

FORM N-309

(REV. 2020)



**CORPORATION APPLICATION FOR TENTATIVE REFUND FROM CARRYBACK OF NET OPERATING LOSS (NOL)**

This Application Must be Filed Separately from Your Income Tax Return to Ensure Proper Processing

Name		Federal Employer I.D. No.	1. Enter the loss year and amount of NOL.	
Mailing Address (number and street)		Check method of accounting: (1) Cash <input type="checkbox"/> (2) Accrual <input type="checkbox"/> (3) Other (explain below) <input type="checkbox"/>	Year Ended .....	
City or town, State and Postal/ZIP Code			Amount \$ .....	
			Decrease in Tax \$ .....	
			(Line 28 below)	
2. Date the return was filed for the year of the NOL..... District Office with which filed.....			<b>CAUTION: For NOLs arising in tax years ending after December 31, 2017, only farming NOLs may be carried back 2 years.</b>	
3. Was a consolidated return filed for the taxable year specified in item 1? Yes <input type="checkbox"/> No <input type="checkbox"/>				
4. (a) Preceding tax year ended (years affected by the carryback)	(b) Amount of any unpaid taxes (Specify type)	(c) Name shown on original return	(d) Was a consolidated return filed?	
			Yes	No
2nd				
1st				
5. Was an extension of time granted for filing the return for the year of the NOL? If "Yes," give date to which extension granted.			Yes <input type="checkbox"/> No <input type="checkbox"/>	
6. If there has been a change in your accounting period, give date permission to change was granted.			7. Date of incorporation	
8. If this is an application of a dissolved corporation, give date of dissolution.		9. Have you filed an appeal in the Tax Appeal Court for the year or years to which the loss is to be applied? ..... Yes <input type="checkbox"/> No <input type="checkbox"/>		

<b>COMPUTATION OF DECREASE IN TAX</b>	2nd preceding tax year ended		1st preceding tax year ended	
	(a) Before carryback	(b) After carryback	(c) Before carryback	(d) After carryback
11. Taxable income before deducting line 12.....				
12. NOL deduction resulting from carryback (attach computation) (see Instruction I).....				
13. Line 11 minus line 12 .....				
14. Net capital gain.....				
15. Line 13 minus line 14 .....				
16. Tax on line 14 (see Instruction H).....				
17. Tax on line 15 (see Instruction H).....				
18. Line 16 plus line 17 .....				
19. Tax on line 13 (see Instruction H).....				
20. Income tax (enter lesser of line 18 or line 19)....				
21. Recapture of tax credit(s).....				
22. Line 20 plus line 21 .....				
23. Refundable tax credit(s) .....				
24. Balance of tax liability (or overpayment) (difference between lines 22 and 23) .....				
25. Nonrefundable tax credit(s).....				
26. Line 24 minus line 25, but not less than zero..				
27. Enter amounts from line 26, columns (b) and (d).....				
28. Decrease in tax (line 26 minus line 27) .....				

I declare, under 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.

Signature of Officer or Agent

Title

Date

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## INSTRUCTIONS

### GENERAL INSTRUCTIONS

#### CHANGES TO NOTE. —

- For net operating losses (NOLs) arising in tax years ending after December 31, 2017, Act 27, Session Laws of Hawaii (SLH) 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 NOLs arising in tax years beginning after December 31, 2017, Act 27, SLH 2018, limits the NOL deduction to 80% of taxable income.

**MAILING ADDRESS.** — If your mailing address has changed, you must notify the Department of the change by completing Form ITPS-COA, Change of Address Form, or log in to your Hawaii Tax Online account at [hitax.hawaii.gov](http://hitax.hawaii.gov). Failure to do so may prevent your address from being updated, any refund due to you from being delivered (the U.S. Postal Service is not permitted to forward your State refund check), delay important notices or correspondence to you regarding your return.

**REQUIRED ATTACHMENTS.** — Attach to this form copies of the first two pages of the corporation's federal return for the loss year, any forms or schedules from which the carryback results, and forms or schedules for items refigured in the carryback years.

**ELECTION NOT TO CARRY BACK.** — A corporation may elect to carry forward a farming NOL instead of first carrying it back by attaching a statement to this effect on a timely filed return (including any extensions) for the farming NOL year. If you make this election, then you can use your farming NOL only in the carryforward period.

**A. WHO MUST FILE AN APPLICATION.** — Any corporation that wants a quick refund of taxes due to a carryback of a farming NOL must file this form. This does not apply to an S corporation which elects the tax treatment provided by IRC section 1372(a).

Taxpayers can choose whether or not to carry a farming NOL back first before carrying it forward. *This form should only be used by those taxpayers choosing to carry their farming NOLs back.*

**B. TIME AND PLACE FOR FILING.** — This form must be filed with the Hawaii Department of Taxation at P.O. Box 3559, Honolulu, HI 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 of the end of such taxable year. **Do not attach this form to your income tax return.** Any Form N-309 attached to an income tax return cannot be processed and will not be considered timely filed even if submitted with the return within 12 months of the end of the taxable year in which the NOL occurred.

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. NOL DEDUCTION.** — For an NOL occurring in tax years beginning after December 31, 2017, the NOL deduction for the year attributable to farming losses cannot exceed 80% of the taxable income for that year, without taking into account the NOL. Any farming NOL carried back and not applied can be carried forward indefinitely.

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. All adjustments required to compute a farming NOL which is carried back must be shown on a separate schedule.

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

- (1) the date on which the 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 deems cannot be corrected within a 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 any tax. The taxpayer may, however, file a regular claim for credit or refund on an amended Form N-30 (corporation return) at any time before the expiration of the applicable period of limitation.

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

### SPECIFIC INSTRUCTIONS

**G. LINE 4, COLUMN (b).** — If the amount of any tax for any taxable year specified in column (a) of line 4 is unpaid, including any installment not yet due, at the date of filing the application, enter the unpaid amount of such tax and specify the kind of tax or taxes.

**H. LINES 11 thru 20. — RECOMPUTATION OF TAX LIABILITY.** — Enter in columns (a) and (c) the amount for the applicable carryback year, starting with the earliest carryback year, as shown on the original or amended return or as previously adjusted. Enter the date the carryback year ends in the space above columns (a) and (b) and columns (c) and (d). If the return was examined, enter amounts that were determined as a result of the examination.

To arrive at the decrease in the tax previously determined, recompute the tax after taking the carryback(s) into account. Form N-30 and instructions for the applicable year will be helpful in making this recomputation. Attach a detailed computation of the new tax liability shown on lines 16, 17, and 19.

Deductions that are limited by taxable income are to be recomputed after carryback of an NOL. The deduction for charitable contributions, however, is computed without regard to any carryback. Attach a schedule showing the recomputation. Also, credits based on or limited by the tax must be recomputed on the basis of the tax liability after application of the carrybacks.

**I. LINE 12.** — For accrual basis taxpayers, a reduction of the NOL deduction representing the tax benefit derived from the original state income tax expense deduction is required. Attach a separate schedule showing your computation.

**J. LINE 21.** — Enter any recapture of the capital goods excise tax credit, the low-income housing tax credit, the high technology business investment tax credit, the tax credit for flood victims, the important agricultural land qualified agricultural cost tax credit, and the capital infrastructure tax credit.

**K. LINE 23.** — See Schedule CR for a list of the refundable credits.

**L. LINE 25.** — See Schedule CR for a list of the nonrefundable credits.