



SHARTSIS FRIESE LLP

Further California and Federal Tax Procedure Updates in Light of COVID-19

Following up on our [prior client alert](#) posted April 2, 2019, this alert serves to keep clients abreast of further California and federal tax law deferrals for reporting and payment obligations, as well as other reporting modifications.

- **Federal Partnership Amended Return Change:** The IRS has altered rules applicable to partnership corrections of prior tax years, in order to ensure partners of partnerships have access to immediate refunds.

Since 2018, most partnerships must participate in a new audit regime, which requires taxpayer-initiated adjustments for prior years to not be filed on amended returns. Rather these must be filed on “administrative adjustment requests” (AARs). Unlike amended returns, which reduce tax in the year being corrected, these AARs reduce tax in the year the AAR is filed. If a partnership were to file in 2020 an AAR for taxable year 2018 or 2019, then the relief intended to be issued immediately (under certain retroactive CARES Act provisions) would instead be issued to the partnership’s partners only when their 2020 tax returns are filed.

Thus, the IRS announced that, for taxable years beginning 2018 and 2019, immediate refunds will be issued to partners of a partnership which elects to file an amended return instead of an AAR. Such returns will trigger refunds for partners and may include any correction allowed by law, including corrections unrelated to the CARES Act. Some unresolved issues (such as what the partners themselves must file) remain, and further guidance is expected.

- **Clarification of Payroll Tax Deferral:** The CARES Act provided payroll tax deferral rules. Such deferral was denied to employers whose Paycheck Protection Program (PPP) loans are forgiven. To clarify this denial, the IRS in FAQs has announced that payroll taxes are deferrable, even for employers receiving a PPP loan, until such a loan is actually forgiven. All payroll taxes incurred prior to the date the PPP loan is forgiven remain deferred; payroll taxes due after such date cannot be deferred.
- **Other Federal Deferrals:** Following up its prior extensions, the IRS has extended to July 15 the core tax returns, associated schedules, associated elections, associated payments, and other time-sensitive actions which relate to the taxes listed below. Such filings otherwise would have been due (pursuant to original deadlines or valid extensions) on or between April 1 and July 14. The affected taxes are:

- Individual income tax, estimated income tax, self-employment tax (including June 15 estimated tax payments). Certain qualified opportunity zone and §1031 actions needed to secure tax deferral are included in the deferred time sensitive actions.
- Estate, gift, and GST tax, including certain special estate tax liabilities payable over time.
- Corporate income tax.
- Income taxation of trusts and estates.
- Partnership tax (returns only, as partnerships do not pay tax).
- Taxes and information returns pertaining to various exempt organizations returns and payments (including private foundation excise taxes).

Refund claims and Tax Court petitions have also received deferrals. Further, the IRS has granted itself deferrals for its deadlines otherwise coming due on or after April 6, 2020, and before July 15, 2020, pertaining to persons under examination, who have a matter before IRS appeals, or who file claims for refund or submit payments for taxes whose statutes of limitation are near running.

Claims for tentative (“quick”) refund adjustments resulting from the carryback of NOLs (arising in any tax year ending on December 31, 2018 through June 30, 2019), as well as accelerated corporate minimum tax credits, have all had their deadlines extended by six months.

For individuals who do not normally file income taxes (commonly, seniors receiving only social security benefits), the IRS has announced a new online tool to register for their recovery rebates.

Because the foregoing is extremely abbreviated and not every single filing or action associated with the foregoing taxes is necessarily deferred, taxpayers and their advisors are urged to consult Notice 2020-23 for further details.

- **California Modifications:** The California Franchise Tax Board has delayed tax deadlines in a manner matching the federal deferral noted above. Its [website](#) has further details, [including](#) delays for the deadlines for claims for refunds, protests of proposed assessments, and appeals to the Office of Tax Appeals.

As [noted](#) by the California Department of Tax and Fee Administration, California has also deferred (for three months) various non-income taxes and associated returns for returns of less than \$1 million in tax, including sales and use tax payments and returns. Deadlines for refund claims and appeals for such taxes are also deferred for 60 days.

Businesses with less than \$5 million in taxable annual sales can defer up to \$50,000 of sales and use tax. Such deferred amounts are instead paid in interest- and penalty-free installments over 12 months.

A significant exception to the trend in favor of tax deferral is in the case of property taxes. San Mateo and San Francisco Counties have uniquely deferred their property tax second 2019-2020 payment due date until May 4, 2020. For all other counties, property taxes remain due today (April 10). However, penalty waivers for late payment because of coronavirus-related hardship may be available. Taxpayers are urged to check with their local county for an understanding of its policy.

For further information on the deferrals, please contact any member of the Tax group: Geoffrey W. Haynes, Dashiell C. Shapiro, Kevin R. Leiske, and Mark E. Mullin.