

701—59.2(422) Net operating loss carrybacks and carryovers. Net operating losses shall be allowed or allowable for Iowa franchise tax purposes to the same extent they are allowed or allowable for federal corporation income tax purposes, provided the following adjustments are made:

59.2(1) Additions to income.

a. Refunds of federal income taxes due to net operating loss, capital loss and investment credit or other credit carrybacks shall not be added for tax years beginning on or after January 1, 1980.

b. Iowa franchise tax deducted on the federal return for the loss year shall be reflected as an addition to income in the year of the loss.

c. Interest and dividends received in the year of the loss on federally tax-exempt securities shall be reflected as additions to income in the year of the loss.

59.2(2) Reductions of income. Iowa franchise tax refunds reported as income for federal income tax purposes in the loss year shall be reflected as reductions of income in the year of the loss.

59.2(3) If a financial institution does business both within and without Iowa, it shall make adjustments reflecting the apportionment and allocation of its operating loss on the basis of business done within and without the state of Iowa after completing the provisions of subrules 59.2(1) and 59.2(2).

a. After making the adjustments to federal taxable income as provided in subrules 59.2(1) and 59.2(2), the total net allocable income or loss shall be added to or deducted from, as the case may be, the net federal income or loss as adjusted for Iowa tax purposes. The resulting income or loss so determined shall be subject to apportionment as provided in rules 701—59.25(422) to 701—59.29(422). The apportioned income or loss shall be added or deducted, as the case may be, to the amount of net allocable income or loss properly attributable to Iowa. This amount is the taxable income or net operating loss attributable to Iowa for that year.

b. The net operating loss attributable to Iowa, as determined in rule 701—59.2(422), shall be subject to a 3-year carryback and a 15-year carryover provision for tax years beginning before August 6, 1997. This loss shall be carried back or over to the applicable year as a reduction or part of a reduction of the net income attributable to Iowa for that year. However, an Iowa net operating loss shall not be carried back to a year in which the taxpayer was not doing business in Iowa. If the election under Section 172(b)(3) of the Internal Revenue Code is made, the Iowa net operating loss shall be carried forward 15 taxable years. A copy of the federal election made under Section 172(b)(3) of the Internal Revenue Code must be attached to the Iowa corporation income tax return filed with the department.

c. For tax years beginning after August 5, 1997, but before January 1, 2009, a net operating loss attributable to Iowa, as determined in rule 701—59.2(422), incurred in a presidentially declared disaster area by a corporation engaged in a small business or in the trade or business of farming must be carried back 3 taxable years and carried forward 20 taxable years. All other net operating losses attributable to Iowa must be carried back 2 taxable years and carried forward 20 taxable years. This loss shall be carried back or over to the applicable year as a reduction or part of a reduction of the net income attributable to Iowa for that year. However, an Iowa net operating loss shall not be carried back to a year in which the taxpayer was not doing business in Iowa. If the election under Section 172(b)(3) of the Internal Revenue Code is made, the Iowa net operating loss shall be carried forward 20 taxable years. A copy of the federal election made under Section 172(b)(3) of the Internal Revenue Code must be attached to the Iowa franchise tax return filed with the department.

d. For tax years beginning on or after January 1, 2009, a net operating loss attributable to Iowa, as determined in rule 701—59.2(422), shall be carried forward 20 taxable years. The net operating loss cannot be carried back to a previous tax year.

59.2(4) No part of a net loss for a year for which the financial institution was not subject to the imposition of Iowa franchise tax shall be included in the Iowa net operating loss deduction applicable to any year prior to or subsequent to the year of the loss.

59.2(5) No part of a net operating loss may be carried back or carried forward if the carryback or carryforward would be disallowed for federal income tax purposes under Sections 172(b)(1)(E) and 172(h) of the Internal Revenue Code. This provision is effective for tax years beginning on or after January 1, 1989.

59.2(6) The carryover of Iowa net operating losses after reorganizations or mergers is limited to the same extent as the carryover of a net operating loss is limited under the provisions of Sections 381 through 386 of the Internal Revenue Code and regulations thereunder or any other section of the Internal Revenue Code or regulations thereunder. Where the taxpayer files as a member of a consolidated income tax return for federal income tax purposes, but is required to file a separate franchise tax return, the limitation on an Iowa net operating loss carryover must be determined as though a separate income tax return was filed for federal income tax purposes.

This rule is intended to implement Iowa Code section 422.35 as amended by 2009 Iowa Acts, Senate File 483, and sections 422.61 and 422.63.

[ARC 8589B, IAB 3/10/10, effective 4/14/10]