(1)(D)					
§5122(1)(E)					
§5122(1)(H)					
§5122(1)(M)					
§5122(2)(H)					
Maine Adjusted Gross Income	\$37,000	\$46,000	(\$95,000)	(\$6,000)	(\$2,000)

PART 2 – ACCOUNTING FOR TAX YEAR 2001 LOSSES

Chapter 2.1 – Addition Modifications

Example #7 –NOL in 2001, all the loss is carried back two years

The taxpayer has a federal net operating loss of \$90,000 in tax year 2001. The entire loss is carried back; \$40,000 is applied to 1999 and \$50,000 to 2000. For tax years beginning or ending in 2001, Maine was in conformity with the Internal Revenue Code regarding net operating losses carried back two years. Maine law decoupled from federal carrybacks of more than two years. In the year of the loss, however, the taxpayer was required to add to income an amount equal to the total NOL incurred in that year and carried back federally, regardless of how many years the loss was carried back. The add-back for the loss year is shown in the example below, where a \$90,000 Maine addition modification is entered in the column for tax year 2001. This addition modification is required under 36 MRSA, § 5122(1)(D).

	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	
Federal Income, prior to NOL	\$40,000	\$50,000	(\$90,000)	\$25,000	\$70,000	
<u>NOL carryback/carryforward</u>	(\$40,000)	(\$50,000)				
Federal Adjusted Gross Income	\$0	\$0	(\$90,000)	\$25,000	\$70,000	
Maine general modification:	Addition	\$3,000	\$4,000	\$5,000	\$6,000	\$7,000
NOL Modifications:	<u>§5122(1)(D)</u>		\$90,000			
	<u>§5122(1)(E)</u>					
	<u>§5122(1)(H)</u>					
	<u>§5122(1)(M)</u>					
	<u>§5122(2)(H)</u>					
Maine Adjusted Gross Income	\$3,000	\$4,000	\$5,000	\$31,000	\$77,000	

The addition modification in this example brings the federal income for the taxpayer to zero. Therefore, since the taxpayer has used the full amount of the loss to reduce prior years' income, the addition modification prevents the taxpayer from eliminating other Maine addition modifications in the year of the loss. In the above example, the addition under § 5122(1)(D) keeps the taxpayer from avoiding tax on the \$5,000 general modification in addition to reducing income in 1998 and 1999 by a total of \$90,000. Since the taxpayer, in this example, carried back the loss only two years, no other Maine modification is necessary.

Example #8 – NOL in 2001, all of the loss is carried back five years

The taxpayer has a federal net operating loss of \$90,000 in tax year 2001. The entire loss is carried back to the federal maximum five years; \$40,000 is applied to 1996 another \$40,000 to 1997 and the remaining \$10,000 to 1998. For tax years beginning or ending in 2001, Maine was in conformity with the Internal Revenue Code regarding net operating losses carried back two years. Maine law decoupled from federal carrybacks of more than two years. In the year of the loss, however, the taxpayer was required to add to income an amount equal to the total NOL incurred in that year and carried back federally, regardless of how many years the loss was carried back. The add-back for the loss year is shown in the example below, where a \$90,000 Maine addition modification is entered in the column for tax year 2001. This addition modification is required under 36 MRSA § 5122(1)(D). A second addition

modification is required to offset the carryback amounts used in 1996, 1997 and 1998. This modification is required under § 5122(1)(M), but may also be recaptured up to two years prior to the loss year or up to the federal carryover limit for years after the loss year. In this example, \$43,000 of the offset is recaptured in 1999 and the remaining \$47,000 is recaptured in 2000.

	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
Federal Income, prior to NOL	\$40,000	\$40,000	\$40,000	\$40,000	\$50,000	(\$90,000)	\$25,000	\$70,000
<u>NOL carryback/carryforward</u>	(\$40,000)	(\$40,000)	(\$10,000)					
Federal Adjusted Gross Income	\$0	\$0	\$30,000	\$40,000	\$50,000	(\$90,000)	\$25,000	\$70,000
Addition	\$3,000	\$3,000	\$3,000	\$3,000	\$4,000	\$5,000	\$6,000	\$7,000
§5122(1)(D)						\$90,000		
§5122(1)(E)								
§5122(1)(H)								
§5122(1)(M)	\$40,000	\$40,000	\$10,000					
§5122(2)(P)				(\$43,000)	(\$47,000)			
Maine Adjusted Gross Income	\$43,000	\$43,000	\$43,000	\$0	\$6,000	\$5,000	\$31,000	\$77,000

Example #9 – NOL in 2001, some of the loss is carried back, some is carried forward

The taxpayer has a federal net operating loss of \$90,000 in tax year 2001. Part of the loss (\$70,000) is carried back; \$20,000 is applied to 1999 and \$50,000 to 2000. For tax years beginning or ending in 2001, Maine was in conformity with the Internal Revenue Code regarding net operating losses carried back two years. Maine law decoupled from federal carrybacks of more than two years. In the year of the loss, however, the taxpayer was required to add to income an amount equal to the total NOL incurred in that year and carried back federally. This is shown in the example below, where a \$70,000 Maine addition modification is entered in the column for tax year 2001. This addition modification is required under 36 MRSA, § 5122(1)(D). In this example, a second addition modification is required (*see* 36 MRSA, § 5122(1)(E)) to offset the reduction of Maine income in the year of the loss. Since only a portion of the loss is carried back, the entire amount of the loss is not required to be added back to Maine income. As a result, the amount that is used as a federal carryforward is available in the year of the loss to offset Maine addition modifications. In this example, \$5,000 of Maine income is offset by the \$20,000 carried forward federally. In order to prevent the loss carryforward from reducing income twice, Maine requires an addition modification for amounts previously offset by NOL amounts carried forward at the federal level. This modification is located in the example below under tax year 2002 as an addition of \$5,000.

		<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
Federal Income, prior to NOL		\$20,000	\$50,000	(\$90,000)	\$25,000	\$70,000
<u>NOL carryback/carryforward</u>		(\$20,000)	(\$50,000)		(\$20,000)	
Federal Adjusted Gross Income		\$0	\$0	(\$90,000)	\$5,000	\$70,000
Maine general modification:	Addition	\$3,000	\$4,000	\$5,000	\$6,000	\$7,000
NOL Modifications:	§5122(1)(D)			\$70,000		
	§5122(1)(E)				\$5,000	
	§5122(1)(H)					
	§5122(1)(M)					
	§5122(2)(H)					
Maine Adjusted Gross Income		\$3,000	\$4,000	(\$15,000)	\$16,000	\$77,000

In the above example, the addition under § 5122(1)(E) allows the taxpayer to avoid tax on the \$5,000 general modification in 2001, but reduces income in future years by the full carryover amount. Of the \$20,000 carried forward federally, \$5,000 is used to offset Maine income in 2001. Therefore, the \$20,000 carryforward must be reduced by that \$5,000 in 2002, at the end of the carryforward period.

Example #10 – NOL in 2001, all of the loss is carried forward

The taxpayer has a federal net operating loss of \$90,000 in tax year 2001. The entire amount of the loss is carried forward: \$25,000 to 2002 and \$65,000 to 2003. For tax years beginning or ending in 2001, Maine was in conformity with the Internal Revenue Code regarding net operating losses carried back two years. Maine law decoupled from federal carrybacks of more than two years. In this example, however, an addition modification is required (*see* 36 MRSA, § 5122(1)(E)) to offset the reduction of Maine income in the year of the loss. The amount that is used as a federal carryforward is available in the year of the loss to offset Maine addition modifications. In this example, \$5,000 of Maine income is offset by the \$90,000 carried forward federally. In order to prevent the loss carryforward from reducing income twice, Maine requires an addition modification for amounts previously offset by NOL amounts carried forward at the federal level. This modification is located in the example below under tax year 2003 as an addition of \$5,000.

	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
Federal Income, prior to NOL	\$40,000	\$50,000	(\$90,000)	\$25,000	\$70,000
<u>NOL carryback/carryforward</u>				(\$25,000)	(\$65,000)
Federal Adjusted Gross Income	\$40,000	\$50,000	(\$90,000)	\$0	\$5,000
Maine general modification: Addition	\$3,000	\$4,000	\$5,000	\$6,000	\$7,000
NOL Modifications:					
§5122(1)(D)					
§5122(1)(E)					\$5,000
§5122(1)(H)					
§5122(1)(M)					
§5122(2)(H)					
Maine Adjusted Gross Income	\$43,000	\$54,000	(\$85,000)	\$6,000	\$17,000

In the above example, the addition under § 5122(1)(E) allows the taxpayer to avoid tax on the \$5,000 general modification in 2001, but reduces income in future years by the full carryover amount. Of the \$90,000 carried forward federally, \$5,000 is used to offset Maine income in 2001. Therefore, the \$90,000 carryforward must be reduced by that \$5,000 in 2003, at the end of the carryforward period.

Chapter 2.2 – Subtraction Modifications

Example #11 – NOL in 2001, all the loss is carried back two years

The taxpayer has a federal net operating loss of \$90,000 in tax year 2001. The entire loss is carried back: \$40,000 is applied to 1999 and \$50,000 to 2000. For tax years beginning or ending in 2001, Maine was in conformity with

the Internal Revenue Code regarding net operating losses carried back two years. Maine law decoupled from federal carrybacks of more than two years. In the year of the loss, however, the taxpayer was required to add to income an amount equal to the NOL incurred in that year and carried back federally. This is shown in the example below, where a \$90,000 Maine addition modification is entered in the column for tax year 2001. This addition modification is required under 36 MRSA § 5122(1)(D).

All of federal loss is carried back two years

	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
Federal Income, prior to NOL	\$40,000	\$50,000	(\$90,000)	\$25,000	\$70,000
<u>NOL carryback/carryforward</u>	(\$40,000)	(\$50,000)			
Federal Adjusted Gross Income	\$0	\$0	(\$90,000)	\$25,000	\$70,000
Maine general modification:					
NOL Modifications:					
Subtraction		(\$3,000)	(\$4,000)	(\$5,000)	(\$6,000)
§5122(1)(D)			\$90,000		
§5122(1)(E)					
§5122(1)(H)					
§5122(1)(M)					
§5122(2)(H)					
Maine Adjusted Gross Income	(\$3,000)	(\$4,000)	(\$5,000)	\$19,000	\$63,000

The addition modification in the this example brings the federal income for the taxpayer to zero. In the above example, the addition under § 5122(1)(D) has no substantial effect, since negative income amounts due to subtraction modifications do not create a separate Maine NOL.

Example #12 – NOL in 2001, some of the loss is carried back, some is carried forward

The taxpayer has a federal net operating loss of \$90,000 in tax year 2001. Part of the loss (\$70,000) is carried back; \$20,000 is applied to 1999 and \$50,000 to 2000. For tax years beginning or ending in 2001, Maine was in conformity with the Internal Revenue Code regarding net operating losses carried back two years. Maine law decoupled from federal carrybacks of more than two years. In the year of the loss, however, the taxpayer was required to add to income an amount equal to the NOL incurred in that year and carried back federally. This is shown in the example below, where a \$70,000 Maine addition modification is entered in the column for tax year 2001. This addition modification is required under 36 MRSA, § 5122(1)(D).

	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
Federal Income, prior to NOL	\$20,000	\$50,000	(\$90,000)	\$25,000	\$70,000
<u>NOL carryback/carryforward</u>	(\$20,000)	(\$50,000)		(\$20,000)	
Federal Adjusted Gross Income	\$0	\$0	(\$90,000)	\$5,000	\$70,000
Maine general modification:					
NOL Modifications:					
Subtraction		(\$3,000)	(\$4,000)	(\$5,000)	(\$7,000)
§5122(1)(D)			\$70,000		
§5122(1)(E)					
§5122(1)(H)					
§5122(1)(M)					
§5122(2)(H)					
Maine Adjusted Gross Income	\$0	(\$4,000)	(\$25,000)	\$1,000	\$63,000

In the above example, the addition under § 5122(1)(D) has no substantial effect, since negative income amounts due to subtraction modifications do not create a separate Maine NOL.

Example #13 – NOL in 2001, all the loss is carried forward

The taxpayer has a federal net operating loss of \$90,000 in tax year 2001. The entire amount of the loss is carried forward, \$25,000 to 2002 and \$65,000 to 2003. For tax years beginning or ending in 2001, Maine was in conformity with the Internal Revenue Code regarding net operating losses carried back two years. Maine law decoupled from federal carrybacks of more than two years. In this example, no NOL modification is required.

	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
Federal Income, prior to NOL	\$40,000	\$50,000	(\$90,000)	\$25,000	\$70,000
<u>NOL carryback/carryforward</u>				(\$25,000)	(\$65,000)
Federal Adjusted Gross Income	\$40,000	\$50,000	(\$90,000)	\$0	\$5,000
Maine general modification:					
NOL Modifications:					
Subtraction					
§5122(1)(D)					
§5122(1)(E)					
§5122(1)(H)					
§5122(1)(M)					
§5122(2)(H)					
Maine Adjusted Gross Income	\$37,000	\$46,000	(\$95,000)	(\$6,000)	(\$2,000)

PART 3 – ACCOUNTING FOR TAX YEAR 2002 (and subsequent years) LOSSES

Chapter 3.1 – Addition Modifications

Example #14 – NOL in 2002, all the loss is carried back two years

The taxpayer has a federal net operating loss of \$90,000 in tax year 2002. The entire loss is carried back; \$40,000 is applied to 2000 and \$50,000 to 2001. For tax years beginning on or after January 1, 2002, Maine decoupled from the Internal Revenue Code regarding net operating loss carrybacks. Unlike prior years, the taxpayer was no longer required to add to income an amount equal to the total NOL incurred in the year of the loss and carried back federally, regardless of how many years the loss was carried back. Any federal carryback, however must now be offset by an addition modification of the same amount. In the example below, an addition modification of \$40,000 is required in 2000 and an addition modification of \$50,000 is required in 2001 (*see* 36 MRSA § 5122(1)(H)). The addition modifications can be recaptured in years subsequent to the year of the loss (*see* 36 MRSA § 5122(2)(H)). In the example below, \$31,000 is recaptured in 2003 and the remaining \$54,000 (\$90,000 carryback minus the \$31,000 used in 2003 minus the \$5,000 offset in 2002) is recaptured in 2004.

	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
Federal Income, prior to NOL	\$40,000	\$50,000	(\$90,000)	\$25,000	\$70,000
<u>NOL carryback/carryforward</u>	(\$40,000)	(\$50,000)			
Federal Adjusted Gross Income	\$0	\$0	(\$90,000)	\$25,000	\$70,000
Maine general modification: Addition	\$3,000	\$4,000	\$5,000	\$6,000	\$7,000
NOL Modifications:					
§5122(1)(D)					
§5122(1)(E)					
§5122(1)(H)	\$40,000	\$50,000			
§5122(1)(M)					
§5122(2)(H)				(\$31,000)	(\$54,000)
Maine Adjusted Gross Income	\$43,000	\$54,000	(\$85,000)	\$0	\$23,000

The addition modifications in the this example bring the federal income for the taxpayer to zero in the carryback years. The recapture of the addition modifications must be reduced by amounts previously used to offset Maine income, including addition modifications in the year of the loss.

Example #15 – NOL in 2002, some of the loss is carried back, some is carried forward

The taxpayer has a federal net operating loss of \$90,000 in tax year 2002. Part of the loss (\$70,000) is carried back; \$20,000 is applied to 2000 and \$50,000 to 2001. For tax years beginning on or after January 1, 2002, Maine decoupled from the Internal Revenue Code regarding net operating loss carrybacks. Unlike prior years, the taxpayer was no longer required to add to income an amount equal to the total NOL incurred in the year of the loss and carried back federally, regardless of how many years the loss was carried back. Any federal carryback, however, must now be offset by an addition modification of the same amount. In the example below, an addition modification of \$20,000 is required in 2000 and an addition modification of \$50,000 is required in 2001 (*see* 36 MRSA, § 5122(1)(H)). The addition modifications can be recaptured in years subsequent to the year of the loss (*see* 36 MRSA § 5122(2)(H)).

In the example below, \$11,000 is recaptured in 2003 and the remaining \$54,000 (\$70,000 carryback minus the \$11,000 used in 2003 minus the \$5,000 offset in 2002) is recaptured in 2004.

	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
Federal Income, prior to NOL	\$20,000	\$50,000	(\$90,000)	\$25,000	\$70,000
<u>NOL carryback/carryforward</u>	(\$20,000)	(\$50,000)		(\$20,000)	
Federal Adjusted Gross Income	\$0	\$0	(\$90,000)	\$5,000	\$70,000
Maine general modification: Addition	\$3,000	\$4,000	\$5,000	\$6,000	\$7,000
NOL Modifications:					
§5122(1)(D)					
§5122(1)(E)					
§5122(1)(H)	\$20,000	\$50,000			
§5122(1)(M)					
§5122(2)(H)				(\$11,000)	(\$54,000)
Maine Adjusted Gross Income	\$23,000	\$54,000	(\$85,000)	\$0	\$23,000

The addition modifications in the this example bring the federal income for the taxpayer to zero in the carryback years. The recapture of the addition modifications must be reduced by amounts previously used to offset Maine income, including addition modifications in the year of the loss.

Example #16 – NOL in 2002, all the loss is carried forward

The taxpayer has a federal net operating loss of \$90,000 in tax year 2002. The entire amount of the loss is carried forward; \$25,000 to 2002 and \$65,000 to 2003. For tax years beginning on or after January 1, 2002, Maine decoupled from the Internal Revenue Code regarding net operating loss carrybacks. Unlike prior years, the taxpayer was no longer required to add to income an amount equal to the total NOL incurred in the year of the loss and carried back federally, regardless of how many years the loss was carried back. Any federal carryback, however must now be offset by an addition modification of the same amount. In the example below, since there is no federal carryback, there is no related addition modification. However, in order to prevent the loss carryforward from reducing income twice, Maine requires an addition modification for amounts previously offset by NOL amounts carried forward at the federal level. This modification is located in the example below under tax year 2004 as an addition of \$5,000.

	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
Federal Income, prior to NOL	\$40,000	\$50,000	(\$90,000)	\$25,000	\$70,000
<u>NOL carryback/carryforward</u>				(\$25,000)	(\$65,000)
Federal Adjusted Gross Income	\$40,000	\$50,000	(\$90,000)	\$0	\$5,000
Maine general modification: Addition	\$3,000	\$4,000	\$5,000	\$6,000	\$7,000
NOL Modifications:					
§5122(1)(D)					
§5122(1)(E)					\$5,000
§5122(1)(H)					
§5122(1)(M)					
§5122(2)(H)					
Maine Adjusted Gross Income	\$43,000	\$54,000	(\$85,000)	\$6,000	\$17,000

In the above example, \$5,000 is used to offset Maine income in 2002. Therefore, the \$90,000 carryforward must be reduced by that \$5,000 in 2004, at the end of the carryforward period.

Chapter 3.2 – Subtraction Modifications

Example #17 – NOL in 2002, all of the loss is carried back two years

The taxpayer has a federal net operating loss of \$90,000 in tax year 2002. The entire loss is carried back; \$40,000 is applied to 2000 and \$50,000 to 2001. For tax years beginning on or after January 1, 2002, Maine decoupled from the Internal Revenue Code regarding net operating loss carrybacks. Unlike prior years, the taxpayer was no longer required to add to income an amount equal to the total NOL incurred in the year of the loss and carried back federally, regardless of how many years the loss was carried back. Any federal carryback, however must now be offset by an addition modification of the same amount. In the example below, an addition modification of \$40,000 is required in 2000 and an addition modification of \$50,000 is required in 2001 (*see* 36 MRSA, § 5122(1)(H)). The addition modifications can be recaptured in years subsequent to the year of the loss (*see* 36MRSA § 5122(2)(H)). In the example below, \$19,000 is recaptured in 2003, \$63,000 is recaptured in 2004 and the remaining \$8,000 (\$90,000 carryback minus the \$19,000 used in 2003 minus the \$63,000 used in 2004) is recaptured in 2005.

	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>
Federal Income, prior to NOL	\$40,000	\$50,000	(\$90,000)	\$25,000	\$70,000	\$70,000
NOL carryback/carryforward	(\$40,000)	(\$50,000)				
Federal Adjusted Gross Income	\$0	\$0	(\$90,000)	\$25,000	\$70,000	\$70,000
Maine general modification:						
Subtraction	(\$3,000)	(\$4,000)	(\$5,000)	(\$6,000)	(\$7,000)	(\$7,000)
NOL Modifications:						
§5122(1)(D)						
§5122(1)(E)						
§5122(1)(H)	\$40,000	\$50,000				
§5122(1)(M)						
§5122(2)(H)				(\$19,000)	(\$63,000)	(\$8,000)
Maine Adjusted Gross Income	\$37,000	\$46,000	(\$95,000)	\$0	\$0	\$55,000

The addition modifications in the this example bring the federal income for the taxpayer to zero in the carryback years. The recapture of the addition modifications must be reduced by amounts previously used to offset Maine income.

Example #18 – NOL in 2002, some of the loss is carried back, some is carried forward

The taxpayer has a federal net operating loss of \$90,000 in tax year 2002. Part of the loss (\$70,000) is carried back; \$20,000 is applied to 2000 and \$50,000 to 2001. For tax years beginning on or after January 1, 2002, Maine decoupled from the Internal Revenue Code regarding net operating loss carrybacks. Unlike prior years, the taxpayer was no longer required to add to income an amount equal to the total NOL incurred in the year of the loss and carried back federally, regardless of how many years the loss was carried back. Any federal carryback, however must now be offset by an addition modification of the same amount. In the example below, an addition modification of \$20,000 is required in 2000 and an addition modification of \$50,000 is required in 2001 (*see* 36 MRSA, § 5122(1)(H)). The addition modifications can be recaptured in years subsequent to the year of the loss (*see* 36 MRSA § 5122(2)(H)). In the example below, \$63,000 is recaptured in 2004 and the remaining \$7,000 (\$70,000 carryback minus the \$63,000 used in 2004) is recaptured in 2005.

	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>
Federal Income, prior to NOL	\$20,000	\$50,000	(\$90,000)	\$25,000	\$70,000	\$70,000
<u>NOL carryback/carryforward</u>	(\$20,000)	(\$50,000)		(\$20,000)		
Federal Adjusted Gross Income	\$0	\$0	(\$90,000)	\$5,000	\$70,000	\$70,000
Maine general modification:						
Subtraction	(\$3,000)	(\$4,000)	(\$5,000)	(\$6,000)	(\$7,000)	(\$7,000)
NOL Modifications:						
§5122(1)(D)						
§5122(1)(E)						
§5122(1)(H)	\$20,000	\$50,000				
§5122(1)(M)						
§5122(2)(H)					(\$63,000)	(\$7,000)
Maine Adjusted Gross Income	\$17,000	\$46,000	(\$95,000)	(\$1,000)	\$0	\$70,000

The addition modifications in the this example bring the federal income for the taxpayer to zero in the carryback years. The recapture of the addition modifications must be reduced by amounts previously used to offset Maine income.

Example #19 – NOL in 2002, all of the loss is carried forward

The taxpayer has a federal net operating loss of \$90,000 in tax year 2002. The entire amount of the loss is carried forward; \$25,000 to 2003 and \$65,000 to 2004. For tax years beginning on or after January 1, 2002, Maine decoupled from the Internal Revenue Code regarding net operating loss carrybacks. Unlike prior years, the taxpayer was no longer required to add to income an amount equal to the total NOL incurred in the year of the loss and carried back federally, regardless of how many years the loss was carried back. Any federal carryback, however must now be offset by an addition modification of the same amount. In the example below, since there is no federal carryback, there is no related addition modification. In order to prevent the loss carryforward from reducing income twice, Maine requires an addition modification for amounts previously offset by NOL amounts carried forward at the federal level. Since the modification in the loss year is a subtraction, no Maine income was offset and there is no related NOL modification required in this example.

	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
Federal Income, prior to NOL	\$40,000	\$50,000	(\$90,000)	\$25,000	\$70,000
<u>NOL carryback/carryforward</u>				(\$25,000)	(\$65,000)
Federal Adjusted Gross Income	\$40,000	\$50,000	(\$90,000)	\$0	\$5,000
Maine general modification:					
Subtraction	(\$3,000)	(\$4,000)	(\$5,000)	(\$6,000)	(\$7,000)
NOL Modifications:					
§5122(1)(D)					
§5122(1)(E)					
§5122(1)(H)					
§5122(1)(M)					
§5122(2)(H)					
Maine Adjusted Gross Income	\$37,000	\$46,000	(\$95,000)	(\$6,000)	(\$2,000)

