



Tax alert

U.S. Tax

Latest COVID-19 Developments

The US Congress and the Internal Revenue Service (IRS) have taken further actions in response to the Covid-19 pandemic.

Paycheck Protection Program modified

On June 5th the US President signed a bill to modify the Paycheck Protection Program (PPP), which was established by the CARES Act to provide qualifying businesses with funds to pay their employees during the COVID-19 crisis. The PPP provides funds in the form of loans that will be fully forgiven if used for qualifying payroll costs, interest on mortgages, rent, and utilities.

The new rules generally aim to provide further relief to taxpayers:

- PPP borrowers can now also benefit from deferring payroll tax payments;
- The period during which a new borrower may use a PPP loan while remaining eligible for forgiveness is extended from 8 weeks to 24 (but not beyond December 31, 2020). Current borrowers can elect to maintain the original 8-week period;
- The portion of a PPP loan that a borrower is required to spend on payroll costs is reduced from 75% to 60%;
- The deadline for borrowers to eliminate a reduction in employment, salary or wages that would otherwise reduce the forgivable amount of a PPP loan is now extended from June 30 to December 31, 2020.

- Borrowers can disregard a reduction in employees in determining the forgivable amount of a PPP loan if borrowers are unable to hire former employees or similarly qualified employees or are unable to return to the same level of business activity prior to February 15, 2020.
- A minimum maturity of five years is established for a PPP loan that has a remaining balance after forgiveness.

Guidance on Net Operating Loss carrybacks

The IRS published [frequently asked questions](#) (FAQ) to provide information for C corporations carrying back net operating losses (NOLs) arising in a taxable year beginning in 2018, 2019, or 2020 to taxable years in which the alternative minimum tax (AMT) applies (i.e. taxable years beginning before January 1, 2018).

- For purposes of determining a C corporation's AMT income in the pre-2018 years, the amount of alternative tax net operating loss (ATNOL) carried back from a post-2017 year should be treated as zero on Forms 1120X and 1139 if filed on or after June 1, 2020. For Forms 1120X 1139 filed before June 1, 2020, no additional action is required.
- If a C corporation either has an AMT liability or has released minimum tax credits (MTC) in a pre-2018 year as a result of a NOL carryback:
 - the corporation can use the same Form 1139 to claim (i) the NOL carryback and a decrease in tax liability in a subsequent year resulting from the use of the MTCs generated/released by the carryback or (ii) the NOL carryback and the MTC refund for 2018 *resulting from an election* to claim 100% of the refundable MTCs in the first taxable year;
 - the corporation must file Form 1120X separately and cannot use Form 1139 to claim the refundable portion of the MTCs *that do not result from the election* to claim 100% of the refundable MTCs in the first year;
 - corporations may make the election by filing either Form 1120X or Form 1139 in a manner described in the FAQ publication.

How can Deloitte's U.S. corporate tax group based in Brussels help?

Deloitte is closely monitoring new tax norms and regulations at both federal and state levels and will keep you informed whenever official guidance is released or important interactions with previous rules arise.

Our team is trained to assist you in understanding and complying with these new rules and are always available to help.

Therefore, feel free to count on our support for any questions you may have.

We are here to assist you.

Contacts

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