


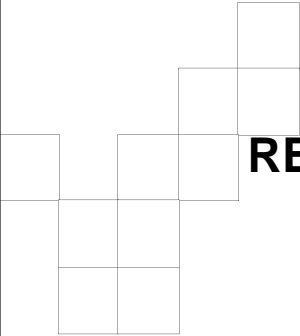

**Central Ohio Tax Workshop  
January 18, 2017**

**Resident Offsets and  
Net Operating Losses**




**Ohio Municipal Tax Update –  
Today’s Agenda**

- New Resident Individual Income & Loss Offsets**
  
- Net Operating Loss Carryforward (“NOL CF”) & Examples**



## **RESIDENT BUSINESS INCOME & LOSS OFFSETS**

3



- 
- **Resident Schedule Activity Gain/Loss Offsets**
  - Apply only to residents of a taxing municipality,  
and
  - Apply only for “resident tax purposes”
  - One-bucket method beginning with TY 2016
  - No offsetting allowed against W-2 income



## Resident Business Income & Loss Offsets

- Allows for current year offsetting of all Business income and losses of residents of taxing municipalities only for residence tax purposes.
  - i.e. All Business Income & Losses are in “one bucket” for offsetting purposes.
  
- Includes Schedule C, E & F owned by the resident.



## Resident Business Income & Loss Offsets

- Includes pass-through income & losses of the resident.
  
- S Corporation limitations for residence tax purposes still apply – Income or losses of S corporations do not flow to an owner unless the owner lives in a municipality that voted in 2003 or 2004 to permit taxation of S corporation owners.



## Resident Business Income & Loss Offsets

- **Net “Business Bucket Losses” cannot offset Qualifying Wages.**
  - NOL CF & Phase-in Provisions apply when net total “Business Activity Bucket” is loss.
  
  - NOL CF cannot offset Qualifying Wages.
  
- **Does not apply to Business income earned by non-residents in non-resident municipality.**
  - Non-residents must file and pay on Business Income (Typically Schedule C, E & F income) in municipality where income is earned.
  
  - NOL CF & Phase-in Provisions apply.



## Resident Business Income & Loss Offsets

### Example 1 – RITA Resident Tax Year 2015 “Two Bucket Method”

#### *Unapportioned Business Activity - “Bucket 1”*

##### Cleveland Heights Resident

- Schedule C loss in Cleveland Heights – (\$10,000)
- Township Schedule E rental income - \$25,000
- Florida Partnership distributive share loss - (\$ 6,000)

**= Total Unapportioned income of \$9,000**

## Resident Business Income & Loss Offsets

### Example 1 – RITA Resident Tax Year 2015 “Two Bucket Method”

#### *Apportioned Business Activity -“Bucket 2”*

##### Cleveland Heights Resident

- Taxing Muni A Partnership – \$15,000
- Taxing Muni B Rental – (\$22,000)
- Taxing Muni C Rental – \$ 4,000

**= Total Apportioned Loss of (\$3,000)**

## Resident Business Income & Loss Offsets

### Example 1 Continued – RITA Resident Tax Year 2015 “Two Bucket Method”

	Residence	Non-taxing	Total	Taxing Muni	Taxing Muni	Taxing Muni	Total
	Muni	Locations	Unapportioned	A	B	C	Apportioned
Cleveland Heights	\$(10,000)		\$ (10,000)				
Township		\$ 25,000	\$ 25,000				
Florida		\$ (6,000)	\$ (6,000)				
Total Unapportioned (“Bucket 1”)			\$ 9,000				
Taxing Muni A				\$ 15,000			\$ 15,000
Taxing Muni B					\$ (22,000)		\$ (22,000)
Taxing Muni C						\$ 4,000	\$ 4,000
Total Apportioned (“Bucket 2”)							\$ (3,000)
Net Unapportioned Schedule Income Subject to Res Tax			\$ 9,000				
Apportioned Loss Subject to CH's Current 5-Yr NOL CF							\$ (3,000)



## Resident Business Income & Loss Offsets

### Example 1 Continued – RITA Resident Tax Year 2015 Cleveland Heights Resident

- Total Taxable Residence Business Income = \$9,000



## Resident Business Income & Loss Offsets

### Example 2 – RITA Resident Under HB 5 “One Bucket Method” Tax Year 2016

#### Cleveland Heights Resident

- Schedule C loss in Cleveland Heights – (\$10,000)
- Township Schedule E rental income - \$25,000
- Florida Partnership distributive share loss - (\$ 6,000)
- Taxing Muni A Partnership – \$15,000
- Taxing Muni B Rental – (\$22,000)
- Taxing Muni C Rental – \$ 4,000

**=Net Total of \$6,000 Subject to Residence Tax**

# Resident Schedule Income & Loss Offsets

## Example 2 Continued – RITA Resident Under HB 5 “One Bucket Method” Tax Year 2016

	Residence Muni	Non-taxing Locations	Taxing Muni A	Taxing Muni B	Taxing Muni C	Total
Cleveland Heights	\$(10,000)					\$ (10,000)
Township		\$ 25,000				\$ 25,000
Florida		\$ (6,000)				\$ (6,000)
Taxing Muni A			\$ 15,000			\$ 15,000
Taxing Muni B				\$ (22,000)		\$ (22,000)
Taxing Muni C					\$ 4,000	\$ 4,000
Net Total Schedule Income Subject to Residence Tax						\$ 6,000

**SCHEDULE J SUMMARY OF NON-W-2 INCOME**  
(For Columns 2-6, Enter City/Village/Township Where Earned)

Note: Special Rules may apply for S-Corp. distributions. See RITA Municipalities at [www.rita.ohio.com](http://www.rita.ohio.com).

Print the name of each location (city/village/township) where income/loss was earned in the appropriate boxes. Please see Pages 5-6 of the instructions.	COLUMN 1 RESIDENT MUNICIPALITY	COLUMN 2 LOCATION 2	COLUMN 3 LOCATION 3	COLUMN 4 LOCATION 4	COLUMN 5 LOCATION 5	COLUMN 6 LOCATION 6	COLUMN 7 TOTAL
From Federal	21	22	23	24	25	26	
23. SCHEDULE C Attached	31	32	33	34	35	36	
24. From SCHEDULE E Attached	41	42	43	44	45	46	
25. From SCHEDULE E Attached	51	52	53	54	55	56	
26. Attach Schedule(s)	71						
27. RESIDENT MUNICIPALITY LOSS CARRY FORWARD	( )						
28. (Total Lines 23-27)							
29. LESS Local Tax on Work Place Income	( )	( )	( )	( )	( )	( )	
30. NET TAXABLE WORK PLACE INCOME (Line 28 minus Line 29)	62	63	64	65	66	67	
31. MUNICIPAL TAX DUE TO EACH RITA MUNICIPALITY							
32. RITA Municipalities							

FOR LINES 23-26, ADD COLUMNS 1-6. ENTER ON FORM 102, SECTION 8, LINE 9.

FOR LINES 27-30, ADD COLUMNS 2-6. ENTER ON FORM 102, SECTION 8, LINE 11.

34. Add Tax Due Column, enter total here. \_\_\_\_\_

35. ENTER the amount from WORKSHEET L, Row 9, Column 7. \_\_\_\_\_

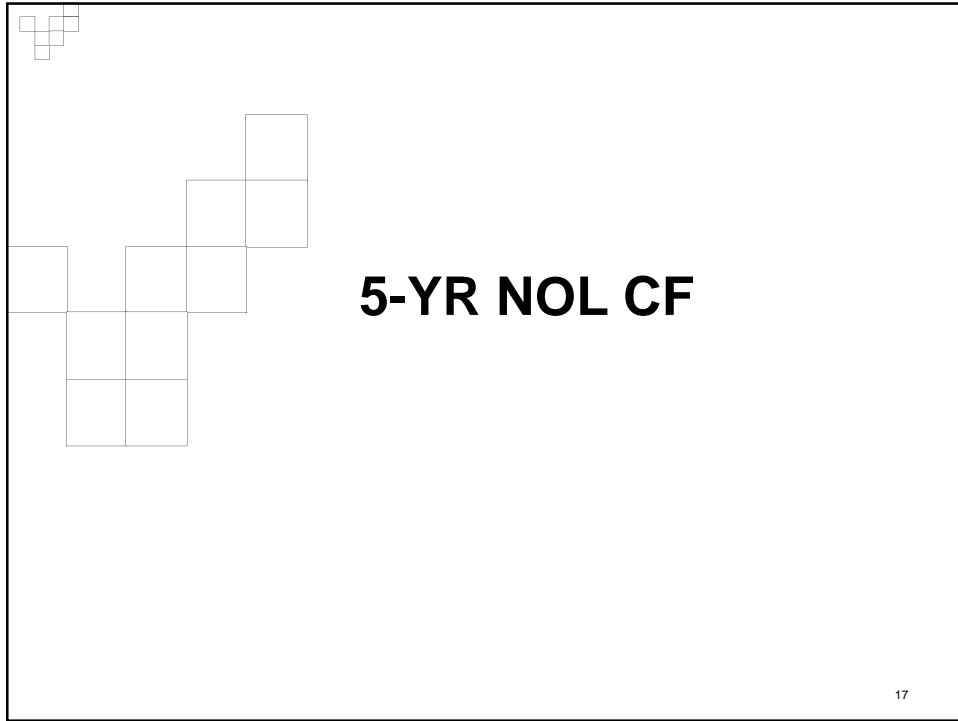
36. Add Lines 33-35. Enter total on Page 2, Section B, Line 4b. \_\_\_\_\_

Form 37 (2016)		Page 4						
WORKSHEET INCOME LOSS ALLOCATION		RITA RESIDENTS ONLY Use this to allocate income/loss and calculate potential credit for resident municipality.						
First the name of each location (city/town/village) listed from SCHEDULE J, COLUMN 16. Please see Pages 5-6 of the instructions.		COLUMN 1 RESIDENT MUNICIPALITY	COLUMN 2 LOCATION 2	COLUMN 3 LOCATION 3	COLUMN 4 LOCATION 4	COLUMN 5 LOCATION 5	COLUMN 6 LOCATION 6	COLUMN 7 TOTALS
Enter CURRENT YEAR WORKPLACE INCOME From SCHEDULE J, Line 28								
1. Column 16: # CURRENT YEAR WORKPLACE INCOME is again, enter in each column and total across.								
2. Column 16: # CURRENT YEAR WORKPLACE INCOME is also, enter in each column and total across.								
3. Compute GAIN Percentage: Divide each amount in Row 1, Column 16 by the total in Row 1, Column 7 and enter the percentage.		%	%	%	%	%	%	
4. Allocate Total Loss by GAIN Percentage: Multiply the total loss from Row 2, Column 7 by the percentage(s) in Row 3.								
5. Subtract Row 4 from Row 1.								
6. Enter NET TAXABLE WORKPLACE INCOME from SCHEDULE J, Line 30.								
7. Enter the lesser of Row 5 or Row 6 above. If amount is less than zero, enter -0-								
8. For Column 2-6, enter tax rate for workplace municipality listed.								Enter amount from Row 8, Col 7 below on Page 3, Schedule F, Line 12
9. Multiply Row 7 by Row 8. If the result is \$ 0 or less, enter -0- on Row 9. If greater than \$ 0, multiply Row 7 by Row 8 and enter the result on Row 9.								
10. If amount in Row 9 is greater than zero, enter the amount from Row 9.								
11. Multiply Row 10 by the Credit Rate of the resident municipality. The resident municipality's credit rate: _____								Enter amount from Row 11, Col 7 below on Page 3, Credit Rate Worksheet
12. Enter the lesser of Row 9 or Row 11 above.								

## Non-resident Pass-through Income & Losses

- Some municipalities permitted nonresident owners to file tax returns that offset income and losses of multiple Pass-through entities (“PTEs”) operating in the municipality.
  - In most instances, such municipalities did not permit a carryforward of NOLs.
  
- Under HB 5, PTEs must file and pay municipal income tax at the entity level for Ohio municipalities.
  - Each of those PTEs will be permitted to carryforward any NOLs for five years.





- 
- H.B. 5 Mandated 5-year NOL CF**
- Net Operating Loss Carryforward (“NOL CF”) Requirements
  - NOL CF Phase-ins



## NOL CF Requirements

- HB 5 provides for a state-wide five year carryforward for NOLs incurred in taxable years beginning **after** 2016.
  - **Applies to losses incurred in taxable years beginning on or after January 1, 2017, and then carried forward to future taxable years.**
- NOL CFs apply to:
  - 1) Business Net Profits
  - 2) Schedule C, E, & F income of Non-residents earned in taxing municipalities
  - 3) All business income of Residents of taxing municipalities.



## NOL CF Requirements

- NOL CFs do not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.
  - Losses that are *not reportable* on Federal Schedule E Part II *are not included* in current year taxable income *or allowed* to be carried forward.
  - Applies to Partners and S Corporation shareholders.
- NOL CFs may not be used to offset qualifying wages.



## NOL CF Requirements

- **NOL CF Provision is phased in:**

- Taxpayers may only claim 50% of the available NOL carryforward during years 2018 through 2022.
  
- 100% utilization of NOL CFs is delayed until tax year 2023.



## NOL CF Requirements

- **NOL CF Provision is phased in:**

- TPs may carry forward any “unutilized” NOLs for 5 years.
  - From technical clarification in State Budget Bill (HB 64) on how unutilized NOL CFs are handled in regards to the bill’s NOL CF phase-in provisions.
  
  - See “declining balance method” examples below
  
- Phase-in provisions also apply to NOL CF related to Schedule income of residents and non-residents

# NOL CF Requirements

- Pre-2017 NOLs are permitted to be carried forward to the extent already allowed by municipalities.
- The 50% phase-in limitation *does not apply to pre-2017* NOLs.
- Pre-2017 NOLs must be utilized *before* utilizing new NOLs generated after tax year 2016.
- Post 2016 NOL carry-forwards are calculated and applied on a pre-apportionment basis.


## NOL CF - Pre HB5 vs. Post HB5

**Pre-HB5 (Post-Apportionment Basis)**

1. ADJUSTED FEDERAL INCOME	1	0.00
2. A. ITEMS NOT DEDUCTIBLE (from Page 3, Schedule X, Line G)	Add 2A	0.00
3. B. ITEMS NOT TAXABLE (from Page 3, Schedule X, Line G)	Deduct 2B	0.00
4. C. ENTER EXCESS OF LINE 2A OR 2B	2C	0.00
5. A. ADJUSTED NET PROFIT (LOSS)	3A	0.00
6. B. AMOUNT ALLOCABLE TO RITA	3B	0.00
7. C. LESS ALLOWABLE NET LOSS	3C	0.00
8. AMOUNT SUBJECT TO MUNICIPAL INCOME TAX	4	0.00
9. MUNICIPAL INCOME TAX DUE (see instructions)	5	0.00

**Post-HB5 (Pre-Apportionment Basis)**


1. ADJUSTED FEDERAL INCOME	1	0.00
2. A. ITEMS NOT DEDUCTIBLE (from Page 3, Schedule X, Line G)	Add 2A	0.00
3. B. ITEMS NOT TAXABLE (from Page 3, Schedule X, Line G)	Deduct 2B	0.00
4. C. ENTER EXCESS OF LINE 2A OR 2B	2C	0.00
5. A. ADJUSTED NET PROFIT (LOSS)	3A	0.00
6. B. LESS ALLOWABLE NET LOSS	3B	0.00
7. C. MUNICIPAL INCOME TAX DUE (see instructions)	4	0.00
8. MUNICIPAL INCOME TAX DUE (see instructions)	5	0.00



## NOL CF Phase-in Examples

### Example 1 – Muni Currently Does Not Allow NOL CF

	2016	2017	2018	2019	2020	2021	2022	2023
Net Profit (Loss) for Tax Year	-\$10,000	-\$50,000	\$100,000	\$75,000	\$60,000	\$45,000	\$100,000	\$25,000
Utilized NOL CF from Prior Tax Year (50% Limitation Applies)			-\$25,000	-\$12,500	-\$6,250	-\$3,125	-\$1,563	*
Municipal Taxable Income (Positive Amounts Only)	\$0	\$0	\$75,000	\$62,500	\$53,750	\$41,875	\$98,438	\$25,000
Unutilized NOL CF		-\$50,000	-\$25,000	-\$12,500	-\$6,250	-\$3,125	-\$1,563	*
Amount of Unutilized NOL CF Available for Next Tax Year		-\$25,000	-\$12,500	-\$6,250	-\$3,125	-\$1,563	*	*
* 5-year CF period expired in 2022 for Tax Yr 2017 NOLs								



## NOL CF Phase-in Examples

### Example 2 – Muni Currently Allows NOL CF

	2016	2017	2018	2019	2020	2021	2022	2023
Net Profit (Loss) for Tax Year	-\$10,000	-\$50,000	\$100,000	\$75,000	\$60,000	\$45,000	\$100,000	\$25,000
Utilized NOL CF from Prior Tax Year - Pre-2106 NOL			-\$10,000					
Utilized NOL CF from Prior Tax Year - Post-2016 NOL (50% Limitation Applies for NOLs incurred post 2016)			-\$25,000	-\$12,500	-\$6,250	-\$3,125	-\$1,563	*
Municipal Taxable Income (Positive Amounts Only)	\$0	\$0	\$65,000	\$62,500	\$53,750	\$41,875	\$98,438	\$25,000
Unutilized Post 2016 NOL CF		-\$50,000	-\$25,000	-\$12,500	-\$6,250	-\$3,125	-\$1,563	*
Amount of Unutilized 2016 NOL CF Available for Next Tax Year	-\$10,000	-\$10,000						
Amount of Unutilized 2017 NOL CF Available for Next Tax Year		-\$25,000	-\$12,500	-\$6,250	-\$3,125	-\$1,563	*	*
* 5-year CF period expired in 2022 for Tax Yr 2017 NOLs								

## NOL CF Phase-in Examples

### Example 3 – Muni Currently Allows NOL CF

	2016	2017	2018	2019	2020	2021	2022	2023
Net Profit (Loss) for Tax Year	-\$10,000	-\$50,000	\$15,000	\$10,000	-\$25,000	\$45,000	\$100,000	\$25,000
Utilized NOL CF from Prior Tax Year - Pre-2106 NOL			-\$10,000					
Utilized NOL CF from Tax Year 2017			-\$5,000	-\$10,000		-\$17,500	-\$8,750	
Utilized NOL CF from Tax Year 2020 (50% Limitation Applies for NOLs incurred post 2016)						-\$12,500	-\$6,250	-\$6,250
Municipal Taxable Income (Positive Amounts Only)	\$0	\$0	\$0	\$0	\$0	\$15,000	\$85,000	\$18,750
Unutilized 2017 NOL CF		-\$50,000	-\$45,000	-\$35,000	-\$35,000	-\$17,500	-\$8,750	*
Unutilized 2020 NOL CF					-\$25,000	-\$12,500	-\$6,250	\$0
Amount of pre-2017 NOL CF Available	-\$10,000	-\$10,000						
Amount of Unutilized 2017 NOL CF Available for Next Tax Year		-\$25,000	-\$22,500	-\$17,500	-\$17,500	-\$8,750	*	*
Amount of Unutilized 2020 NOL CF Available for Next Tax Year					-\$12,500	-\$6,250	-\$6,250	\$0
* 5-year CF period expired in 2022 for Tax Yr 2017 NOLs								





# Thank-you!

## Questions?