

Partnerships Can File Amended Returns to Cash in on CARES Act Benefits

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The Coronavirus Aid, Relief, and Economic Security Act (CARES) Act was signed into law by President Trump last month. As we have previously discussed, the CARES Act contains several tax law changes that are designed to allow taxpayers to file amended returns and obtain much needed cash flow in the form of tax refunds (a list of our prior articles on these tax changes can be found here under the heading Tax).

Unfortunately, taxpayers that are taxed as partnerships were facing an issue as a result of the Bipartisan Budget Act of 2015 (BBA), which went into effect for tax years beginning after December 31, 2017. Under the BBA, partnerships could no longer file amended returns for 2018 or later tax years, but rather had to file an administrative adjustment request. Any adjustments as a result of an administrative adjustment request are taken into account in the year that the request is filed.

Consequently, without corrective relief, a partnership trying to take advantage of the CARES Act tax changes by filing an administrative adjustment request now would only receive the benefit on its 2020 tax return, which would not be filed until 2021. This delay was clearly not what was intended with the CARES Act.

Fortunately, the Internal Revenue Service yesterday provided partnerships with relief by issuing Revenue Procedure 2020-23. This revenue procedure gives partnerships the ability to amend a return filed for 2018 or 2019 provided (i) the return was filed prior to the issuance of the revenue procedure, and (ii) the amended return is filed before September 30, 2020. Partnerships can file amended returns to take advantage of the CARES Act tax changes and get the benefit now of any available tax refunds.

The amended returns are allowed to take into account any tax changes brought by the CARES Act as well as any other changes the partnership is entitled to take under the tax code. To file an amended return, the partnership must file a Form 1065, with the amended return box checked and with "Filed Pursuant to Rev. Proc. 2020-23" written across the top of the form.

Amended returns can be filed electronically or by mail, although filing electronically may result in faster processing time given the likelihood of service center closures as a result of the coronavirus pandemic.

Partnerships currently under examination for the year being amended must send a copy of the amended return to the revenue agent coordinating the examination.

Businesses with NOLs or qualified improvement property should consult their tax advisors to see if they can benefit from these tax changes. If so, an amended return could result in a refund and some much needed additional cash flow.