



Loss Year Ending

Alabama Department of Revenue

• \_\_\_\_\_  
(mm/dd/yyyy)

# Computation of Net Operating Loss

Name(s) as shown on Form 40, or 40NR

Your Social Security Number

**PURPOSE OF SCHEDULE.** Form NOL-85 is designed to determine the actual **net operating loss** sustained in the loss year that may be carried back or carried forward. Before preparing this form, the loss year return **must** first be completed through the taxable income line. See instructions on the reverse side for further information.

## PART I – Excess of Nonbusiness Deductions Over Nonbusiness Income

### NONBUSINESS DEDUCTIONS:

1(a) Federal income tax claimed as a deduction on the loss year return	1a ●	
(b) Loss on sale of nonbusiness assets	1b ●	
(c) Payments to Individual Retirement Arrangement (IRA), Keogh retirement plan, or SEP plan	1c ●	
(d) Penalty on early withdrawal of savings (Form 40 only)	1d ●	
(e) Alimony paid	1e ●	
(f) Adoption expenses	1f ●	
(g) Self employed health insurance deduction from Page 2, Part II of Form 40 or 40NR	1g ●	
(h) Other (explain)	1h ●	

2(a) Enter the **Standard Deduction** claimed on return. Skip lines 2b, 3a-b, 4, and 5. 2a ●

(b) Enter the **Total Itemized Deductions** claimed on Schedule A 2b ●

### LESS BUSINESS DEDUCTIONS:

3(a) Casualty or theft loss claimed on Schedule A	3a ●	
(b) Other miscellaneous business deductions	3b ●	
4 Total Adjustments to Schedule A. Add lines 3a and 3b	4 ●	

5 **TOTAL NONBUSINESS ITEMIZED DEDUCTIONS.** Subtract line 4 from line 2b 5 ●

6 **TOTAL NONBUSINESS DEDUCTIONS.** Add lines 1a through 2a and 5 6 ●

### NONBUSINESS INCOME:

7(a) Interest and Dividend Income (Form 40 only)	7a ●	
(b) Gain on sale of nonbusiness assets	7b ●	
(c) Federal income tax refunds reported on loss year return (Form 40 only)	7c ●	
(d) Taxable distributions from pensions, annuities, IRAs or other retirement plans (Form 40 only)	7d ●	
(e) Alimony received (Form 40 only)	7e ●	
(f) Trust and/or Estate income from Schedule E	7f ●	

(g) Other (explain) \_\_\_\_\_  
On line 7(g) include items such as director's fees, royalty income, gambling income, prizes, awards, etc. 7g ●

8 **TOTAL NONBUSINESS INCOME.** Add lines 7a through 7g 8 ●

9 **EXCESS NONBUSINESS DEDUCTIONS OVER NONBUSINESS INCOME.** If line 6 exceeds line 8, subtract line 8 from line 6. Enter the result here and on line 5, Part II below. If line 8 exceeds line 6, enter -0- here and also on line 5, Part II below. 9 ●



**PART II – Computation of Net Operating Loss**

1	Enter the <b>Taxable Income</b> from Form 40 or Form 40NR (must be a negative amount) . . . . . ▶	1	•	
<b>Modifications – (enter all amounts on lines 2 through 6 below as positive amounts)</b>				
2	Net Operating Loss claimed on the loss year return (if any) . . . . .	2		
3	Personal exemption claimed on the loss year return . . . . .	3	•	
4	Dependent exemption claimed on the loss year return . . . . .	4	•	
5	Enter the Excess Nonbusiness Deductions Over Nonbusiness Income from line 9, Part I above . . . . .	5	•	
6	<b>TOTAL MODIFICATIONS.</b> Add lines 2, 3, 4, and 5 . . . . .	6	•	
7	<b>NET-OPERATING LOSS ALLOWABLE.</b> Combine lines 1 and 6. If the result is a negative figure, enter here. If zero or a positive figure – <b>STOP – DO NOT FILE THIS FORM.</b> You <b>DO NOT</b> have a net operating loss . . . . . ▶	7	•	

**PART III – Election to Forfeit Carryback Provision (CAUTION – Do Not Complete Part III If You Are Carrying Loss Back)**

If the amount on line 7, Part II above is a negative figure, you may elect to carry this loss forward or it must be carried back 2 years (3 years prior to January 1, 1998) and any unused portion may then be carried forward to succeeding years (see instructions). See Part III instructions for election to forfeit carryback provision.

By checking the box, I hereby elect to forfeit the carryback provision and instead elect to carryforward any allowable net operating loss for this taxable year. . . . . •

# Instructions For Completing Form NOL-85

## General Instructions

The Alabama Legislature passed Act 98-502 which amended the net operating loss deduction for individuals for tax years beginning after December 31, 1997. Rule 810-3-15.2-.01 was promulgated to administer the new NOL law set forth in Section 40-18-15.2 Code of Alabama, 1975.

A net operating loss is an amount that business deductions (after modifications) exceed business income. The most common reason for an NOL is a loss in operating a business or from the sale of business assets. However, casualty and theft losses can also create an NOL. Alabama law limits the kinds of deductions and the amounts that can be used to figure an NOL.

The Alabama NOL provision is similar to the Federal NOL in many ways. Federal guidelines will be followed, whenever possible, in administering the Alabama NOL.

Form NOL-85 should be completed to determine if you have an NOL, and if so, the amount that can be carried back or carried forward. If you follow the specific instructions below, you should be able to complete Form NOL-85 quickly and accurately.

## Specific Instructions

Before Part I or Part II can be completed, you must first complete Form 40 or Form 40NR through the taxable income line for the loss year. If any amount in the loss year return results in a negative figure, it should be shown as a negative figure on the return instead of zero.

### Example:

2000 Adjusted Gross Income . . . . .	(\$ 2,000.00)
Less: Total Deductions . . . . .	<u>8,500.00</u>
Taxable Income . . . . .	(\$10,500.00)

## Heading

Enter the name and social security number of the taxpayer exactly as shown on the loss year return.

In the upper right corner, enter the date that the loss year ends. A calendar year taxpayer should enter 12-31-\_\_\_\_ and a fiscal year taxpayer should enter the date the fiscal tax year ends.

## PART I

### Excess Nonbusiness Deductions Over Nonbusiness Income

**Line 1a.** Enter the federal income tax claimed as a deduction on the loss year return.

**Line 1b.** Enter the total of all losses resulting from the sale of property and other assets not used in a trade or business.

**Lines 1c–1h.** The adjustments to income for items listed on lines 1c-1h are considered nonbusiness deductions for the purpose of figuring an NOL. If you claimed any of these adjustments to income on Part II, Form 40, or Parts II or III of Form 40NR, the amount claimed should be entered on the appropriate lines.

**Lines 2a and 2b.** If you claimed the **Standard Deduction**, enter the amount claimed on line 2a and omit lines 2b, 3a–3b, 4, and 5. If you claimed **Itemized Deductions**, enter on line 2b the total of all itemized deductions claimed in Schedule A.

**Line 3a.** If you claimed a deduction for a casualty or theft loss on Schedule A, the amount claimed should be entered on this line.

**Line 3b.** Enter the total of all business related expenses claimed on Schedule A as a miscellaneous deduction, including those expenses (after 2% A.G.I. limitation) reported on Federal Form 2106. For the purpose of determining an NOL, these include the following expenses if incurred in the production or protection of business income:

- Union dues
- Safety equipment, small tools, and supplies used in the taxpayer's job.
- Protective clothing, such as hard hats and safety shoes.
- Uniforms required by your employer.
- Physical examinations required by your employer.
- Dues to professional organizations and chambers of commerce.
- Subscriptions to professional journals.
- Fees to employment agencies to secure employment.
- Safety deposit box.
- Clerical help.
- Office rent and expenses for office in home.
- Educational expenses required by employer or to maintain present skills.
- Telephone required for business.
- Travel expenses to a second job.

**Note:** Tax preparation fees do not qualify as a business expense for the purpose of determining an NOL. (If business related, the tax preparation fees should be claimed on Schedule C or Schedule F.)

**Caution:** Nonresidents should include only business expenses related to their Alabama source income when completing line 3b.

**Lines 7a–7g.** The income items shown on lines 7a-7g are considered nonbusiness income for the purpose of determining an NOL. If you reported income from any of these sources on Form 40 or Form 40NR, the taxable amount reported should be entered on the appropriate line. Examples of items that should be included on these lines are as follows:

**Line 7a.** Interest and dividend income including distributive shares of interest and dividend income received by a partnership or an Alabama S corporation.

**Line 7b.** Gains or losses from the sale of assets not used in a trade or business (including distributive shares of gains or losses from such assets held by a partnership or an Alabama S corporation).

**Line 7g.** Other nonbusiness income includes items such as gains from the sale of a personal residence to the extent recognized for federal purposes, royalty income, gambling income, prizes, awards, and director's fees.

## PART II

### Computation of Net Operating Loss

**Line 1.** Enter the taxable income shown on Form 40 or Form 40NR on this line.

**Line 2.** When calculating an NOL, a net operating loss carryover or carryback from another year cannot be used in computing the NOL deduction. If you claimed an NOL deduction for another year on the loss year return, thereby reducing taxable income, the amount claimed should be entered on this line. The amount should be entered as a positive figure even though it is shown as a negative figure on the loss year return.

**Lines 3 and 4.** The personal exemption and dependent exemption claimed in the loss year return should be entered on these lines.

**Line 5.** The amount shown on line 9, Part I should be entered on this line.

**Line 7.** Combine the negative amount from line 1 with the positive amounts from line 6. If the result is a positive figure, you **DO NOT** have a net operating loss and should not file Form NOL-85.

### Example I:

Taxable income from Form 40 . . . . .	(\$5,000.00)
Total Modifications . . . . .	<u>7,000.00</u>
NET-OPERATING LOSS . . . . .	.00

In Example I above there is no net operating loss since the Total Modifications \$7,000.00 are more than the Taxable Income (\$5,000.00).

### Example II:

Taxable income from Form 40 . . . . .	(\$15,000.00)
Total Modifications . . . . .	<u>7,000.00</u>
NET-OPERATING LOSS . . . . .	(\$ 8,000.00)

In Example II above, there is a net operating loss of \$8,000.00. In order to carry the loss back or forward you must also complete **Form NOL-85A**, making the modifications as required. See the instructions for Form NOL-85A for further information for carrying the loss back or forward.

## PART III

### Election to Carry Net Operating Loss Forward

You may elect to forego the carryback of a net operating loss deduction and instead carry the loss forward to the first available year following the loss year. This election, once made, is irrevocable.

For loss years beginning before January 1, 1998, such an election must be made on or before the due date (with extensions) for filing the income tax return for the tax year. The election, once made, is irrevocable.

For loss years beginning after December 31, 1997, the election to forego the carryback period can be made in one of two ways. The election can be made on or before the due date (with extensions) for filing the income tax return for the loss year. If no election is made by the due date of the loss year return, then the filing of the next year's return by the due date, including extensions and claiming the loss on the return shall be considered the taxpayer's election to forego the carryback period. The election, once made, is irrevocable.

If you elect to carry the loss back, attach Form NOL-85 to the loss year return, but **DO NOT CHECK THE BOX** in Part III. If a proper election to forego the carryback period is not made, or is not timely made, the NOL must be carried back to the earliest year preceding the loss year in which the NOL may be utilized. Attach Form NOL-85A to **Form 40X**, Amended Alabama Individual Income Tax Return for the earliest year available when claiming a carryback which is prior to tax year 2008. For tax year 2008 and after you should use a tax form and check the amended box. To carry the loss forward, you should attach Form NOL-85A to the first available year following the loss year.