

ALABAMA DEPARTMENT OF REVENUE  
ADMINISTRATIVE CODECHAPTER 810-3-35.1  
ASSESSMENT OF INCOME TAXES - DEDUCTION FOR A LIMITED NET OPERATING  
LOSS CARRYFORWARD FOR CORPORATIONS

## TABLE OF CONTENTS

810-3-35.1-.01	Carryforward Of Net Operating Losses For Corporations
810-3-35.1-.02	Carryforward Of Net Operating Losses For Corporations Apportioning And Allocating Income (Repealed 12/4/17)
810-3-35.1-.03	Carryforward Of Net Operating Losses For Corporations Filing Consolidated Returns (Repealed 11/19/10)
810-3-35.1-.01	<u>Carryforward Of Net Operating Losses For Corporations.</u>

(1) In addition to the deductions allowed to corporations by Section 40-18-35, Code of Ala. 1975 a corporate taxpayer may be eligible to deduct a net operating loss the corporation generated in a prior taxable year.

(2) The term "net operating loss", as defined by Section 40-18-35.1, Code of Ala. 1975 means the excess of deductions (other than the net operating loss carryforward) allowed by Chapter 18 of Title 40, Code of Ala. 1975 over the gross income.

(3) The term "taxable year" is any taxable period on which net income is properly computed and includes a period of less than twelve months (short-year) resulting from a change in accounting period pursuant to Section 40-18-30, Code of Ala. 1975. Thus, a short-year loss may be carried to a succeeding full year, or a full year loss may be utilized in a short-year.

(4) The loss for any year is to be computed under the law applicable to that year.

(5) The amount available for carryforward must be reduced by the amount of any loss deduction which was available for use, even if not actually used. No adjustment will be required under this subparagraph for years in which the corporation had in effect an election to be an Alabama S corporation.

(6) Multi-state corporations. Net operating losses allowed to be carried forward by a corporate taxpayer that is a multi-state

business are limited "to sources attributable to Alabama". For purposes of this rule, "sources attributable to Alabama" means the portion of net operating loss attributable to Alabama on a post-allocation and apportionment basis pursuant to Chapter 27 of Title 40, Code of Ala. 1975.

(7) A net operating loss carryforward deduction may only be utilized by the corporation which incurred the loss. A corporation, resulting from a reorganization will be considered to have incurred the losses not utilized by the parties to a reorganization. However, the utilization of such losses may be limited based on the application of 26 U.S.C §381, 26 U.S.C §382, and 26 U.S.C §384. If a taxpayer is a multi-state taxpayer, such federal limitations must be adjusted to reflect the fact that Alabama multi-state taxpayers must calculate Alabama taxable income on a post-allocation and apportionment basis, see Rule 810-3-1.1-.01.

(8) A net operating loss from any year in which the corporation had elected to be an Alabama S corporation may not be carried forward. See Rule 810-3-168-.01.

(9) A net operating loss from any year in which the corporation filed as a financial institution pursuant to Chapter 16, Code of Ala. 1975 may not be carried forward to offset an income tax imposed by Chapter 18, Code of Ala. 1975.

(10) For taxpayers filing as part of an Alabama affiliated group, see Rule 810-3-39-.03.

**Author:** Holly H. Coon

**Statutory Authority:** Code of Ala. 1975, §§40-2A-7 (a)(5), 40-18-35.1.

**History:** Adopted September 30, 1982. **Amended:** Filed May 15, 1992. **Amended:** Filed February 1, 2000; effective March 7, 2000.

**Repealed and New Rule:** Filed May 4, 2018; effective June 18, 2018.

#### 810-3-35.1-.02

#### Carryforward Of Net Operating Losses For Corporations Apportioning And Allocating Income (Repealed 12/4/17).

(REPEALED)

**Author:** Voncile Catledge, Individual and Corporate Tax Division

**Statutory Authority:** Code of Ala. 1975, §40-18-35.1.

**History:** Adopted January 28, 1987. **Amended:** June 17, 1988; filed July 27, 1988. **Amended:** Filed February 1, 2000; effective March 7, 2000. **Repealed:** Filed October 20, 2017; effective December 4, 2017.

810-3-35.1-.03      Carryforward Of Net Operating Losses For  
Corporations Filing Consolidated Returns  
(Repealed 11/19/10).

(Repealed)

**Author:** Voncile Catledge

**Statutory Authority:** Code of Ala. 1975, §§40-2A-7(a)(5),  
40-18-57, as amended.

**History: New Rule:** Filed February 1, 2000, effective March 7,  
2000. **Amended:** Filed June 6, 2001, effective July 11, 2001.

**Amended:** Filed October 15, 2010; effective November 19, 2010.