

# Governor Wolf's Proposed Net Operating Loss Tax Crushing Blow for Cyclical Employers and Manufacturers

In spite of significant, bipartisan progress over the last decade under two governors, Pennsylvania remains one of the only states that taxes cyclical companies, especially manufacturers, at a much higher effective Corporate Net Income Tax (CNIT) rate than non-cyclical companies. Why? Because Pennsylvania tax policy prohibits corporate taxpayers from reducing taxable income by prior year net operating losses (NOLs).

As a result of this bipartisan support to make Pennsylvania manufacturers more competitive, Pennsylvania allows companies, many of which rise and fall with the national economy, to reduce taxable income by \$5 million or 30 percent with prior year losses. By definition, these companies are already paying more than their fair share. ***Governor Wolf proposes to roll back a decade of progress and reduce NOL relief to \$3 million or 12.5% of taxable income. We urge the General Assembly to reject this proposal.***

Even with the progress toward eliminating the NOL cap, cyclical Pennsylvania companies still remain uncompetitive with out-of-state competitors as a result of its ongoing NOL cap. ***Governor Wolf's "NOL Tax" will penalize Pennsylvania manufacturers by significantly increasing their PA tax liabilities and effective tax rates as is demonstrated in the example below.***

**Example** - Assumes two Pennsylvania corporate taxpayers both earn a total of \$60 million of PA income for 2016 and 2017.

### Taxpayer with Cyclical Income:

	2016	2017	Total
PA Taxable Income (Loss)	\$ (100)	\$ 160	\$ 60
PA NOL Carryforward	\$ (100)		
PA NOL Carryforward Limitation (12.5%)*		\$ (20)	
PA Taxable Income After Carryforward		\$ 140	
PA Tax Rate - Current		9.99%	
<b>PA Tax Liability for Company with Cyclical Income</b>	-	\$ 13.99	\$ 13.99
<b>Effective PA Income Tax Rate for Company with Cyclical Income</b>			<b>23.31%</b>

\* The net loss cap is \$3 million or 12.5% of taxable income, whichever is greater under Governor Wolf's Budget Proposal.

### Taxpayer with Steady Income:

	2016	2017	Total
PA Taxable Income (Loss)	\$ 30	\$ 30	\$ 60
PA Tax Rate - Current	9.99%	9.99%	
<b>PA Tax Liability for Company with Steady Income</b>	\$ 3.00	\$ 3.00	\$ 5.99
<b>Effective PA Income Tax Rate for Company with Steady Income</b>			<b>9.99%</b>

### Net Result:

- **Both of the above companies earn \$60 million total income for 2016 and 2017.**
- **The taxpayer with the cyclical income is required to pay \$8 million more in PA tax than the taxpayer with the steady income (i.e. \$13.99 for cyclical income company vs. \$5.99 for steady income company).**
- **The taxpayer with cyclical income is also being taxed at 23.31% which is well above current rate of 9.99%.**