

# CORONAVIRUS INFORMATION & UPDATES

April 9, 2020

## Partnerships Are Now Allowed to File Amended Income Tax Returns for 2018 and 2019, Immediately — Partners to Benefit from CARES Act, Without Delay

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act), commonly referred to as Phase 3 of the federal government's response to the coronavirus outbreak, was enacted on March 27, 2020. The act provides relief to many sectors of the economy negatively impacted by the coronavirus. (See Ropes & Gray Alerts on [CARES Act](#), and [certain key tax provisions of CARES Act](#).)

**HEADLINE:** In issuing Revenue Procedure 2020-23 ([Rev. Proc. 2020-23](#)) today, the IRS moved very quickly to allow partners in affected partnerships to benefit **immediately** from the CARES Act: partnerships can now file amended income tax returns for 2018 and 2019, permitting partners to receive tax refunds without delay. (Before this change, partners generally would not be able to take advantage of CARES Act benefits until they file their current year income tax returns, which could be in 2021.)

**Summary of CARES Act Provisions:** Two key tax provisions of the CARES Act allow taxpayers to take additional deductions in prior tax years: (1) an increase in business interest expense deductions and (2) an increase in bonus depreciation of qualified improvement property (QIP). Included below is a high-level summary of Sections 2306 and 2307 of the CARES Act.

**Rev. Proc. 2020-23 Details:** As the CARES Act was written, partners in partnerships subject to the centralized partnership audit regime could not immediately benefit from the increased deductions discussed above. (Under the centralized audit regime, partnerships cannot file amended returns; instead, partnerships are required to file administrative adjustment requests (AAR). AARs reflecting net partnership adjustments resulting in a refund or benefit to partners are required to be “pushed out” to partners’ tax returns for the year in which an AAR is filed. Thus, any relief would then be applicable only to the partners’ 2020 return, not to the previous years’ returns.)

Given that this timing of relief would be inconsistent with the purpose of the CARES Act, on April 8, 2020 the IRS released [Rev. Proc. 2020-23](#) which allows eligible partnerships to file amended partnership returns **immediately** for taxable years beginning in 2018 and 2019, using Form 1065 (with the “Amended Return” box checked) and issuing amended Schedule K-1s to each partner. Partners could then use these amended Schedule K-1s to amend their respective returns, requesting refunds immediately.

Here are the major details:

- Amended partnership returns are not limited to changes made by the CARES Act and can take into account any other tax attributes to which the partnership is entitled.
- Rev. Proc. 2020-23 permits, but **does not require**, an eligible partnership to file an amended Form 1065; partnerships can always choose to file AARs.

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- Rev. Proc. 2020-23 notes that filing amended returns electronically may allow for faster processing.
- Partnerships under examination for taxable years beginning in 2018 or 2019 may file amended returns, but must notify the revenue agent coordinating the exam and provide copies of the amended returns.
- Partnerships with previously filed AARs may file amended returns, but must use the items as adjusted in the AARs instead of reporting items from the originally filed returns.

## **Details of CARES Act Provisions — Business Interest Expense (Section 2306) and Bonus Depreciation of QIP (Section 2307)**

Business interest expense deductions can be taken for up to 50% of business income (up from 30%) for 2019 and 2020, and for 2020, the business can elect to use 2019 income to determine the limitation amount. CARES Act § 2306.

The CARES Act allows taxpayers to take a one hundred percent bonus depreciation for qualified improvement property (QIP), making the entire cost of QIP immediately deductible. The 100% bonus depreciation of QIP applies retroactively, as if it were included in the Tax Cuts and Jobs Act (TCJA), which took effect on January 1, 2018. Therefore this provision applies to QIP placed into service on or after that date. CARES Act § 2307.