



MULTISTATE INCOME/FRANCHISE TAX

California restores NOLs and removes the business tax credit limit for 2022

Tax Alert

Overview

On February 9, 2022, the California governor signed [Senate Bill 113](#) (S.B. 113), which restores the net operating loss (NOL) deduction and eliminates the \$5 million annual cap on business incentive tax credits, effective for tax years beginning on or after January 1, 2022.

When initially enacted in 2020, the NOL suspension and credit limit applied to tax years 2020, 2021, and 2022. However, S.B. 113 removes the credit limit and restores the NOL deduction for the 2022 tax year. See our previously issued [Tax Alert](#) for more details on California's initial enactment of the NOL suspension and credit limitation.

This Tax Alert summarizes some of the relevant provisions of S.B. 113.

Removal of NOL suspension

- For tax years beginning on or after January 1, 2022, S.B. 113 removes the NOL suspension for taxpayers with taxable income of \$1 million or more.
- Restoration of the NOL deduction affects both corporate and personal income taxpayers with business income, which includes an owner's distributive share of income from a passthrough entity.
- For tax years 2020 and 2021, certain taxpayers remain exempt from the NOL suspension including taxpayers subject to the Personal Income Tax Laws (PITL) with "net business income" or "modified adjusted gross income" of less than \$1 million and taxpayers subject to the Corporation Tax Laws (CTL) with income subject to tax under the CTL of less than \$1 million.

Elimination of limit on business credits

- For tax years beginning on or after January 1, 2022, S.B. 113 eliminates the \$5 million business tax credit limit for both corporate and personal income taxpayers.
- For tax years 2020 and 2021, the limit applies to any credit allowable under Chapter 2 of the PITL (commencing with California Revenue and Taxation Code (CRTC) Section 17041), except for certain enumerated credits that are still allowed despite the limitation.
- For tax years 2020 and 2021, the limit applies to any credit allowable under Chapter 3.5 of the CTL (commencing with CRTC Section 23604), except for the credit for low-income housing.
- For tax years 2020 and 2021, under the PITL and the CTL, the credits that are affected include, but are not limited to, the research credit, jobs tax credit, qualified motion picture credits, the oil recovery credit, credits for transporting donated agricultural product, credit for rehabilitating certified historic structures, natural preservation credit, and prison inmate labor credit.

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