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## **Net Operating Loss may result in tax refunds from previous tax years**

President Obama signed into law the American Recovery and Reinvestment Tax Act of 2009 on February 17, 2009. In addition to bonus depreciation and an increase to Section 179 Expensing for qualified business aircraft purchases, the Net Operating Loss carryback provision may also benefit new aircraft purchased in 2008 and 2009.

In this economic environment, it is not uncommon for a taxpayer to have a substantial income in one year, but losses in another. When a taxpayer incurs a net operating loss (NOL), Section 172 of the Internal Revenue Code allows a taxpayer to carry back this loss to prior tax years or carry it forward to future years as a deduction. **Under the new legislation, an eligible small business can now carry this loss back for up to five years if the loss is incurred for a tax year ending on December 31, 2008 or a fiscal tax year beginning in 2008. For 2009 tax year, net operating loss can be carried back two tax years to 2007.**

The tax code defines an “eligible small business” as any trade or business (including one conducted in or through a corporation, partnership, or sole proprietorship) that has average annual gross receipts of less than \$15 million.

For example, an eligible small business incurs a \$1 million loss for the tax year 2008. This loss is carried back to the tax year 2003 as a deduction. This \$1 million deduction will reduce the original taxable income in 2003 and a tax refund will be issued. If your corporation has a June 30 fiscal year, a net operating loss for June 30, 2009 can be carried back five tax years to June 30, 2004.

There are many variables in computing and filing a net operating loss claim. A thorough review of prior year income tax returns is necessary to confirm that a tax refund opportunity exists.

**Modified: February 25, 2009**

*Aviation Tax Consultants (ATC) assists aircraft purchasers in acquiring aircraft in a tax efficient manner. Services include the elimination or reduction of sales and use tax at the time of purchase, maximizing income tax savings, controlling the cost of personal use of a business aircraft, and complying with Federal Aviation Regulations. Cooperation with client's current tax and legal advisors is welcome and encouraged.*

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