



## **CORPORATION TAX BULLETIN 2017-01**

**Issued: November 16, 2017**

### **NET OPERATING LOSS DEDUCTION (NOL)**

On October 18, 2017, the Pennsylvania Supreme Court issued without dissent a decision in *Nextel Communications of the Mid-Atlantic, Inc., v. Commonwealth of Pennsylvania* (6 EAP 2016). The decision found that the \$3 million cap on the net operating loss deduction (“NOL”) violated the Uniformity Clause of the Pennsylvania Constitution, while leaving in place the limitation on the deduction at 12.5% of taxable income.

On November 1, 2017, the Appellee Nextel filed an Application for Reargument with the Court. The issues raised primarily concern the appropriate remedy to apply to the year at issue in the case, which is the 2007 taxable year.

While these issues remain open before the Court, the Department is taking steps to provide greater clarity for corporate taxpayers concerned about the decision.

The Department will revise its forms and procedures to implement the decision of the Court prospectively. The flat-dollar cap on the NOL, currently at \$5 million, will not be available for taxable years beginning in 2017 and thereafter. The NOL limitation of 30% of taxable income will continue to be effective for taxable years beginning in 2017.