China Tax Alert

Issue 21, April 2020

US Income Tax Relief in Response to Coronavirus

Policies discussed in this issue:

- Coronavirus Aid, Relief, and Economic Security Act (CARES Act)
- IRS Notice 2020-18

Background

The United States of America ("U.S.A") enacted the "Coronavirus Aid, Relief, and Economic Security Act," ("CARES Act") on March 27, 2020. In this Alert, KPMG will summarize some key provisions of the CARES Act and recently issued Internal Revenue Service ("IRS") guidance that require immediate attention.

Immediate action is required: The CARES Act may cause a taxpayer to have overpaid its 2019 quarterly estimated tax payments by 10% or more. In such a case, the taxpayer can apply for a quick refund by filing form 4466 (Corporation Application for Quick refund of Overpayment of Estimated Tax). The IRS is required to act on the refund within 45 days from the date of filing. The due date to apply for the refund has not been postponed and must be filed by **April 15, 2020** for a 2019 calendar year corporation.

Key Points

Topic 1 -- Extension of Filing and Payment Deadline for Federal Income Tax

2019 income tax filing and payment deadlines for all taxpayers who file or pay their federal income taxes on April 15, 2020 have been extended to July 15, 2020. Taxpayers can further file a request for an automatic extension (e.g. Form 7004) to file their income tax returns on or before July 15, 2020 to extend the due date of their returns until October 15, 2020.

The second quarter estimated federal income tax payment for the 2020 tax year is still due on June 15, 2020.

Relevant state income and franchise tax filing and payment deadlines may differ.

Topic 2 – Net Operating Loss Carryback: Obtaining Tax Refund

The CARES Act allows NOLs arising in tax years beginning in 2018, 2019 and 2020 to be carried back 5 years and temporarily suspends the 80% of taxable income limitation for NOL deductions until 2020.

KPMG Observations

These tax provisions, especially the extended carry back provisions, could provide cash tax refunds for many taxpayers. Additionally, 2018, 2019, and 2020 NOLs may be carried back to offset pre-2018 ordinary income and capital gain that were previously taxed at rates up to 35% and generate a favorable rate differential. Taxpayers should evaluate whether or not they are eligible for cash tax refunds, keeping in mind that the calculation is complex and will require consideration of various factors.

Topic 3 – Business interest deduction limitation under IRC section 163(j): ATI limitation increased from 30% to 50%

The CARES Act generally increases the limitation of net business interest expense deduction from 30% to 50% of adjusted taxable income ("ATI") for taxable year beginning in 2019 or 2020.

KPMG Observations

The relaxation of the section 163(j) limitation under the CARES Act could provide significant tax savings and refunds to many taxpayers, especially when applied in conjunction with the NOL provisions summarized immediately above.

State tax impact, if any, should be considered on a state-by-state basis, as certain states did not conform to section 163(j) for the 2019 tax year, and the states which have conformed to section 163(j) may not follow the changes in CARES Act.

Topic 4 – 100% Bonus Depreciation for Qualified Improvement Property

The CARES Act provides that capital expenditures spent on qualified improvement property ("QIP") which generally refers to certain improvements made by the taxpayer to the interior of a non-residential building, now qualify for the 100% first-year bonus depreciation deduction. This correction is retroactive and generally applies to QIP placed into service after 12/31/2017.

KPMG Observations

Taxpayers should evaluate QIP expenditures during 2018 and determine the appropriate course for claiming tax benefits which is complex.

Bonus depreciation would not be available to taxpayers that have elected as "electing real property trade or business" treatment to be excepted from section 163(j) limitation rules.

Topic 5 – COVID-19 Related Disaster Losses

Under current US tax law, taxpayers may elect to claim losses attributable to federally declared disasters on the prior year's original or amended return. On March 13, 2020, the entire US nation was declared a disaster area by reason of COVID-19.

KPMG Observations

Taxpayers may consider this election in connection with the 5-year NOL carryback option, as it could potentially generate permanent cash savings by pushing more losses to be carried back to the earlier years in which higher tax rate was in effect.

Topic 6 - Corporate Alternative Minimum Tax Relief

The CARES Act accelerates the ability of corporate taxpayers to apply unutilized minimum tax credits ("MTC") by allowing a 50% credit for 2018 and a 100% credit for 2019. Alternatively, a taxpayer may elect to claim the entire refundable credit amount for 2018 tax year.

The CARES Act allows the taxpayer to file an application by December 31, 2020, for a tentative refund to claim its aggregate MTC for its 2018 tax year. The IRS would have 90 days from the date of filing to review the application and refund any overpayment.

KPMG Observation

Adopting the aforementioned quick refund procedure for refundable MTC should generally accelerate the refund payment comparing to amending the 2018 federal income tax return.

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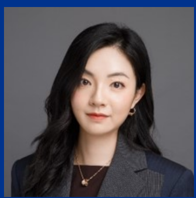

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