



Treasury Issues Internal Revenue Informative Bulletin 21-04

By: **William Sánchez-Pabón**

On this edition, we will review the [Internal Revenue Informative Bulletin 21-04](#) issued by the Puerto Rico Department of Treasury (“PRTD”) to discuss the program for the previous tax years recovery of net operating losses under Act 57 of 2020 (“Act 57-2020”).

BACKGROUND INFORMATION

The Governor of Puerto Rico signed House Bill 2468 converting it into law on June 14, 2020 as Act 57-2020, known as the “Complementary Act to Address the Effects on the Puerto Rican Economy caused by the COVID-19 Emergency”, establishing new economic and tax stimulus programs to help the economy of Puerto Rico go back to normal and prevent a recession.

The economic and tax stimulus programs created under Act 57-2020 were effective immediately after their approval and will last for the period that is necessary to alleviate the impact of COVID-19 in the economy, but will not be prolonged beyond **December 31, 2021**.

Among the tax stimulus programs created under Act 57-2020, there is one for the previous tax years recovery of net operating losses (“NOL Carryback”) which will grant taxpayers certain tax benefits.

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NOL CARRYBACK

Article 5(b) of Act 57-2020 established a special deduction on net operating losses, directly caused by the COVID-19 pandemic, for the taxable year 2020 to carryback to each of the two prior taxable years, subject to certain rules. Among the application rules are:

- The special deduction will **not** be limited by the 80% or 90% use limitation, as established under Section 1033.14(b)(1)(D) of the Puerto Rico Internal Revenue Code of 2011, as amended (“the Code”).
- The special deduction will be allowed to taxpayers with a volume of business of \$10,000,000 or less.
- Large Taxpayers, as defined in Section 1010.01(a)(35) of the Code, will not be allowed to take advantage of the special deduction.
- The maximum amount to carryback to previous years will be \$200,000 and the maximum reimbursement for income taxes paid in previous years will be \$50,000.
- The special deduction will also be used on the computation of the alternative basic tax and the alternative minimum tax.

Internal Revenue Informative Bulletin 21-04 (“IR IB 21-04”)

The PRTD issued the IR IB 21-04 on May 10, 2021, to notify the process of the NOL Carryback special deduction to the 2018 and 2019 income tax returns. Interested taxpayers must submit an application through the Internal Revenue Unified System (known by its Spanish acronym as “SURI”) and it is not required to amend the 2018 and 2019 income tax returns to claim the special deduction.

It is important to note that the PRTD will be issuing a Circular Letter establishing the terms and conditions of the special deduction and the application process for interested taxpayers.

This is an opportunity for taxpayers that have been affected by the COVID-19 pandemic to get a relief of the current net operating losses and mitigate any net taxable income of the 2018 and 2019 income tax returns within their businesses, to take advantage of this help from the Government of Puerto Rico. At ATBA we have experienced personnel on this and other tax related topics.

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