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Lossmaxxing: Time To Crack Down on Paper Losses and Restore Corporate Tax Accountability

New Jersey's net-operating-loss deduction cost the state \$1.2 billion in 2023, with most of the benefit flowing to fewer than 1,000 large corporations.

Peter Chen, Senior Policy Analyst

A fair corporate tax system tracks corporate profits: when business booms, companies pay more; when business slumps, they pay less. Companies generating more profits should pay more in taxes to reflect their relative wealth.

The “net-operating-loss” (NOL) deduction originated from this principle of tax equity. It allows companies to reduce their taxable profits by offsetting them with losses from earlier years.

But the deduction's expansion in recent years has created opportunities for very profitable corporations to reduce their tax rates, sometimes to almost nothing.¹

Net-operating-losses have grown substantially, and these large deductions are concentrated in a small number of large corporations:

- The NOL deduction cost New Jersey roughly \$1.2 billion in lost revenue in tax year 2023.²
- Nearly \$1 billion of the program's cost came from less than one percent of companies.³ Those filers each took deductions worth \$1 million or more.
- Of corporate filers claiming more than \$1 million in tax deductions from net operating losses, almost two-thirds reduced their taxable income to \$0 using the net-operating-loss deduction with other credits and deductions.⁴

Reforming this deduction will rein in the overall cost and discourage corporations from using paper losses to avoid taxes, with minimal effect on most New Jersey businesses. Fewer than one percent of corporate tax filers in the state would be affected by a \$1 million cap on net-operating-loss deductions.

NJPP recommends:

- Adopt Gov. Sherrill’s proposed temporary cap on net-operating-loss deductions of \$1 million or more.
- Permanently reform NOLs by reducing the size and duration of deductions to discourage tax avoidance.
- Prevent profitable corporations from claiming low to no tax liability.

The Original Issue: “Smoothing” Corporate Taxation

The net-operating-loss deduction originally came from a reasonable problem: the disconnect between business cycles and tax cycles.⁵ Although corporate income tax collection is annual, business cycles themselves are often longer or shorter. Business can be bad one year and good the next, disconnected from the changing of the calendar.

The corporate income tax system looks at income or profits — revenues minus expenses:

- If a company makes profits, it is taxed on those profits.
- If a company makes no money or loses money, the state collects no tax on those losses. Nor does it send money back to the corporation. These are **net operating losses**.

Whether sales or purchases happen on one side of the one-year mark or the other can make a big difference in tax collection.

Say Alpha Co. has a big loss in year 2023, losing \$1 million. Then in 2024, it collects \$1 million in profit from a sale in January 2024. Alpha Co. pays \$0 in 2023 in corporate income tax, but pays tax in 2024 on the \$1 million in profits.

Beta Co., meanwhile, also had \$1 million in costs in 2023, but it made its big \$1 million sale in December 2023. Now Beta Co. has \$0 in profit in Year 1 and \$0 in profit in Year 2, and therefore \$0 in tax liability for both years.

Across the two years, the hypothetical companies Alpha Co. and Beta Co. averaged \$0 in profits, but because of the annual reporting requirements in the tax code, each company paid very different tax amounts.

To better reflect this reality, the tax code has long allowed companies to shift their net operating losses across different years to “smooth” the realities of the business cycle.

With the net operating loss “carryforward” (carrying the loss forward from 2023 to 2024), Alpha Co. can apply its 2023 loss against profits in 2024, resulting in the same tax result across both scenarios.

Problem solved: the two companies are now treated similarly.

Problem Not Solved: How NOL Growth Went Out of Control

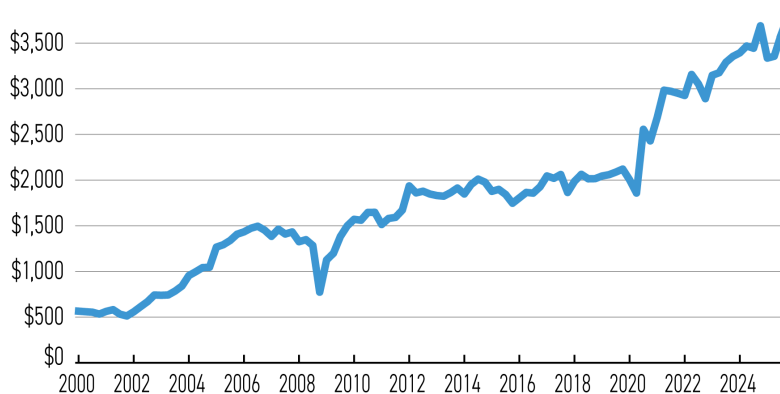
Real companies do not operate like the hypothetical ones in the previous example and have increasingly used net operating losses to reduce tax liability. Over the decades, net operating losses for tax purposes have become disconnected from the corporate profits that big businesses report to their investors. Companies have figured out that those net operating losses are valuable as tax assets.⁶ When federal income taxation began, these losses could be carried over one year.⁷ Today, federal tax law allows for unlimited carryforward, while New Jersey law limits carryforward to 20 years.⁸

These expansions have coincided with growth in net-operating-loss activity as a means of reducing corporate tax liability. NOL deductions from tax year 2023 returns cost the state \$1.2 billion.⁹ That is roughly a quarter of the \$4 billion in corporate business tax the state collected in Fiscal Year (FY) 2025, when those returns were primarily processed.¹⁰

These losses piled up against a backdrop of record-high corporate profits nationally. Even as corporations reported strong earnings to shareholders, their New Jersey tax filings claimed billions in prior-year losses.

Nationally, Corporate Profits Continue to Reach Record Highs

Corporate Profits After Tax (Billions of Dollars, Seasonally Adjusted Annual Rate)



Source: U.S. Bureau of Economic Analysis, Corporate Profits After Tax (without IVA and CCAAdj) [CP], retrieved from FRED, Federal Reserve Bank of St. Louis; May 1, 2026.

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Several policy changes drove this disconnect:

- The carryforward period for net-operating-losses in New Jersey is now 20 years long, compared to seven years prior to 2018.¹¹
- New Jersey allows corporations to reduce their tax bill by up to 80 percent of their taxable profits.¹²
- According to one study, 90 percent of large corporations disclosed a net-operating-loss carryforward.¹³

Once these losses are incurred, the long carryforward period turns them into a valuable asset corporations can shift to later years to offset profits.¹⁴ And because of differences in accounting requirements, a company can show a profitable year to investors, while showing a net operating loss to the state tax authority.

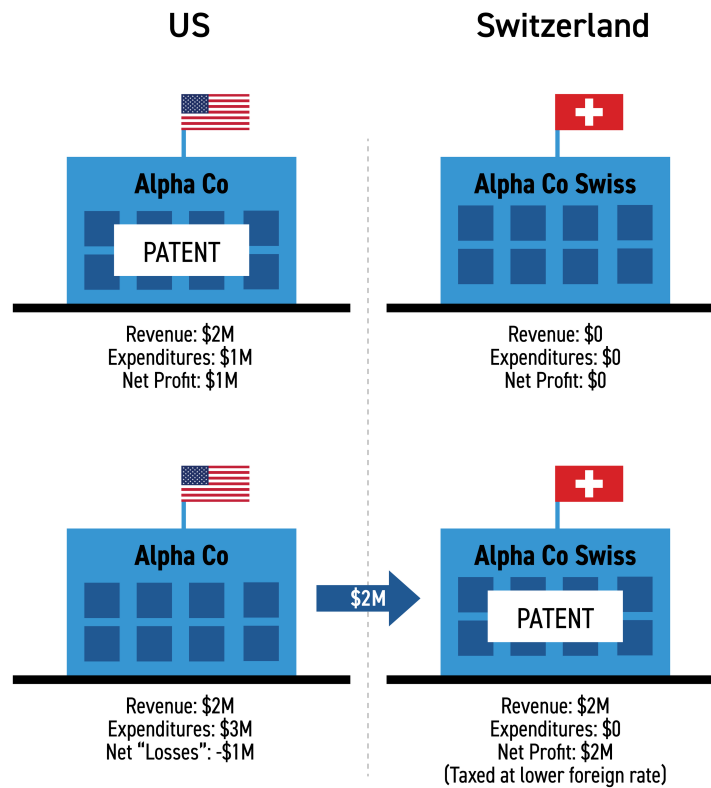
For example, in calendar year 2025, Alphabet, Google's parent company, reported \$132.1 billion in "net income" to its investors in its financial disclosures.¹⁵ Despite the corporation's high profits, the value of its total net-operating-loss carryforwards *increased* by more than \$1 billion over the prior year.¹⁶ The exact mechanics behind how these assets were generated are not publicly available, but the fact that a profitable year can somehow result in more NOL value underscores how disconnected the deduction is from reality.

The expansion of net-operating-loss claims also affects state revenue estimates. Years that look strong on paper for the state can still produce disappointing revenue if corporations apply NOL deductions to lower their tax bills.

In many cases, those reductions eliminate the tax filers' obligations entirely. Only 816 corporations out of more than 107,000 total reported a net-operating-loss deduction larger than \$1 million.¹⁷ Of those, nearly two-thirds claimed \$0 in corporate income in tax year 2023.¹⁸ In other words, they lowered their reported profits to nothing using previous loss carryovers in combination with other credits and deductions.

This also creates incentives to manufacture paper losses that exploit the tax code to avoid or reduce taxation, when the overall corporation actually saw no change or even a gain in actual profits for investors.

For example, say that Alpha Co. USA transfers its patent for a product to Alpha Co. Switzerland. Alpha Co. USA now pays a royalty fee to the Swiss company it also controls, creating a large expense that produces a net-operating-loss for New Jersey tax purposes.



Nothing in reality has changed for Alpha Co. The shareholders and corporate entities have exactly as much money as they did before. Alpha Co. could theoretically increase the payment to the Swiss company to inflate the value of the loss, even though the subsidiary and the parent company are part of the same whole.

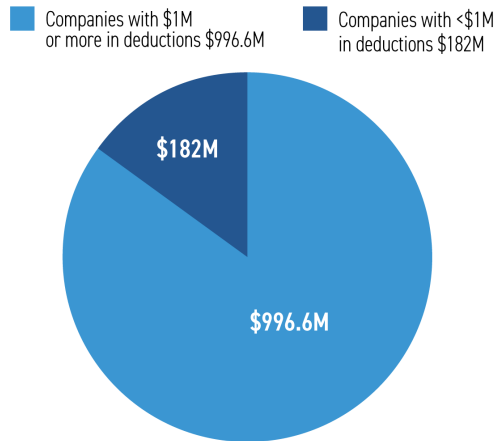
But to New Jersey tax authorities, the corporation appears to be taking a loss. Meanwhile, the overseas profits are taxed at lower, more favorable rates.¹⁹

Without looking at individual returns or corporate books, it is difficult to measure how widespread these tax-avoidance schemes are, but the deductibility of net-operating-losses in future years makes these arrangements more attractive.

The end result is substantial revenue loss to the state, concentrated among corporations with NOL deductions larger than \$1 million.

New Jersey Loses Revenue from Net-Operating-Loss Deductions

Revenue Loss of Net-Operating-Loss Deductions, Tax year 2023



Source: New Jersey Division of Taxation.

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Policy Solutions and Reforms

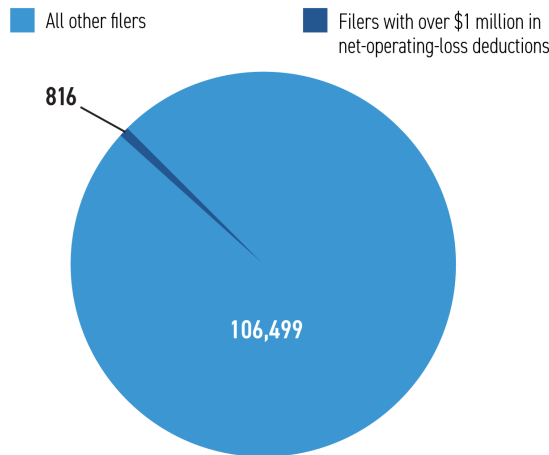
New Jersey can reduce the cost of the net-operating-loss deduction, through commonsense reforms that reduce the appeal of the deduction for very large, profitable corporations. With the bulk of the benefit going to very large NOL claims, relatively modest changes to NOL requirements, as other states have done, can improve state finances without affecting tax returns for the overwhelming majority of business filers.

1. Adopt Gov. Sherrill's proposed temporary cap on net-operating-loss deductions of \$1 million or more

Gov. Sherrill's budget proposal includes a temporary cap on net-operating-loss deductions at \$1 million annually for the next three years.²⁰ The Treasury estimates that this reform would reduce the state's cost of the net-operating-loss deductions by \$485 million.²¹ Temporary restrictions and caps are a useful tool for reducing current budget pains, one New Jersey has used before in 2002 and 2003, when it fully suspended the deduction.²²

Less Than 1 Percent of Corporate Tax Filers Would Be Affected by a Cap on Net-Operating-Loss Deductions

Number of Corporate Tax Filers, \$1 Million Cap, New Jersey, Tax Year 2023



Source: New Jersey Division of Taxation.

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The proposed reform would only affect the tax returns of less than one percent of corporate tax filers, leaving the majority of corporations unaffected.

2. Permanently reform NOLs to reduce the size and duration of net-operating-loss deductions and discourage tax avoidance

The governor's proposed change only delays the cost of net-operating-loss deductions to the state in future years, without changing the underlying structure that has driven this expanding revenue loss.

More permanent changes will be needed to rein in NOLs beyond a few years, such as:

- Reducing the carryforward period from 20 years to a shorter window, which would reduce the value of these claims as deferred tax assets and reduce year-to-year revenue volatility.
- Reducing the percentage of losses a company can claim each year to 40 percent of taxable income, which would reduce large claims by companies in any given year.
- Capping the overall amount of losses that can be claimed at \$1 million permanently, which would limit use by larger businesses with more sophisticated tax avoidance strategies.

The dramatic expansion in NOL activity can be tamed with legislation, as other states have demonstrated:

- Many states have shorter carryforward periods.²³
- Minnesota has reduced the NOL deduction to 70 percent of a corporation's taxable income.²⁴
- Other states have pursued caps or restrictions on the total dollar value of losses claimed.²⁵

Additionally, to avoid affecting small and start-up businesses, these reforms could be limited to corporations with gross revenues above \$1 million.²⁶

3. Prevent profitable corporations from claiming low to no tax liability

Net-operating-loss claims are only one piece of a broader corporate tax avoidance pattern. Addressing the larger problem will require additional reforms.

For example, New Jersey could increase the minimum tax paid by corporations that report \$0 in profits. Federally, an “alternative minimum tax” imposes a 15 percent floor on income reported in corporate financial statements, preventing companies from avoiding federal taxes entirely.²⁷

New Jersey currently has its own version of a minimum tax for businesses reporting \$0 in profits. A corporate tax filer reporting no income needs to pay only \$2,000 in taxes, even if its gross revenues are greater than \$1 million.²⁸ Raising the floor on minimum taxes for large corporations could reduce the appeal of tax-avoidance strategies like net-operating-loss maximization.

Conclusion

Net-operating-loss carryforward is a policy that has grown far beyond its initial goal of smoothing the realities of the business cycle. The fewer than 1,000 claimants of net-operating-losses larger than \$1 million are not mom-and-pop flower shops. They are large, sophisticated corporations using tax planning strategies to minimize their tax obligations.

The math is simple: \$1.2 billion in NOL deductions is \$1.2 billion the state cannot put toward health care, transit, and education. At a time when New Jersey faces a roughly \$1.6 billion structural budget deficit, ensuring that large corporations pay taxes based on their actual profits is essential to keeping those critical state programs funded.²⁹

¹ NJPP obtained data from the New Jersey Treasury Department to identify net-operating-loss claims and revenue losses over time. This data informs the analysis contained in the report.

² Based on New Jersey Treasury Department data on file with the author

³ Based on New Jersey Treasury Department data on file with the author

⁴ Based on New Jersey Treasury Department data on file with the author

⁵ For background on the origin of the tax treatment of net operating losses, the Congressional Research Service has a useful survey. Congressional Research Service. [The Tax Treatment and Economics of Net Operating Losses \(No. R46377\)](#). Oct. 19, 2020.

⁶ Thomson Reuters Tax Glossary. [Deferred Tax Assets](#). April 23, 2026.

⁷ Congressional Research Service. [The Tax Treatment and Economics of Net Operating Losses \(No. R46377\)](#). Oct. 19, 2020. P. 3.

⁸ 26 U.S. Code Sec. 172(b)(1)(A)(ii)(II) (2026). N.J. Admin. Code Sec. 18:17-5.13(a) (2026).

⁹ Based on New Jersey Treasury Department data on file with the author

¹⁰ State of New Jersey. [Governor's Budget Message: Detailed Budget Recommendations, Fiscal Year 2027](#). March 10, 2026. P. C-3

¹¹ New Jersey carryover of net-operating-losses has ranged from seven years (1984-2002), no carryover permitted (2002-2003), carryover limited at 50 percent (2004-2005), then a return to seven years (2006-2009), then 20 years in 2018. N.J. Stat. Sec. 54:10A-4(k)(6)(A), (v)(1) (2026). See also P.L. 2018, c. 48.

¹² New Jersey Division of Taxation. [Net Operating Losses and Combined Groups \(No. TB-95\(R\)\)](#). Oct. 11, 2023. Pp. 5-6.

¹³ Heitzman, S. & Lester, R. "Tax Loss Measurement." *Nat'l Tax Journal* vol. 74(4). 2021.

¹⁴ Thomson Reuters Tax Glossary. [Deferred Tax Assets](#). April 23, 2026. See also General Accountability Office. [TAX COMPLIANCE: Challenges to Corporate Tax Enforcement and Options to Improve Securities Basis Reporting](#). June 13, 2006. ("Tax avoidance has become such a concern that some tax experts say corporate tax departments have become 'profit centers' as corporations seek to take advantage of the tax laws in order to maximize shareholder value.").

¹⁵ Alphabet Inc. [Form 10-K, Fiscal Year Ended December 31, 2025](#). P. 32.

¹⁶ Alphabet Inc. [Form 10-K, Fiscal Year Ended December 31, 2025](#). P. 85.

¹⁷ Based on New Jersey Treasury Department data on file with the author

¹⁸ Based on New Jersey Treasury Department data on file with the author

¹⁹ Wamhoff, S. [Tax Haven Data Demonstrate Need for Global Minimum Tax Despite Opposition from Trump Administration](#). Institute on Taxation and Economic Policy. Dec. 10, 2025.

²⁰ State of New Jersey. [Budget in Brief: Summary of Budget Recommendations, Fiscal Year 2027](#). March 2026. P. 50-51.

²¹ State of New Jersey. [Budget in Brief: Summary of Budget Recommendations, Fiscal Year 2027](#). March 2026. P. 50-51.

²² See Office of the State Treasurer. [Press Release: Treasurer McCormac Delivers Testimony on FY 2002-2003 Revenues and Corporate Tax Reform Before Assembly Budget Committee](#). May 30, 2002.

²³ See, e.g., [New Hampshire Admin. Code Sec. Rev 303.03\(b\)](#) (10-year carryforward); [32 Vermont Statutes Annotated Sec. 5888\(4\)](#) (10-year carryforward); [Minnesota Statutes 290.095 Subd. 3\(a\)](#) (15-year carryforward).

²⁴ [Minnesota Statutes 290.095 Subd. 2\(c\)](#). 2026.

²⁵ See [Illinois Public Act 103-0592](#). 2024. P. 908.

²⁶ California has, in prior years, suspended its net-operating-loss deduction for tax filers with income over a certain dollar amount. See California Franchise Tax Board, [Multistate Audit Technical Manual, Chapter 8010](#). March 26, 2026.

²⁷ Patel, E. [The corporate AMT: Understanding low tax liabilities as a policy choice](#). Brookings Institution. Nov. 13, 2024.

²⁸ [N.J. Admin. Code Sec. 18:7-21.19](#).

²⁹ Binder, A. [Testimony of Aaron Binder, Treasurer, Before Assembly Budget Committee](#). April 6, 2026. Pp. 7-8.