

ALERT

March 2020

Tax Alert - COVID-19

By: Robert M. Finkel

COVID relief measures are being proposed and enacted on almost a daily basis. The Senate's CARES Act passed by the House today and the administration says that the President will quickly sign it. The CARES Act and the measures enacted to date contain some very helpful measures, but are quite complex. As always, we are at the ready to guide you through them.

Just Out –The Senate's Coronavirus Package (H.R.748)

Net Operating Losses – The Senate Act contains needed relief from certain provisions restricting a corporation's use of net operating losses. If signed into law (as we expect) the new rules- will allow companies to carry back losses incurred in 2020 5 years to prior profitable years to generate a refund. The 2017 Tax Act had eliminated this longstanding benefit, requiring losses to be carried forward. A carry-back is preferable because a carry forward delays the use of the loss a full year. And, a carry-back from 2020 will refund taxes at the higher 35% corporate tax rate applicable in the carryback year, rather than the present 21%. A \$200,000 loss is worth \$70,000 as a carryback, but only \$42,000 as a carryforward. The new rules also remove overall limitations on the use of net operating losses that were enacted as part of the 2017 Tax Act.

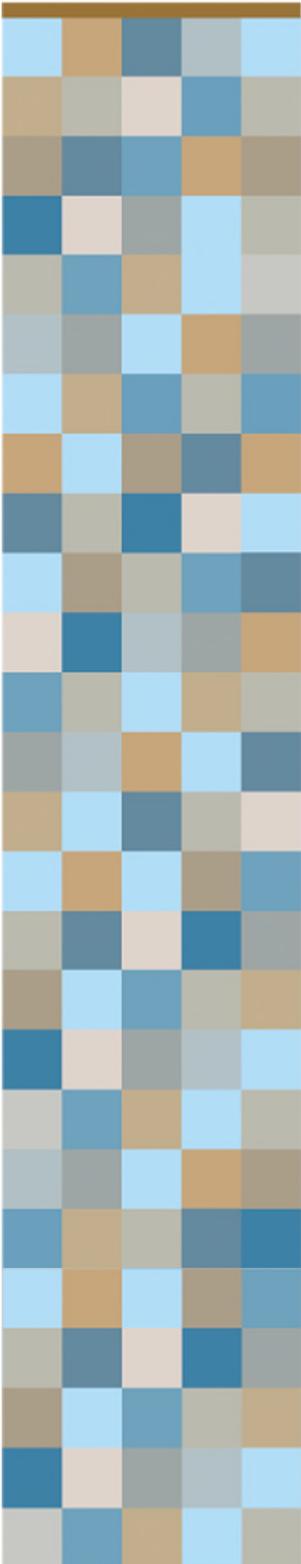
Still, the benefit to most companies won't be immediate. A corporation's 2020 loss will not be determined for tax purposes until the end of its taxable year, delaying any carryback refund for several months.

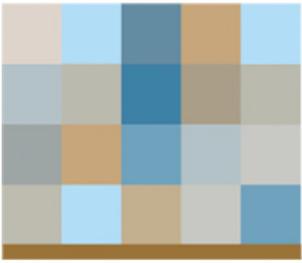
Other Helpful Provisions – The Senate bill also extends the due date for businesses' estimated tax payments until October 15th, 2020 without limitation and relaxes the 2017 Tax Act interest limitations on businesses to 50%.

* * * *

IRS Adjusts Rules of Engagement

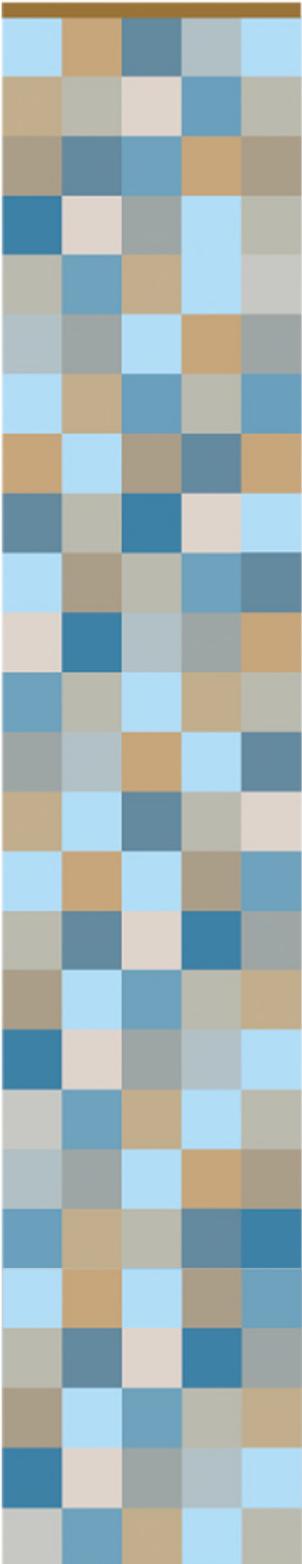
Collection Activity – The IRS has adopted protocols beginning April 1st and running initially through July 15th to ease the impact of enforced collection. The





STRENGTH IN PARTNERSHIP®

ALERT



IRS has suspended required payments under existing installment agreements and offers in compromise. Interest will, however, continue to run. Most field collection activities, such as the filing of liens and levies (including any seizures of a personal residence) by field collection officers are suspended during this period. In addition, the filing of liens and levies by the IRS Automated Collection System are suspended. New delinquent accounts will not be forwarded by the IRS to private collection agencies to work during this period.

IRS Audits and Examinations – During this period, the IRS will generally not start new field, office or correspondence examinations. The IRS will, however, – continue to work refund claims where possible, without in-person contact. Importantly, the IRS may start new examinations where deemed necessary to protect the government’s interest in preserving the applicable statute of limitations.

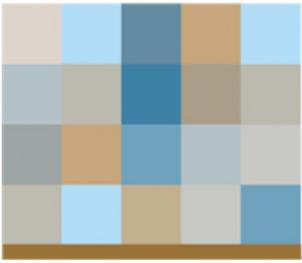
Administrative Appeals – Appeals employees will continue to work their cases. Appeals is not holding in-person conferences; however, conferences may be held over the telephone or by videoconference.

Statutes of Limitations – Because the statute of limitations on assessments will continue to run during this period, notwithstanding the above, the IRS will likely continue to take necessary action to protect statutes of limitations. This means that in those cases where the statute would expire during the April 1st - July 15th period, the IRS may ask for a voluntary extension of the statute. We would be happy to assist you in this decision.

* * * *

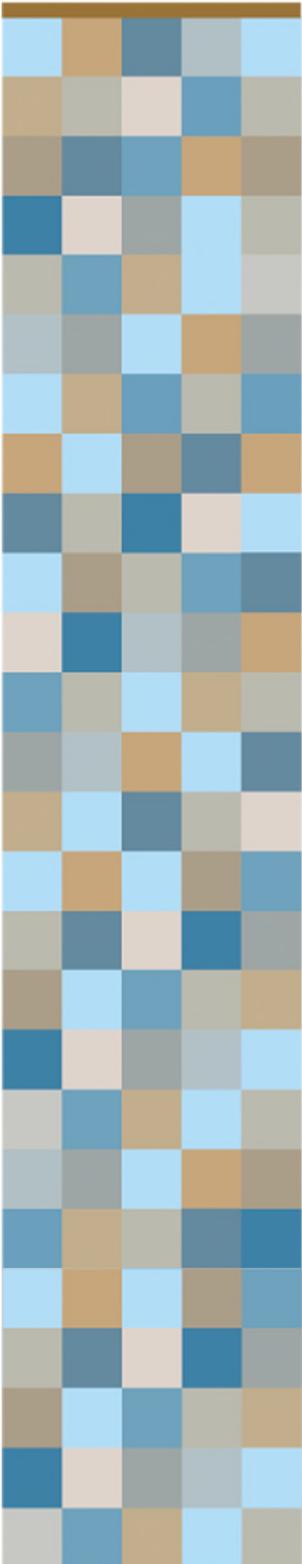
Notice 2020-18

Tax Return Due Dates -- The IRS postponed until July 15th the deadline for filing U.S. federal income tax returns and paying certain U.S. federal income and estimated taxes otherwise due April 15, 2020. These extensions apply automatically to all categories of taxpayers, including individuals, corporations, partnerships, and entities treated as partnerships for U.S. federal income tax purposes. Note that the extended dates apply only to U.S. federal income tax filings and payments. Deadlines for filing any other U.S. federal tax or information returns remain unchanged. The payment deferral does not apply to any other U.S. federal tax payments or deposits, including federal employment taxes.



STRENGTH IN PARTNERSHIP®

ALERT



In a later notice, IR-2020-58, the IRS confirmed that taxpayers that need additional time beyond the July 15th deadline to file returns can request filing extensions by filing standard applicable extension forms.

New York State's income tax filing and payment deadlines are tied to the federal deadline, so its deadlines have been extended to July 15th. The state is not extending its sales tax payment deadline, but is waiving late payment penalties.

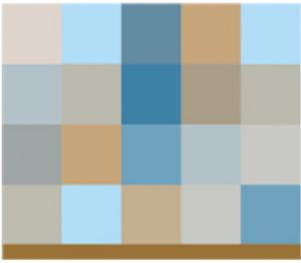
Response Act -- On March 18, 2020, the Families First Coronavirus Response Act was signed into law.

Payroll Tax Relief – The Response Act contains a new refundable payroll tax credit for businesses for the cost of certain COVID-related paid sick leave and paid family leave paid before December 31, 2020.

Credit for Paid Sick Leave -- Employers are allowed a credit against the Old-Age, Survivor and Disability Insurance (OASDI) tax imposed by Section 3111(a) of the Internal Revenue Code, for each calendar quarter in an amount equal to 100% of the qualified sick leave wages paid per employed individual per day. This amount is generally limited, however, to 10 days in total per individual and capped at (i) \$511 per day for an individual who is quarantined or self-quarantined due to COVID-19 or seeking a medical diagnosis for COVID-19 symptoms and (b) \$200 per day for an individual caring for either a quarantined or self-quarantined individual or for a child due to COVID-19 related school or childcare disruptions. The amount of this credit is increased by the amount of Medicare tax on qualified sick leave wages.

Employers are allowed a credit against OASDI for each quarter in an amount equal to 100% of the qualified family leave wages paid per employed individual per day. This amount is generally capped at \$200 per individual per day and \$10,000 in total for all quarters. Qualified family leave wages are generally wages payable to an individual caring for a child due to COVID-19 and related school or childcare disruptions. The amount of the credit is increased by the amount of Medicare tax on qualified family leave wages.

Credits for Self-Employed Individuals – Similar credits are available to Self-employed individuals against self-employment tax to the extent the individual would have been entitled to paid sick leave or paid family leave had he or she been employed by an eligible employer.



STRENGTH IN PARTNERSHIP®

ALERT



Moritt Hock & Hamroff LLP is a broad based commercial law firm with more than 75 lawyers and a staff of patent agents and paralegals. The firm's practice areas include: alternative dispute resolution; business succession planning; commercial foreclosure, commercial lending & finance; construction; copyrights, trademarks & licensing; corporate & securities; creditors' rights & bankruptcy; cybersecurity, privacy & technology; employment; healthcare; landlord & tenant; litigation; marketing, advertising & promotions; mergers, acquisitions & private equity; not-for-profit; patents; real estate; secured lending, equipment & transportation finance; tax; and trusts & estates.

Retention of Payroll Tax Deposits and Expedited Refunds – An employer is generally entitled to a refund of each credit to the extent it exceeds the employer’s payroll tax liability. The IRS announced that eligible employers that pay qualifying sick or family leave will be able to retain an amount of the payroll taxes equal to the amount of qualifying sick and family leave that they paid, rather than deposit such taxes with the IRS. Payroll taxes that are available for retention include withheld federal income taxes, the employee’s share of Social Security and Medicare taxes, and the employer’s share of Social Security and Medicare taxes with respect to all employees. If there are insufficient payroll taxes to cover the cost of qualified sick and family leave paid, employers can file a request for an expedited refund, which the IRS expects to process in two weeks or less.

Any issues raised in this Alert may be addressed to Robert Finkel, he can be reached at rfinkel@moritthock.com



This Alert is published solely for the interests of friends and clients of Moritt Hock & Hamroff LLP for informational purposes only and should in no way be relied upon or construed as legal advice.

©2020 Moritt Hock & Hamroff LLP



Attorney Advertising