



Hank Gutman's Letter to the Editor on NOL Carrybacks Published in Tax Notes

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Tax Notes has published a Letter to the Editor from IPB's Hank Gutman, entitled "Net Operating Loss Carrybacks Are Not Tax Subsidies," in its latest issue.

Refuting a letter sent to members of Congress with more than 200 signatory organizations urging repeal of a section of the CARES Act that the writers allege is an "unwarranted tax break" for corporations and business owners, Hank writes, "That is quite an accusation . . . especially because it has absolutely no validity as a matter of sound tax or economic policy! To put the matter in context, the function of NOL carrybacks and carryforwards is to allow a business to pay tax on the income it has earned over its existence without regard to the artificial (but necessary) imposition of an annual reporting period."

Hank, former Chief of Staff for the JCT, further notes that, "The Joint Committee on Taxation does not list NOL carrybacks and carryforwards as "tax expenditures." Rather, it has stated:

The Joint Committee staff assumes that normal income tax law would provide for the carryback and carryforward of net operating losses. The staff also assumes that the general limits on the number of years that such losses may be carried back or forward were chosen for reasons of administrative convenience and compliance concerns, and may be assumed to represent normal income tax law (Joint Committee on Taxation, "Estimates of Federal Tax Expenditures for Fiscal Years 2019-2013," JCX-55-19, at 8 (Dec. 18, 2019))."