



---

## Five-Minute Tax Briefing®

**April 28, 2020  
No. 2020-08**

### **Item for Friday, April 24, 2020**

**IRS Issues Proposed Regulations on UBTI "Silo" Rules for Tax-exempt Organizations:** The IRS has issued proposed regulations (REG-106864-18) that provide guidance for tax-exempt organizations that are subject to unrelated business income tax with more than one unrelated trade or business on how to calculate their Unrelated Business Taxable Income (UBTI). The proposed regulations provide guidance on identifying separate trades or businesses, including investment activities, as well as certain other amounts included in UBTI. Changes under the Tax Cuts and Jobs Act (TCJA) require tax-exempt organizations subject to the unrelated business income tax to compute UBTI separately for each trade or business. These are referred to as *silos*. Starting in 2018, the loss from one trade or business may not offset the income from another, separate trade or business. News Release IR 2020-78.

### **Item for Thursday, April 23, 2020**

**Foreign Earned Income Exclusion Time Requirements Waived Due to COVID-19:** A *qualified individual*, as defined in IRC Sec. 911(d)(1), is generally allowed to exclude from gross income his or her foreign earned income and the housing cost amount. Recently, the IRS announced that an individual who left China (excluding Hong Kong and Macau) on or after 12/1/19, or another foreign

country on or after 2/1/20, but on or before 7/15/20, will be treated as a qualified individual with respect to the period during which that individual was present in, or was a bona fide resident of, that foreign country if the individual establishes a reasonable expectation that he or she would have met the requirements of IRC Sec. 911(d)(1) but for the COVID-19 emergency. Rev. Proc. 2020-27.

## **Item for Wednesday, April 22, 2020**

**COVID-19 Medical Condition Travel Exception for Certain Alien Individuals:** In general, an individual who meets the Substantial Presence Test (SPT) is considered a U.S. resident for federal income tax purposes [ IRC Sec. 7701(b) ]. Recently, the IRS announced that certain nonresident individuals who intended to leave the U.S., but were unable to do so due to COVID-19 emergency travel disruptions, may exclude up to 60 consecutive days for purposes of applying the SPT. The 60-day period starts on or after 2/1/20 and on or before 4/1/20, with the specific date chosen by the alien individual. The COVID-19 medical condition travel exception is generally claimed by attaching Form 8843 to a timely filed (including extensions) Form 1040-NR. However, eligible individuals who are not required to file a 2020 Form 1040-NR are not required to file Form 8843 to claim the exception. Similar procedures are available to apply the exception when claiming benefits under an income tax treaty with respect to services income. Rev. Proc. 2020-20.

## **Item for Tuesday, April 21, 2020**

**Procedures for Eligible Nonfilers to Receive Economic Impact Payments:** The IRS has announced two procedures for eligible individuals who are not otherwise required to file federal income tax returns for 2019 to receive economic impact payments under the CARES Act. Under the first procedure, eligible individuals may file a 2019 Form 1040 (or Form 1040-SR , on paper or electronically, using a simplified filing method. The IRS encourages these individuals to use the "Non-Filers: Enter Your Payment Info Here" tool, available at [www.irs.gov/coronavirus/economic-impact-payments](http://www.irs.gov/coronavirus/economic-impact-payments) , to receive their economic impact payment quicker than if they file a paper return. A second procedure accommodates zero AGI electronic filers who use tax return preparation software or otherwise need to provide more detail in filing state or local tax returns than that allowed by the simplified procedure. Under both procedures, returns should be filed as soon as possible, but no later than 10/15/20. Rev. Proc. 2020-28.

## **Item for Monday, April 20, 2020**

**IRS Provides Guidance on Qualified Improvement Property (QIP) Depreciation:** Rev. Proc. 2020-25 issues guidance allowing a taxpayer to change its depreciation under IRC Sec. 168, as amended by Sec. 2307 of the CARES Act, for certain QIP placed in service after 12/31/17, in tax years beginning in 2018, 2019, or 2020. The Revenue Procedure also describes how taxpayers can make a late election, or revoke or withdraw an election, under IRC Sec. 168(g)(7) , (k)(5), (k)

(7), or (k)(10). Certain taxpayers are permitted to file an amended return, Administrative Adjustment Request (AAR) under IRC Sec. 6227, or a Form 3115 (Application for Change in Accounting Method) to change their depreciation of QIP placed in service after 12/31/17 in their 2018, 2019, or 2020 tax year. Rev. Proc. 2020-25.

## Item for Friday, April 17, 2020

**IRS Issues Proposed Regulations on PTIN User Fee:** The IRS has issued proposed regulations that reduce the user fee to apply for, or renew, a Preparer Tax Identification Number (PTIN) from \$33 to \$21. The \$21 user fee does not include any fees charged by third-party vendors for processing applications, which are currently \$17 and are proposed to be lowered to \$14.95. The Court of Appeals for the D.C. Circuit ruled that the IRS may charge PTIN fees and remanded the case back to the D.C. District Court to determine whether the fee is reasonable. The case is still on remand; therefore, the IRS is not currently charging PTIN fees. The IRS has calculated the proposed fee by projecting the actual costs of the cost center that operates the program within the IRS and adding indirect costs for fiscal years 2020–2022, divided by the 2.4 million estimated PTINs that would be issued over the three-year period. The regulations are proposed to apply to PTIN applications filed on or after the date that is 30 days after the regulations are published as final. REG-117138-17 .

## Items for Thursday, April 16, 2020

**Applicable Federal Rates for May:** The Section 7520 rate for May 2020 is 0.8%, while the Applicable Federal Rates (AFRs) are as follows (Rev. Rul. 2020-11):

	Annual	Semiannual	Quarterly	Monthly
Short-term ( $\leq$ 3 years)	0.25%	0.25%	0.25%	0.25%
Mid-term ( $>$ 3 years but $\leq$ 9 years)	0.58%	0.58%	0.58%	0.58%
Long-term ( $>$ 9 years)	1.15%	1.15%	1.15%	1.15%

**SSI Recipients Will Automatically Receive Economic Impact Payments:** The IRS has announced that recipients of Supplemental Security Income (SSI) will automatically receive economic impact payments. According to the agency, SSI recipients will receive a \$1,200 economic impact payment with no further action needed on their part. The IRS projects the payments for this group will go out no later than early May. However, SSI recipients with qualifying children will need to provide their information via the nonfilers section of the "Get My Payment" tool (available at [www.irs.gov/coronavirus/economic-impact-payments](http://www.irs.gov/coronavirus/economic-impact-payments) ) to receive an additional \$500 economic impact payment per dependent child. For those with dependents who use Direct Express debit cards, additional information will be available soon regarding the steps to take on [www.irs.gov](http://www.irs.gov) when claiming children under age 17. News Release IR 2020-73.

## Items for Wednesday, April 15, 2020

**IRS Launches "Get My Payment" Tool:** The IRS has launched its "Get My Payment" tool, which allows taxpayers to check the status of their economic impact payment. The tool provides information about a taxpayer's payment status, payment type, and whether the IRS needs more information, such as a bank account and routing number. To use the tool, taxpayers will need to enter their name, Social Security number, date of birth, and address. If a bank account is not on file, the taxpayer can enter that information after verifying the AGI and refund amount (or amount owed) on his or her most recently filed tax return. The "Get My Payment" tool can be accessed at [www.irs.gov/coronavirus/get-my-payment](http://www.irs.gov/coronavirus/get-my-payment). Individuals who are not required to file a 2018 or 2019 tax return can enter their payment information at [www.irs.gov/coronavirus/non-filers-enter-payment-info-here](http://www.irs.gov/coronavirus/non-filers-enter-payment-info-here).

**Certain Forms 1139 and 1045 Can Be Faxed to the IRS:** C corporations use Form 1139 (Corporation Application for Tentative Refund) to apply for a quick refund of taxes from the carryback of an NOL, among other things. Similarly, individuals, estates, and trusts use Form 1045 (Application for Tentative Refund) to quickly receive a refund due to certain carryback items. In response to the COVID-19 pandemic, the IRS has implemented temporary procedures for the digital transmission of Form 1139 and Form 1045 for certain NOL and minimum tax credit carryback claims. Corporations can fax eligible refund claims submitted on Form 1139 to 844-249-6236. Individuals, trusts, and estates can fax eligible refund claims submitted on Form 1045 to 844-249-6237. A maximum of 100 pages can be initially faxed to either of those numbers. Taxpayers will be notified if additional documentation is required. According to the IRS, the faxing process is a short-term measure to assist taxpayers in receiving refunds provided under the CARES Act as quickly as possible. For more information, see [www.irs.gov/newsroom/temporary-procedures-to-fax-certain-forms-1139-and-1045-due-to-covid-19](http://www.irs.gov/newsroom/temporary-procedures-to-fax-certain-forms-1139-and-1045-due-to-covid-19).

## **Items for Tuesday, April 14, 2020**

**IRS Extends Additional Key Tax Deadlines:** In Notice 2020-18, the IRS postponed the due date for filing federal income tax returns and making federal income tax payments from 4/15/20 to 7/15/20. Notice 2020-20 extended this relief to certain federal gift and generation-skipping transfer tax return filings and payments. The IRS has now provided relief to all taxpayers that have a filing or payment deadline falling on or after 4/1/20 and before 7/15/20. This means that any individual or corporation that has a quarterly estimated tax payment due on or after 4/1/20 and before 7/15/20 can wait until July 15 to make that payment without penalty. In addition, the normal April 15 deadline to claim a refund for 2016 tax returns has been extended to 7/15/20. The IRS also has extended relief to any person performing a time-sensitive action listed in Reg. 301.7508A-1(c)(1)(iv) through (vi) or Rev. Proc. 2018-58. Notice 2020-23 and News Release IR 2020-66.

**IRS Provides Guidance on Certain Elections under IRC Sec. 163(j):** The IRS has provided guidance on the Section 163(j)(7)(B) election to be an electing real property trade or business and the Section 163(j)(7)(C) election to be an electing farming business for purposes of the business

interest expense limitation rules. Specifically, taxpayers can make a late election, or withdraw an election, on an amended federal income tax return, an amended Form 1065 , or an administrative adjustment request under IRC Sec. 6227 . In addition, the IRS has issued guidance on electing (1) out of the 50% Adjusted Taxable Income (ATI) limitation for tax years beginning in 2019 and 2020, (2) to use the taxpayer's ATI for 2019 to calculate the Section 163(j) limit for 2020, and (3) out of deducting 50% of excess business interest expense for tax years beginning in 2020 without limitation. These last three elections were part of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). Rev. Proc. 2020-22.

## **Item for Monday, April 13, 2020**

**IRS Provides NOL Guidance and Deadline Extension:** Rev. Proc. 2020-24 issues guidance on IRC Sec. 172(b)(1), amended by Sec. 2303 of the CARES Act, which requires taxpayers to carry back NOLs arising in tax years beginning in 2018, 2019, and 2020 to the five preceding tax years, unless the taxpayer elects to waive or reduce the carryback period. The Revenue Procedure also describes how taxpayers can elect to either waive the carryback period for NOLs entirely or exclude from the carryback period for those losses any years in which the taxpayer has an income inclusion under IRC Sec. 965(a). In Notice 2020-26, the IRS provides relief for certain taxpayers to allow them to take advantage of amendments made to the NOL provisions. Specifically, this Notice grants a six-month extension for filing an application for a tentative carryback adjustment with respect to the carryback of an NOL that arose in any tax year that began during calendar year 2018 and that ended on or before 6/30/19. Notice 2020-26 and Rev. Proc. 2020-24.

## **Item for Friday, April 10, 2020**

**Clarifications for Disregarded Entity and Section 743(b) Reporting:** The IRS issued Frequently Asked Questions (FAQs) related to Part II, "Information About the Partner" section on Form 1065, Schedule K-1 clarifying disregarded entity reporting. The three FAQs address beneficial ownership, tiered disregarded entity ownership, and grantor trust ownership. In addition, the IRS FAQs include three examples that illustrate how a partnership should report Section 743(b) adjustments for purposes of line 11 (Other income) and line 13 (Other deductions) of Form 1065, Schedule K-1 . Two additional examples illustrate what should be reported on line 20, using code AH (Other information) relating to Section 743(b) adjustments. Additional changes and updates are often the result of new tax legislation, new IRS guidance, clarifications, corrections, updates of mailing addresses or phone numbers, and other revisions, and can be found at [www.irs.gov/forms-pubs/changes-to-current-forms-publications](http://www.irs.gov/forms-pubs/changes-to-current-forms-publications) .

## **Item for Thursday, April 9, 2020**

**Amended 2018 and 2019 Returns Allowed for Partnerships:** The IRS has issued guidance that allows a partnership subject to the Bipartisan Budget Act of 2015 (BBA) to file an amended Form

1065 (U.S. Return of Partnership Income), and furnish a corresponding Schedule K-1 to each of its partners as an alternative to filing an administrative adjustment request (AAR) for tax years beginning in 2018 and 2019. The BBA changed the centralized audit procedures for partnerships and generally prohibits them from amending the information furnished to their partners after the due date of the return unless they file an AAR. The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) provides retroactive tax relief for partnerships with tax years ending in 2018 and 2019. Without the option to file an amended return, BBA partnerships that have already filed their Form 1065 for an affected year generally are unable to take advantage of the CARES Act relief except by filing an AAR. Amended returns and corresponding Schedules K-1 should be filed before 9/30/20. Rev. Proc. 2020-23 .

## **Item for Wednesday, April 8, 2020**

**Follow the IRS for Updates on COVID-19:** The IRS reminds taxpayers, businesses, tax professionals, and others to follow the agency's official social media accounts to get urgent information on COVID-19 and economic impact payments. "The IRS is committed to sharing information as quickly as possible about the economic impact payments and other tax issues related to the coronavirus," said IRS Commissioner Chuck Rettig. "IRS social media channels offer taxpayers and others another fast, easy option to get the latest details as the IRS employees continue to work hard to support the nation." The IRS uses several social media tools including Twitter, Facebook, Instagram, YouTube, and LinkedIn. When using social media to connect with the IRS, verify the accounts by going first to IRS.gov/socialmedia . Taxpayers are reminded to watch for IRS scammers, and to never give out personal or financial information to anyone alleging to represent the IRS on a social media platform. News Release IR 2020-65.

## **Item for Tuesday, April 7, 2020**

**Reporting the New Employee Retention Credit:** Thanks to the Coronavirus Aid, Relief, and Economic Security (CARES) Act, a refundable payroll tax credit is available for 50% of qualified wages paid by eligible employers to employees after 3/12/20 and before 1/1/21. The credit is available to employers, including nonprofits, (1) whose operations were fully or partially suspended due to a COVID-19-related shutdown order, or (2) whose gross receipts declined by more than 50% when compared to the same quarter in the prior year. According to the IRS, if an employer paid any qualified wages between 3/13/20 and 3/31/20, it will include 50% of those wages, together with 50% of any qualified wages paid during the second quarter of 2020, on its second quarter Form 941, Form 941-SS, or Form 941-PR to claim the employee retention credit. Employers should not include the credit on their first quarter Form 941, Form 941-SS , or Form 941-PR. For more information, see [www.irs.gov/forms-pubs/employee-retention-credit-for-employers-subject-to-closure-due-to-covid-19-crisis](http://www.irs.gov/forms-pubs/employee-retention-credit-for-employers-subject-to-closure-due-to-covid-19-crisis) .

## **Item for Friday, April 3, 2020**

**IRS Guidance on Payments from Direct Debit Installment Agreements:** In News Release IR 2020-59, the IRS unveiled its "People First Initiative," which, among other things, (1) suspends payments due between 4/1/20 and 7/15/20 for taxpayers under an existing installment agreement and (2) stops installment agreements from going into default during this period (although interest will continue to accrue on any unpaid balances). Recently, the IRS clarified that it will continue to deduct direct debit payments from a taxpayer's bank under a Direct Debit Installment Agreement (DDIA). However, taxpayers may suspend payments through 7/15/20 by directly contacting their bank. (Banks are required to comply with customer requests to stop recurring payments within a specified timeframe.) The IRS may be able to suspend certain single DDIA payments upon request, but reaching an assistor might be difficult at this time. If payments are stopped, taxpayers must inform their bank to allow debits to resume at least two weeks before their next payment is due. For more information, see [www.irs.gov/newsroom/installment-agreement-direct-debit-frequently-asked-questions](http://www.irs.gov/newsroom/installment-agreement-direct-debit-frequently-asked-questions).

© 2020 Thomson Reuters/PPC. All rights reserved.

END OF DOCUMENT -

© 2020 Thomson Reuters/Tax & Accounting. All Rights Reserved.