

# Connection to Federal CARES ACT

## Discussion of Disconnect from Select CARES Provisions

House Interim Committee on Revenue | August 6<sup>th</sup>, 2020 | LRO

# LC 2

## Potential Disconnect from the CARES Act

LC 2 disconnects Oregon from three CARES Act provisions

1. Disconnect from the **increase in business interest deduction** limitation
2. Disconnect from **NOL** provisions
3. Disconnect from the **business loss limitation**

<u>Section</u>	<u>Provision</u>
1, 5	Conforming statutory language
2	Non-corporate loss limitation disconnect via Oregon addition requirement
3	NOL carryback disconnect (Oregon addition requirement), reinstates limit on use of NOLs (limit equal to 80% of ATI)
4, 6	Reinstates lower limitation on business interest deduction (30% of ATI, down from 50%) and use of current year ATI
7, 9, 10	Timing of applicability & effective date
8	Waiving of penalty and interest relating to disconnect provisions

# Business Interest Limitation Modification

Pre-CARES Act	Post CARES Act (Current Law)	Current Oregon Impact	LC 2 Impact
<ul style="list-style-type: none"> <li>• Interest expense deduction</li> <li>• Allowed the sum of               <ul style="list-style-type: none"> <li>• Business interest income</li> <li>• Floor plan financing interest expense</li> <li>• 30% of adjusted taxable income (ATI)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• <b>Change to 50%</b> of ATI for tax years 2019 and 2020</li> <li>• <b>2019 ATI</b> can be used to make the 50% <b>calculation</b> instead of 2020               <ul style="list-style-type: none"> <li>• Assumes 2019 ATI &gt; 2020 ATI</li> <li>• Results in a larger deduction</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Direct impact</li> <li>• Revenue loss expected</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Require taxpayers to add back amounts in excess of original 30% ATI limit</b></li> <li>• <b>Requires 2020 ATI be used as reference for calculation</b></li> </ul>
<p style="text-align: center;"><b>LC 2 Concept</b></p> <p style="text-align: center;"><b>Business Interest Limitation</b></p>	<b>Biennium (\$ Million)</b>		
	2019-21	2021-23	2023-25
	44.4	8.3	1.9

# Net Operating Losses Modification

Pre-CARES Act	Post CARES Act (Current Law)	Current Oregon Impact	LC 2 Impact
<p><u>Personal Income Tax</u></p> <ul style="list-style-type: none"> <li>Net operating Loss (NOL)                             <ul style="list-style-type: none"> <li>Amount by which taxpayer's business deductions exceed their gross income</li> </ul> </li> <li>NOL can be carried forward</li> <li>NOL generated in TY 2018 and later limited to 80% of adjusted taxable income (ATI) when used in succeeding tax years</li> <li>NOL policy recently changed by TCJA (2017)</li> </ul>	<p><u>Personal Income Tax</u></p> <ul style="list-style-type: none"> <li>NOLs originating in TYs 2018 - 2020 may be carried back up to 5 years</li> <li>NOLs originating in TYs 2018 &amp; 2019 and carried forward, allowed to offset 100% of ATI in TYs 2019 &amp; 2020 (suspension of 80% limitation)</li> </ul>	<p><u>Personal Income Tax</u></p> <ul style="list-style-type: none"> <li>Direct impact</li> <li>NOL carrybacks via amended returns as far back as TY 2013</li> <li>Reduced tax liability in 2019-21 &amp; 2021-23 biennia, increased liability reflects less NOLs carried forward in 2023-25</li> </ul>	<ul style="list-style-type: none"> <li><b>NOL carryback disconnect</b> <ul style="list-style-type: none"> <li><b>Oregon addition requirement (unlikely taxpayer would actually file amended OR return)</b></li> </ul> </li> <li><b>Reinstates 80% limit on use of NOLs originating in TYs 2018 &amp; 2019 and used in TYs 2019 &amp; 2020</b></li> </ul>
<p><b>LC 2 Concept</b></p>	<p><b>Biennium (\$ Million)</b></p>		
	<p>2019-21</p>	<p>2021-23</p>	<p>2023-25</p>
<p><b>Net Operating Losses</b></p>	<p>91.4</p>	<p>85.9</p>	<p>-38.2</p>

# Non-Corporate Business Loss Limitation

Pre-CARES Act	Post CARES Act (Current Law)	Current Oregon Impact	LC 2 Impact
<ul style="list-style-type: none"> <li>Enacted in TCJA, applicable TYs 2018-2025, not applicable to C-Corps</li> <li>Excess business loss for the TY is limited to: \$250,000 (S)   \$500,000 (J) (limits are indexed)</li> <li>Business losses above respective limits may not offset other sources of income (e.g. portfolio income)</li> <li>Unused losses are converted to net operating losses (NOLs) that are carried forward</li> </ul>	<ul style="list-style-type: none"> <li>TYs 2018, 2019 &amp; 2020: Eliminates net business loss limitation</li> <li>Technical and administrative changes aligning with original intent of legislation (per Joint Committee on Taxation)</li> </ul>	<ul style="list-style-type: none"> <li>Direct impact</li> <li>Near term loss in revenue due to increased use of losses to offset income</li> </ul>	<ul style="list-style-type: none"> <li><b>Non-corporate loss limitation disconnect</b> <ul style="list-style-type: none"> <li><b>Oregon addition requirement</b></li> </ul> </li> </ul>
<p style="text-align: center;"><b>LC 2 Concept</b></p>	<b>Biennium (\$ Million)</b>		
	2019-21	2021-23	2023-25
<b>Business Loss Limitations</b>	89.2	10.0	-0.5

# Summary of Revenue Impacts for LC 2

LC 2 Concept	Biennium (\$ Million)		
	2019-21	2021-23	2023-25
<b>Business Loss Limitations</b>	89.2	10.0	-0.5
<b>Net Operating Losses</b>	91.4	85.9	-38.2
<b>Business Interest Limitation</b>	44.4	8.3	1.9
<b><i>Total</i></b>	<b>225.0</b>	<b>104.2</b>	<b>-36.7</b>

# Connection to Federal CARES ACT

## Discussion of Disconnect from Select CARES Provisions

House Interim Committee on Revenue | August 6<sup>th</sup>, 2020 | LRO