

\$2.2 Trillion Stimulus Bill Includes Big Benefit For Real Estate Investors and Other Taxpayers With Excess Business Losses

Article

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The Coronavirus Aid, Relief, and Economic Security Act (CARES) Act was passed by Congress and is expected to be signed into law by President Trump. This \$2.2 trillion stimulus bill contains an important tax benefit that so far has received little media coverage, but could provide a big benefit for many taxpayers, especially in the real estate area.

The 2017 Tax Cuts and Jobs Act imposed a limitation on business losses, which provided that individual taxpayers could only claim up to \$250,000 (\$500,000 for married individuals filing a joint return) of excess business loss in a given tax year. Excess business loss is the amount by which all of the taxpayer's deductions attributable to his or her trades or businesses exceeds all of the taxpayer's income or gain attributable to such trades or businesses. Any disallowed excess business loss is carried forward and treated as a net operating loss of the taxpayer. This limitation is particularly applicable in the real estate industry, as taxpayers that hold real estate often find themselves with significant depreciation deductions that they cannot utilize to offset non-business income, including capital gains from passive investments.

The CARES Act removes the excess business loss limitation for the 2018 through 2020 tax years. As a result, taxpayers that previously were unable to utilize their business losses fully to offset their capital gains or non-business income will now be able to use these losses for 2018 through 2020. This can result in a significant tax benefit as taxpayers are getting ready to file their 2019 tax returns (now due July 15). In addition, taxpayers should consult their tax advisors to see if filing an amended return for 2018 would result in a tax refund from the Internal Revenue Service.