STRADLEY RONON

Tax Insights

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IRS Provides Safe Harbors to REMICs and Investment Trusts that Hold Loans Modified by the CARES Act

The IRS, in Revenue Procedure 2020-26, provides safe harbor relief for real estate mortgage investment conduits (REMICs) and investment trusts that holds certain loans subject to modification under the CARES Act. The CARES Act provides, among other things, that during the covered period, borrowers with Federally backed mortgage loans and multifamily borrowers with Federally backed multifamily mortgage loans experiencing a financial hardship due, directly or indirectly, to the COVID-19 emergency may request and obtain forbearance on their loans. The revenue procedure discusses safe harbors for REMICs and investments trusts that (1) modifications to certain mortgage loans in connection with a forbearance program are not treated as replacing the unmodified obligation with a newly issued obligation, as giving rise to prohibited transactions, or as manifesting a power to vary for purposes of determining the Federal income tax status of certain securitization vehicles that hold the loans; and (2) certain securitization vehicles are not treated as having improper knowledge of an anticipated default on the grounds that they acquired a mortgage loan with respect to which the borrower had participated in a forbearance program.

IRS Provides NOL Carryback Guidance

The IRS, in Rev. Proc. 2020-24 provides guidance to taxpayers with net operating losses (NOLs) arising in 2018, 2019 and 2020 tax years that can now be carried back. In the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), an NOL arising in a tax year beginning after Dec. 31, 2018, and before Jan. 1, 2021 is now permitted to be carried back to each of the five tax years preceding the tax year of such loss. The revenue procedure provides guidance on how to (1) elect to waive a carryback for an NOL arising in a taxable year beginning after Dec. 31, 2017, and before Jan. 1, 2020, (2) elect to exclude from the carryback period for an NOL arising in a taxable year beginning after Dec. 31, 2017, and before Jan. 1, 2021, any taxable year in which the taxpayer has a section 965(a) inclusion, and (3) elect to waive any carryback period, reduce any carryback period or revoke an election to waive any carryback period for a tax year that began before Jan. 1, 2018 and ended after Dec. 31, 2017. (All section references are to the Internal Revenue Code of 1986, as amended.)

IRS Extends Filing Date for Requesting Refund Related to NOL Carryback

The IRS, in Notice 2020-26, extends the deadline for filing an application for a tentative carryback adjustment under Section 6411 with respect to the carryback of an NOL that arose in any taxable year that began during calendar year 2018 and that ended on or before June 30, 2019. Taxpayers are permitted to file an application for a tentative carryback adjustment of the tax liability for a prior taxable year that is affected by a NOL carryback and such application must be filed within 12 months of the close of the taxable year in which the NOL arose. The Notice indicates that taxpayers will have a six-month extension of time to file Form 1045 or Form 1139, as applicable, for an NOL that arose in a taxable year that began during calendar year 2018 and that ended on or before June 30, 2019. This extension of time is limited to requesting a tentative refund to carry back an NOL and does not extend the time to carry back any other item. To take advantage of the extension of time for requesting a tentative refund based on an NOL carryback, the taxpayer must perform the following actions: (a) File the applicable form no later than 18 months after the close of the taxable year in which the NOL arose (that is, no later than June 30, 2020, for a taxable year ending Dec. 31, 2018); and (b) Include on the top of the applicable form "Notice 2020-26, Extension of Time to File Application for Tentative Carryback Adjustment."

IRS Unveils "Get My Payment" Feature

The IRS unveiled the new "Get My Payment" feature on their website for taxpayers to check on their economic impact payments and update any direct deposit information.

IRS Issues FAQs on the Deferral of Payroll Taxes

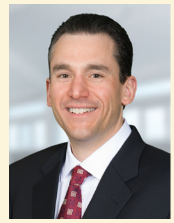
The IRS has issued Frequently Asked Questions (FAQs) on the payroll tax deferral that was enacted as part of the CARES Act. Under the CARES Act, taxpayers are allowed to defer paying the employer portion of certain payroll taxes through the end of 2020 and must pay 50% of such deferred taxes by Dec. 31, 2021, and the remaining 50% of such deferred taxes by Dec. 31, 2022. However, under the CARES Act, a taxpayer who has a loan forgiven under Act Section 1106 with respect to a loan under Small Business Act Section 7(a)(36), as added by Act Section 1102, or indebtedness forgiven under Act Section 1109, is not eligible to defer such payroll taxes. The FAQs clarify that taxpayers may defer payroll taxes up until the point they receive notification of forgiveness of their loan from the lender. Additionally, the FAQs address the interaction between the payroll tax deferral and the tax credits enacted under the CARES Act and the Families First Coronavirus Response Act.

PA Offers Tax Relief to Taxpayers

Pennsylvania Gov. Tom Wolf released a statement outlining various relief the Department of Revenue will give to taxpayers affected by the COVID-19 pandemic. For example, the Department of Revenue will: (1) pause payments for existing payment plans upon requests from taxpayers; (2) provide flexible terms for new payment plans; (3) work to boost customer service for taxpayers impacted by the pandemic; (4) suspend or reduce automatic enforcement actions regarding liens, wage garnishments, bank attachments, license inspections, requirements for tax clearances and use of private collection agencies; (5) suspend the creation of new desk reviews and field audits in most cases; (6) suspend in-person meetings with taxpayers in most cases; (7) broaden audit penalty abatement and interest relief; (8) continue to administer tax credit and incentive programs; and, (9) abate penalties in most cases if taxpayers have remitted trust fund taxes they collected. Additional information can be found at the Department of Revenue's website.

NJ Governor Signs COVID-19 Tax Extension into Law

On April 14, 2020, New Jersey Gov. Phil Murphy signed the COVID-19 Fiscal Mitigation Act, (P.L. 2020, c.19), which extends the April 15, 2020, due date and payment date of certain taxpayers to July 15, 2020. Individual Gross Income Tax, Partnership, and Corporation Business Tax calendar year filers now have until July 15 to file and pay these taxes, including first-quarter estimated tax payments. Penalties and interest will not be imposed on the balance of tax due between the original due date and the extended due date, as long as the returns and/or payments are submitted by July 15, 2020. The law also extends the time by which the Division of Taxation can make an assessment and/or audit tax returns.



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