

The New Jersey Economic Recovery Act of 2020: An Overview of the Technology Business Tax Certificate Transfer (NOL) Program

Client Alert

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The New Jersey Economic Recovery Act of 2020 (ERA), a seven-year, \$14 billion package of incentive programs intended to encourage New Jersey job growth, property development and redevelopment, community partnerships, and numerous other economic development initiatives, was signed into law by Governor Phil Murphy on January 7, 2021.

This Client Alert focuses on the Technology Business Tax Certificate Transfer Program, the ERA's enhancement of the existing Net Operating Loss (NOL) Program adopted in 2013 as part of the New Jersey Emerging Technology and Biotechnology Financial Assistance Act to enable technology and life science companies to sell their New Jersey net operating losses and research and development (R&D) tax credits for cash.

The ERA increases the annual benefit under the NOL/R&D incentive from \$60 million to \$75 million, with \$10 million set aside for businesses located in New Jersey Innovation Zones. Companies participating in the NOL Program are subject to a program lifetime cap of \$20 million.

Eligibility

In order to qualify for the NOL Program, a business must:

- Possess protected and proprietary intellectual property (PPIP) that is exclusive to the business owner;
- Be a technology or biotechnology company whose primary business involves the provision of a scientific process, product or service;
- Employ no more than 225 full-time employees that work in the U.S. and receive employer-provided healthcare coverage. An eligible company must have at least one full-time employee working in New Jersey if incorporated or formed less than three years ago, five full-time employees in New Jersey if incorporated or formed more than three years but less than five years ago, or ten full-time employees in New Jersey if incorporated or

formed more than five years ago;

- Show net operating loss carryover and/or R&D tax credits in New Jersey. In addition, an eligible company cannot have a parent company with positive net operating income or be part of a consolidated group of affiliates for federal income tax purposes with positive net operating income;
- File New Jersey Corporate Business Tax returns, and
- Have financial statements for the two most recent full years of operation compiled, reviewed or audited by an independent CPA firm and prepared according to U.S. generally accepted accounting principles (GAAP).

Additional information regarding the NOL Program can be found on the [EDA website](#).

We will keep you updated regarding the NOL Program and other developments related to programs enacted under the New Jersey Economic Recovery Act of 2020.

[The New Jersey Economic Recovery Act of 2020: NJ EDA to Investigate the Creation of NJ "Entrepreneur Zones"](#)

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