**tax losses mechanisms**

*Business losses are a persistent reality and far from being an insignificant economic phenomenon. They are disruptive for businesses and burden tax authorities. The Article builds a theory of tax losses mechanism design and discusses its normative implications. Although income tax laws in the U.S. and elsewhere conclusively adopt a loss offset mechanism, economists often advocate that losses will be governed by a tax refundability regime. Tax scholars, on the other hand, largely ignore the question of the desirable tax mechanism.*

*The Article constructs and applies an economic framework for the analysis of three prominent tax mechanisms for the treatment of losses: offset, refundability, and transferability. The economic theory we develop yields several new insights and results. We show that all three tax mechanisms diverge primarily by legal design choices rather than by any inherent feature, and therefore, contrary to the common understanding in the literature, any normative choice can be implemented through each of the tax mechanisms, but for implementation costs. The commonly perceived differences between these tax mechanisms are erroneously grounded in observations of existing tax rules, rather than envisioning a redesign according to policy preferences.*

*The analysis further uncovers the endogenous tax rate schedule that applies to losses under typical tax treatment mechanisms. In the case of loss offset, the revealed schedule seems capricious with decreasing or cyclical tax brackets. The analysis also redirects the tax policy focus to the desirable tax rate schedule for losses (regardless of the choice of the tax mechanism). Our analysis derives a few additional new results which are subsequently examined in our suggested normative framework.*

*Generally, the Article (a) proposes a general design-based approach to tax laws, (b) applies it to the treatment of losses and proves its value by inferring new results, which in turn (c) makes possible a broader and better informed normative consideration for tax scholars and policy makers.*