



Business Tax Return 2021

FISCAL PERIOD _____ TO _____

Calendar Year Taxpayers file on or before April 18, 2022
Fiscal Year Due on 15th Day of 4th Month After Year End

City of Cincinnati

Income Tax Division
PO Box 637876
Cincinnati OH 45263-7876
Phone: (513) 352-3847
E-file available at:

<https://web2.civacmi.com/Cincinnati>

Did you file a City Return last year? <input type="checkbox"/> YES <input type="checkbox"/> NO	Is this a Combined Corporate Return? <input type="checkbox"/> YES <input type="checkbox"/> NO	Should your account be inactivated? <input type="checkbox"/> YES <input type="checkbox"/> NO If YES, please explain:
Account Number: _____ FID #: _____	Filing Status (Check one)	
Name: _____ Email: _____	<input type="checkbox"/> C-Corporation	
Address: _____	<input type="checkbox"/> S-Corporation	
City/State/Zip: _____	<input type="checkbox"/> LLC	
PLEASE PROVIDE CURRENT ADDRESS		
<input type="checkbox"/> Partnership/Association		
<input type="checkbox"/> Fiduciary (Trusts and Estates)		
<input type="checkbox"/> Amended Return		
<input type="checkbox"/> Refund (<i>Amount must be entered on Line 13 to be a valid refund request</i>)		

Part A	2021 TAX CALCULATION	
1.	Adjusted Federal Taxable Income (Enclose Copy of Federal Return) From Form _____ Line _____	\$
2.	Adjustments (From Line L, Schedule X).....	\$
3.	AFTI after Schedule X (Line 1 plus/minus Line 2).....*If loss, this is your 'New' NOL, see 4a.....	\$
4 a.	New NOL deduction (50% limitation)...*see House Bill 5 NOL instructions attached.....	\$
4 b.	Apportionment percentage (From Step 5, Schedule Y) _____ %.....	
5.	Cincinnati taxable income (Multiply Line 3 by Line 4b OR use MTI amount from calculation, see 4a).....	\$
6.	Other separately stated items. Cincinnati stock options deducted from adjusted federal taxable income and Cincinnati rental income or (loss).....	\$
7.	Amount subject to Cincinnati income tax (Line 5 plus or minus Line 6).....	\$
8.	Cincinnati income tax (Multiply Line 7 by 1.8% [.018]).....	\$
9 a.	Estimates paid on this year's liability.....	\$
9 b.	Credits applied to this year's liability.....	\$
10.	Total payments and credits (Lines 9a + 9b)	\$
11.	Tax due (Subtract Line 10 from Line 8) (Amounts less than \$10.00 are not due)	\$
12.	Overpayment (Line 10 greater than Line 8).....	\$
13.	Amount to be refunded (Amounts less than \$10.00 will not be refunded)	\$
14.	Credit to next year.....	\$
		Federal Extension filed If yes, attach copy
		Yes <input type="checkbox"/>
		No <input type="checkbox"/>

Part B	DECLARATION OF ESTIMATED TAX FOR 2022	
15.	Total Estimated Income Subject to Tax.....	\$
16.	Cincinnati Estimated Income Tax Due (Multiply Line 15 by 1.8% [.018]).....	\$
17.	Quarter One Estimated Tax Due Before Credits (at least 25% of Line 16).....	\$
18.	Less Credits (from Line 14 above) or Amounts Already Paid on This Year's Liability.....	\$
19.	Net Estimated Tax Due if Line 17 Minus Line 18 is Greater Than Zero*.....	\$
20.	TOTAL AMOUNT DUE —Combine Line 11 above with Line 19 (Make checks payable to "City of Cincinnati" or pay online at https://web2.civacmi.com/Cincinnati)	\$

* Subsequent estimated payments are due by the 15th day of the 6th, 9th and 12th months after the beginning of the taxable year.
*Failure to remit timely estimated payments will result in the assessment of interest and penalties.
*If the total estimate due after applicable credits for 2022 is less than \$200.00, then no declaration is required.

The undersigned declares that this return (and accompanying schedules) is a true, correct and complete return for the taxable period stated and that the figures used herein are the same as used for Federal Income Tax purposes and understands that this information may be released to the Internal Revenue Service.

Signature of Person Preparing Return	PTIN	May the City Tax Division discuss this return with the preparer shown to the left? () YES () NO	Signature of Officer or Agent	Date
Name of Person Preparing Return	Phone Number		Name and Title	Phone Number

SCHEDULE X—RECONCILIATION WITH FEDERAL INCOME TAX RETURN

ITEMS NOT DEDUCTIBLE	ADD	ITEMS NOT TAXABLE	DEDUCT
A. Capital Losses (Sec. 1221 or 1231 included)		H. Capital Gains.....	
B. Taxes on or measured by net income		I. Intangible income	
C. Guaranteed Payments to partners, retired partners, members or other owners.		J. Other income exempt (Explain).....	
D. Expenses attributable to non-taxable income (5% of Line I.)		
E. Real Estate Investment Trust Distributions.....		
F. Other.....		
.....		
.....		
G. Total Additions.....	\$	K. Total Deductions.....	\$

L. Combine Lines G and K and enter net on Part A, Line 2 \$ _____

SCHEDULE Y—BUSINESS APPORTIONMENT FORMULA

	a. Located Everywhere	b. Located in Cincinnati	Percentage (b / a)
STEP 1. Original cost of real and tangible personal property.....			
Gross annual rentals paid multiplied by 8.....			
TOTAL STEP 1.....			%
STEP 2. Wages, salaries, and other compensation paid *See Schedule Y-1.....			%
STEP 3. Gross receipts from sales made and services performed.....			%
STEP 4. Total percentages (Add percentages from Steps 1-3)			%
STEP 5. Average percentage (Divide total percentage by number of percentages used—Carry to Part A, Line 4)			%

***SCHEDULE Y-1 RECONCILIATION TO FORM W-3 (WITHHOLDING RECONCILIATION)**

Total wages allocated to Cincinnati (from Federal Return or apportionment formula).....	\$
Total wages shown on Form W-3 (Withholding Reconciliation).....	\$

Please explain any difference:

Are there any employees leased in the year covered by this return? _____ YES _____ NO

If YES, please provide the name, address and FID number of the leasing company.

Name: _____

Address: _____
City State

FID Number: _____

DIRECT DEPOSIT INFORMATION

For convenience and accuracy, we recommend that taxpayers have the refund direct deposited to a bank account. Enter banking information below. Requesting a check to be mailed could result in delays receiving your refund. (This information is for the refund only and not for tax due amounts.)

Routing #																			
Account #																			

Checking Savings

CITY OF CINCINNATI 2021 BUSINESS INCOME TAX RETURN INSTRUCTIONS

Office Phone: (513) 352-3847 Website: www.cincinnati-oh.gov/citytax
Mail to: PO Box 637876, Cincinnati OH 45263-7876

Returns must be filed by everyone required to submit a Declaration of Estimated Tax, even though the Declaration was accurate and paid in full.

Returns filed after the due date of the return will be assessed a late filing penalty of \$25.00/month (maximum \$150.00). In Part A, indicate if a Federal Extension was filed.

This form is to be used by all entities other than sole proprietorships and single member limited liability companies. Sole proprietors and single member limited liability companies must file on the Individual Income Tax Return.

WHAT'S NEW IN 2022

There is an option to have your refund directly deposited to your bank account.

General Instructions:

If you are filing for any year other than 01/01/2021 through 12/31/2021, indicate the year of the tax return with beginning and ending dates. Fiscal year taxpayers should use the beginning year of the fiscal period as the year of the tax return.

1. If you received a pre-printed form containing incorrect information, make the necessary corrections to the form. If the form is not pre-printed, please enter the information in the spaces provided for name, address and EIN/FID number.
2. Complete the box that pertains to the filing of a city return in the previous year, the combined corporate return question and whether or not the account should be inactivated. If your account should be inactivated, provide an explanation. If this is a final return, give the reason why. If you sold the business, provide the name, address and phone number of the purchaser on a separate attachment.
3. Check the appropriate box that corresponds to the filing status of the business.
4. If you are amending a tax year, place an "X" in the box marked AMENDED and be sure to indicate the year that you are amending in the space provided. Include your amended Federal Return or documentation pertaining to the Internal Revenue Service Audit.

Part A –TAX CALCULATION

LINE 1: Enter the Adjusted Federal Taxable Income (AFTI). As defined by Ohio Revised Code (ORC) 718.01 AFTI means a

C-Corporation's federal taxable income before net operating losses and special deductions. Other business entities must compute the AFTI as if they were a C-corporation. Generally this is the line titled "Income/(Loss) Reconciliation" on the Schedule K of the Form 1120S for subchapter S-Corporations or Line 1 page 4 of the Form 1065 Analysis of Net Income (Loss) for partnerships and limited liability companies.

LINE 2: Enter the total adjustments from Schedule X.

LINE 3: Line 1 plus or minus Line 2.

LINE 4a: If reporting new NOL (2017 and after), please use NOL instructions attached. **Effective with tax year 2017 -** Net Operating losses are computed prior to the application of the allocation percentage. Schedule Y, if applicable, must be completed to be considered a complete tax return. Operating losses may be carried forward for a maximum period of five tax years. **An explanatory schedule is required to support any adjustments made on this line.** (See CMC Section 311-21)

LINE 4b: Enter the apportionment percentage from Step 5 of Schedule Y. (See CMC Section 311-17, Rules and Regulations R17 and ORC718.02)

LINE 5: Multiply Line 3 by Line 4b **OR MTI amount from calculation (see line 4a).**

LINE 6: The amount entered in this space should include the amount of stock option compensation included in adjusted federal taxable income for Cincinnati employees and Cincinnati rental income. Deduct Cincinnati rental losses and the amount of net operating losses carried forward from previous years that you are claiming in this year. **Effective with tax year 2017 -** Net Operating losses are computed prior to the application of the allocation percentage. Schedule Y, if applicable, must be completed to be considered a complete tax return. Operating losses may be carried forward for a maximum period of five tax years. **An explanatory schedule is required to support any adjustments made on this line.** (See CMC Section 311-21). See State of Ohio NOL guidelines attached.

LINE 7: Line 5 plus or minus Line 6.

LINE 8: Multiply Line 7 by 1.8% (.018)

LINE 9a: Enter the amount of estimated tax payments including any amounts paid with an extension. Estimated payments may be subject to the underpayment of estimated tax penalty. Businesses must remit quarterly estimates equal to 100% of the prior year's tax or 90% of the current year's tax.

LINE 9b: Enter the amount of the overpayment from prior years credited to 2021 and the amount of certified Jobs Credits.

LINE 10: Line 9a plus Line 9b.

LINE 11: If Line 8 is greater than Line 10, enter the tax due. **(Amounts less than \$10.00 are not due)**

LINE 12: If Line 10 is greater than Line 8, enter the overpayment.

LINE 13: Enter the amount to be refunded. **(Amounts less than \$10.00 will not be refunded)**

LINE 14: Enter the amount to be credited to tax year 2022 estimated tax liability.

Part B – DECLARATION OF ESTIMATED TAX FOR 2022

*The taxpayer shall base the estimated tax on the preceding full year's tax liability, or on the preceding three-month period, annualized for the remainder of the year, and updating this estimate by amendment as necessary each succeeding three-month period so that at least 90 percent of the annual Cincinnati tax liability to be ultimately determined shall have been paid by estimate within one month following the close of the tax year. **If the total estimate due after applicable credits for 2022 is less than \$200.00, then no declaration is required to be filed.***

LINE 15: Enter the amount of estimated income for 2022 using one of the two safe harbors above.

LINE 16: Enter the total estimated tax due for 2022

LINE 17: Divide Line 16 by 4 to determine the amount of estimated tax for the first quarter.

LINE 18: Enter the amount of credits from Line 14.

LINE 19: Enter and remit the net estimated tax due if Line 17 minus Line 18 is greater than zero. This is the first of four quarterly estimated tax payments. The second payment is due on the 15th day of June and is equal to the total estimated tax on Line 16 divided by 4 less any overpayment still available from prior years. The third payment is due on the 15th day of September and the final estimated payment is due on the 15th day of December.

LINE 20: Combine Line 11 and Line 19 to determine the total amount due.

Payment options:

By mail: Check, Cashier's Check or Money Order payable to "City of Cincinnati"

In office: Check, Cashier's Check or Money Order payable to "City of Cincinnati" or Cash

Pay online at <https://web2.civicacmi.com/Cincinnati> * with credit card (2.5% service fee) or bank account

*Payment website is maintained by a 3rd party vendor

Schedule X – Reconciliation with the Federal Return

- A. Enter the amount included in Line 1 of the Business Tax Return related to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code. This includes the 1231 loss reported on Form 4797.
- B. Enter any taxes on or measured by net income included as a deduction in computing Line 1 of the Business Tax Return.
- C. Enter any guaranteed payments or similar payments made to partners, members or other owners that were deducted in arriving at the income amount on Line 1. This includes amounts related to self-employed retirement plans and health or life insurance for an owner or owner-employee.
- D. Enter 5% of the intangible income included in Line 1 of the Business Tax Return that is not directly related to the sale, exchange or other disposition of property described in Section 1221 or 1231 of the Internal Revenue Code.
- E. Add Real Estate Investment Trust distributions allowed as a deduction in the computation of Federal Taxable Income.
- F. Other. Please provide a complete explanation. Examples: losses from flow-thru entities, 10% charitable contribution limitation.
- G. Add Lines A through F.
- H. Enter the amount of the income that is included on Line 1 of the Business Tax Return that is directly related to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code less the income and gain included in this amount that is described in Section 1245 or 1250 of the Internal Revenue Code.
- I. Enter the total amount of intangible income included in Line 1 of the Business Tax Return that is not directly related to the sale, exchange or other disposition of property described in Section 1221 or 1231 of the Internal Revenue Code. Intangible income generally includes, but is not limited to interest, dividends, copyrights and patents. For further clarification, refer to Section 311-9-12 of the Cincinnati Municipal Code.
- J. If Line 1 of the return includes other income exempt from municipal tax, enter on this line and provide an explanation.
- K. Add Lines H-J.
- L. Deduct Line K from Line G. Insert the net amount as an addition (or deduction) on Part A, Line 2.

Schedule Y – Apportionment to Cincinnati (CMC 311-17)

Step 1. Compute the percentage of the original average cost of the real and tangible personal property owned or used by the taxpayer in the City of Cincinnati during the taxable period to the original average cost of all of the real and tangible personal property owned or used by the taxpayer during the same period, wherever situated. If the records showing the value of mobile tangible personal property owned or used in the City of Cincinnati are not available, the business may use the sales factor percentage derived in Step 3 as the determinant for mobile equipment in Step 1.

Real property shall include property rented or leased by the taxpayer. The value of such property shall be determined by multiplying the annual rental thereon by eight.

Step 2. Compute the percentage of total personal compensation paid during the period for services performed in the City of Cincinnati to total personal compensation paid during the same period for all business locations. Do not include amounts paid to contractors.

Step 3. Compute the percentage of the gross receipts of the business or profession from sales made and services performed during the taxable period in the City of Cincinnati to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

Step 4. Calculate the total of the percentages derived in Steps 1 through 3.

Step 5. Divide the total derived in Step 4 by the number of percentages used. Insert this percentage on Part A, Line 4 of the return.

NOL INSTRUCTIONS

MNP 2018-04: Net Operating Loss Deductions—October 2018

This information release explains how the net operating loss (NOL) deductions available for the municipal net profit tax for taxable years 2018 and thereafter are calculated. This is not intended to be a comprehensive guide to NOLs; rather it is an explanation of how two separate categories of NOLs will operate in the calculation of municipal net profit tax liability. This guidance only applies to taxpayers that have opted in for state administration of the municipal net profit tax.

A. Introduction

House Bill 5 (H.B. 5), as passed by the 130th General Assembly, established uniformity in the administration and calculation of the municipal income tax. As part of this municipal income tax reform, all municipal corporations are required to allow an NOL deduction with a five-year carryforward period. The H.B. 5 provision requiring the NOL deduction is effective for losses incurred in taxable years beginning on or after January 1, 2017. To lessen the revenue impact for those municipal corporations that had not previously allowed an NOL deduction, H.B. 5 included a five-year phase-in period wherein the amount of newly-permitted NOLs claimed in taxable years 2018 through 2022 may not exceed “more than [50%] of the amount of the deduction otherwise allowed[.]” R.C. 718.01(D)(3).² In effect, this ensures that the mandatory NOL deduction, on its own, cannot reduce taxpayers’ municipal taxable income to zero during the phase-in period. For taxable years 2023 and beyond, the phase-limitation does not apply. In addition to the NOL deduction available for losses incurred in 2017 and thereafter, taxpayers are also permitted to claim NOLs incurred in prior years to the extent such NOLs were permitted by resolution or ordinance of a municipal corporation.

In House Bill 49 (H.B. 49), the 132nd General Assembly passed additional municipal income tax reform, and with it, offered business taxpayers the ability to opt-in for state administration of the municipal net profit tax. Under the authority granted to the tax commissioner in H.B. 49 as an administrator of the municipal net profit tax, this information release is intended to offer clarification of the law in Ohio Revised Code (R.C.) Chapter 718 as it relates to the two NOL deductions available to taxpayers for taxable years beginning in 2018 and thereafter.

B. NOL Deductions

There are two categories of NOL deductions applicable to the calculation of the municipal net profit tax. The first category is the **pre-2017 NOL deduction**, which includes any NOL incurred in a taxable year beginning prior to January 1, 2017, to the extent such a deduction was permitted by a municipal corporation. R.C. 718.01(SS)(1). The pre-2017 NOL deduction is apportioned to the municipal corporation and the carryforward period is determined by the applicable municipal corporation’s resolution or ordinance. R.C. 718.01(SS)(2). Throughout this information release, the “pre-2017” NOL deduction will be referred to as the

¹ An information release does not create legal obligations by its own force. Only an administrative rule can “confer the force of law on a requirement.” See *Progressive Plastics, Inc. v. Testa*, 133 Ohio St.3d 490, 2012-Ohio-4759.

² Note that the phase-in provision does not apply to taxpayers filing in municipal corporations that first levy a tax on or after January 1, 2016. See R.C. 718.01(D)(3)(c)(i).

“old NOL” deduction. The second category of NOL deduction is the **post-2016 NOL deduction**³ (referred to on the state-issued tax return as “NOLs for 2017 and after”). All municipal corporations are required to allow an NOL deduction with a five-year carryforward period for NOLs incurred in taxable years beginning on or after

January 1, 2017. The post-2016 NOL deduction is calculated and deducted on a pre-apportionment basis, meaning that the post-2016 NOL is not apportioned to the municipal corporation prior to being deducted from adjusted federal taxable income. R.C. 718.01(D). Throughout this information release, the “post-2016” NOL deduction will be referred to as the **“new NOL” deduction**.

C. Old NOL Deduction

The old NOL deductions available to taxpayers in municipal corporations that permitted such deductions by resolution or ordinance adopted prior to January 1, 2016, are **not subject** to any phase-in provisions. R.C. 718.01(D)(3)(d) states that “[a]ny [old NOL] deduction that is available **may** be utilized before a taxpayer may deduct any amount pursuant to division (D)(3) of this section.” (Emphasis added.) This provision indicates that a taxpayer may choose to use the balance of its old NOL deduction before or after using the balance of its new NOL deduction within the context of calculating its municipal taxable income. The taxpayer may also choose not to use its old NOL deduction at all. Regardless of the taxpayer’s decision, the old NOL deduction is still subject to the carryforward limitations provided by the municipal ordinance or resolution.

D. New NOL Deduction

The new NOL deduction available to all municipal net profit taxpayers beginning in taxable year 2018 is described in R.C. 718.01(D). The new NOL deduction is calculated and applied on a pre-apportionment basis, which is a significant departure from the treatment of old NOLs. For persons other than individuals, R.C. 718.01(D)(2) states, in pertinent part, that net profit “means adjusted federal taxable income reduced by any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017, subject to the limitations of division (D)(3) of this section.” The new NOL deduction is further explained in R.C. 718.01(D)(3)(a):

The amount of such net operating loss shall be deducted from net profit to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.

(Emphasis added.) In short, this provision generally limits the amount of the new NOL deduction to the amount necessary to reduce municipal taxable income to zero.

³ For purposes of the post-2016 NOL deduction, an NOL is defined as “a loss incurred by a person in the operation of a trade or business. ‘Net operating loss’ does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.” R.C. 718.01(GG).

For purposes of the Ohio Department of Taxation’s administration of the municipal net profit tax, “municipal taxable income” is defined in R.C. 718.81(A) to mean “income apportioned or situated to the municipal corporation under section 718.82 of the Revised Code, as applicable, reduced by any [old NOL] available to the person for the municipal corporation.” Under R.C. 718.01(B)(3), “income” for persons other than individuals is the taxpayer’s net profit. “Net profit” is a taxpayer’s adjusted federal taxable income reduced by any new NOL available to the taxpayer. R.C. 718.01(D)(2). Reading these three definitions together, municipal taxable income can be expressed in the following formula:

New NOL – R.C. 718.01(D)(3)(a)

The amount of NOL from the federal return, pre-apportionment, deducted from net profit to the extent necessary to reduce MTI to zero with any remaining unused NOL carried forward to not more than 5 taxable years following the taxable year in which the loss was incurred.

Phased-in over 5 years (2018-2022)
(see Section E of this information release)

**Municipal Taxable
Income – R.C.
718.81(A)**

Income apportioned to the municipal corporation, reduced by any old NOL available to the person for the municipal corporation.

Old NOL – R.C. 718.01(SS)

An NOL incurred in a taxable year beginning before 1/1/2017, apportioned to the municipal corporation and carried forward to offset income generated in the municipal corporation to the extent permitted and for the number of years designated by ordinance or resolution.

$$\text{MTI} = ((\text{AFTI} - \text{New NOL}) \times \text{AF}) - \text{Old NOL}$$

Adjusted Federal Taxable Income – R.C. 718.81(B) Adjusted federal taxable income means federal taxable income before net operating losses and special deductions as adjusted under R.C. 718.81(B).

Net Profit

Apportionment Factor – R.C. 718.82(A)
Net profit from a business conducted in one or more municipal corporations shall be situated to a municipal corporation using a three-factor apportionment formula.

Income – R.C. 718.01(B)(3)

“Income” for taxpayers that are not individuals means “net profit” of the taxpayer.

Net Profit – R.C. 718.01(D)(2)

“Net profit” means adjusted federal taxable income reduced by any new NOL (subject to the phase-in provisions).

As shown in the formula, the new NOL is deducted from adjusted federal taxable income *prior to apportionment*, and the old NOL (which is an amount apportioned to the municipal corporation) is deducted *after* the adjusted federal taxable income is apportioned to the municipal corporation. The amount of new NOL that may be claimed is equal to that which would **reduce the taxpayer’s municipal taxable income to zero**. As illustrated in the formula above, the amount of new NOL that may be deducted will depend on a taxpayer’s adjusted federal taxable income as well as the taxpayer’s apportionment factor and available old NOL in each municipality. Because the limit on the new NOL deduction will vary from municipality-to- municipality, the amount of new NOL that may be claimed will also vary from municipality-to-municipality, and as a result, **the new NOL carryforward will need to be tracked on a municipality-by-municipality basis**.

E. New NOL Deduction Phase-In Period

For tax years 2018 through 2022, Ohio law provides a phase-in limitation that applies to the new NOL deduction and complicates the calculation of the available new NOL deduction. R.C. 718.01(D)(3)(c)(i) states the following:

For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, **a person may not deduct**, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, **more than [50%] of the amount of the deduction otherwise allowed** by division (D)(3) of this section.

(Emphasis added.) This provision limits the amount of new NOL deduction that a taxpayer may claim to 50% of

the deduction otherwise allowed. As explained in Section D of this information release, the “deduction otherwise allowed” is the amount of new NOL “necessary to reduce [a taxpayer’s] municipal taxable income to zero.” R.C. 718.01(D)(3)(a). Thus, a taxpayer may not deduct more than 50% of the new NOL deduction that it otherwise could have claimed during taxable years 2018 through 2022.

Stated another way, the amount of new NOL deduction allowed during taxable years 2018 through 2022 is *the lesser of* either:

- 50% of the taxpayer’s available new NOL
- OR–
- 50% of the amount of new NOL necessary to reduce the taxpayer’s municipal taxable income to zero.

During the phase-in period, a taxpayer may not eliminate all its tax liability in any municipal corporation that levied a tax prior to January 1, 2016 by using the new NOL deduction alone. The phase-in provisions only apply to the new NOL deduction and do not apply to the old NOL carryforwards. A taxpayer that has available old NOL carryforwards may use the old NOL deduction alone or in conjunction with the new NOL deduction to reduce its tax liability to zero during the phase-in period.

Any unused new NOLs that are limited by the application of the phase-in provisions may be carried forward for use on future returns but are still subject to the 50% limitation and the five-year carry forward period. R.C. 718.01(D)(3)(e). The 50% limitation does not apply to the new NOL deduction for taxable years 2023 and beyond. R.C. 718.01(D)(3)(c)(ii).

F. Exception to the Phase-In Limitation:

The 50% phase-in limitation does not apply to any municipal corporation that levies a new tax beginning on or after January 1, 2016. R.C. 718.01(D)(3)(c)(i). For taxpayers paying municipal net profit tax in municipal corporations that first impose a tax on or after January 1, 2016, the new NOL deduction allowed may be calculated as explained in Section D of this information release, without regard to the limitation described in Section E.

The following examples illustrate the general rules and concepts described in this information release. While other tax considerations may apply, each example assumes that the cities involved all levied taxes prior to January 1, 2016, that the taxpayer will claim the maximum amount of old NOL possible, and that the phase-in limitation applies to the new NOL. Note that amounts of unused new NOL may be carried forward to future taxable years but are still subject to the 50% phase-in limitation for taxable years 2019 through 2022.

EXAMPLE 1:

Taxable Year 2018	
CITY A	
<i>Taxpayer's AFTI in 2018 = \$50,000</i>	
<i>Taxpayer's Old NOL Carryforward to 2018 in City A = \$4,000</i>	
<i>Taxpayer's New NOL Carryforward to 2018 = \$5,000</i>	
<i>Apportionment Factor in 2018 in City A = 0.25</i>	
New NOL During Phase-In = Lesser of:	
New NOL x 50%	<i>To determine the amount of new NOL the taxpayer may claim in city A during the phase-in period, compare 50% of the amount of available new NOL deduction to 50% of the amount of new NOL deduction necessary to reduce the taxpayer's municipal taxable income to zero. Taxpayer may claim the lesser of the two amounts.</i>
OR	
[AFTI - ((MTI + Old NOL) ÷ AF)] x 50%	
New NOL x 50% \$5,000 x 50% \$2,500	<i>To determine 50% of the available new NOL deduction, multiply the available new NOL deduction by 50%.</i>
[AFTI - ((MTI + Old NOL) ÷ AF)] x 50% [\$50,000 - ((\$0 + \$4,000) ÷ 0.25)] x 50% [\$50,000 - (\$4,000 ÷ 0.25)] x 50% [\$50,000 - \$16,000] x 50% \$34,000 x 50% \$17,000	<i>To determine 50% of the amount of new NOL deduction necessary to reduce the taxpayer's municipal taxable income to zero, use the formula for municipal taxable income (MTI=((AFTI - New NOL) x AF) - Old NOL) rearranged to solve for the new NOL (New NOL = AFTI - ((MTI + Old NOL) ÷ AF)) assuming municipal taxable income is \$0. Multiply the result by 50%.</i>
\$2,500 < \$17,000	<i>Then compare 50% of the amount of Taxpayer's available new NOL deduction (\$2,500) to 50% of the amount of new NOL deduction necessary to reduce the taxpayer's municipal taxable income to zero (\$17,000). Taxpayer may claim the lesser of the two figures as its new NOL deduction on its taxable year 2018 return.</i>
Taxpayer may claim a \$2,500 new NOL deduction on its taxable year 2018 return in City A.	
MTI = ((AFTI - New NOL) x AF) - Old NOL MTI = ((\$50,000 - \$2,500) x 0.25) - \$4,000 MTI = (\$47,500 x 0.25) - \$4,000 MTI = \$11,875 - \$4,000 MTI = \$7,875	<i>Taxpayer's municipal taxable income in City A can be calculated using the new NOL determined above.</i>
Old NOL Carryforward to 2019 in City A \$0	<i>To determine taxpayer's old NOL carryforward and new NOL carryforward, deduct the amounts claimed in taxable year 2018 from the beginning balances listed above.</i>
New NOL Carryforward to 2019 in City A \$2,500	

EXAMPLE 2:

Taxable Year 2018	
CITY B	
Taxpayer's AFTI in 2018 = \$50,000	
Taxpayer's Old NOL Carryforward to 2018 in City B = \$8,000	
Taxpayer's New NOL Carryforward to 2018 = \$30,000	
Apportionment Factor in 2018 in City B= 0.25	
New NOL During Phase-In = Lesser of:	
New NOL x 50%	<i>To determine the amount of new NOL the taxpayer may claim in city B during the phase-in period, compare 50% of the amount of available new NOL deduction to 50% of the amount of new NOL deduction necessary to reduce the taxpayer's municipal taxable income to zero. Taxpayer may claim the lesser of the two amounts.</i>
OR	
[AFTI - ((MTI + Old NOL) ÷ AF)] x 50%	
New NOL x 50% \$30,000 x 50%	<i>To determine 50% of the available new NOL deduction, multiply the available new NOL deduction by 50%.</i>
\$15,000	
[AFTI - ((MTI + Old NOL) ÷ AF)] x 50% [\$50,000 - ((\$0 + \$8,000) ÷ 0.25)] x 50% [\$50,000 - (\$8,000 ÷ 0.25)] x 50% [\$50,000 - \$32,000] x 50% \$18,000 x 50%	<i>To determine 50% of the amount of new NOL deduction necessary to reduce the taxpayer's municipal taxable income to zero, use the formula for municipal taxable income (MTI=((AFTI - New NOL) x AF) - Old NOL) rearranged to solve for the new NOL (New NOL = AFTI - ((MTI + Old NOL) ÷ AF)) assuming municipal taxable income is \$0. Multiply the result by 50%.</i>
\$9,000	
\$15,000 > \$9,000	<i>Then compare 50% of the amount of Taxpayer's available new NOL deduction (\$15,000) to 50% of the amount of new NOL deduction necessary to reduce the taxpayer's municipal taxable income to zero (\$9,000). Taxpayer may claim the lesser of the two figures as its new NOL deduction on its taxable year 2018 return.</i>
Taxpayer may claim a \$9,000 new NOL deduction on its taxable year 2018 return in City B.	
MTI= ((AFTI - New NOL) x AF) - Old NOL MTI = ((\$50,000 - \$9,000) x 0.25) - \$8,000 MTI = (\$41,000 x 0.25) - \$8,000 MTI = \$10,250 - \$8,000 MTI = \$2,250	<i>Taxpayer's municipal taxable income in City B can be calculated using the new NOL determined above.</i>
Old NOL Carryforward to 2019 in City B \$0	<i>To determine taxpayer's old NOL carryforward and new NOL carryforward, deduct the amounts claimed in taxable year 2018 from the beginning balances listed above.</i>
New NOL Carryforward to 2019 in City B \$21,000	