



Economic Stimulus Proposal to Promote Innovation and Job Creation by U.S. Research-Intensive Emerging Companies

One Time Refund of NOLs in Lieu of Other Tax Benefits to Sustain Critical R&D During Financial Distress

Description: Allow companies to temporarily elect to receive a refund of their accumulated net operating losses (NOLs) at a discounted rate in lieu of claiming qualified research expenses, as defined by Code §41(b), for Tax Year 2008. The proposal would have the following features:

- Election to receive a refund of accrued NOLs at a discounted rate (i.e., 35% corporate tax rate minus a discount percentage).
- Refunds must be reinvested in investments that would qualify as U.S.-based research expenses under Code §41(b).
- Company would permanently forgo the opportunity to claim all NOLs involved in the computation of the refund.
- Applies only to loss companies in Tax Year 2008.
- Limited to small companies.
- Refund capped at a per company dollar amount

Example: Assuming a discount percentage of 15%, a small biotech/high-tech/clean-tech company with \$100M in accumulated NOLs could elect to claim a refund of \$20M on their 2008 tax return ($\$100M \times (35\% - 15\%) = \$20M$). The \$20M refund could only be used to pay for U.S.-based research activities. The company would forgo the ability to carry forward the remaining \$80M in NOLs for future tax years.

Rationale: Many of America's most-promising companies in the areas of science and technology are struggling to raise the necessary research funding to survive the current economic slowdown and may disappear if economic conditions do not improve in the very near future. In order to save the high-paying, research-intensive jobs of America's innovation economy, Congress should allow companies to accelerate the utilization of their tax assets. Companies struggling to conduct capital-intensive R&D and meet payroll during the economic downturn will forgo a larger tax benefit in the future to claim a smaller tax benefit today. The proposal has minimal revenue impact since companies are only claiming accumulated NOLs at a substantial discount in return for forgoing the ability to claim remaining NOLs for future tax years.