



CARES Act Augments Deductibility of Certain Business Expenses and Losses

The 2017 tax legislation severely limited deductions for net operating losses, business interest, and business losses. The Coronavirus Aid, Relief, and Economic Security (“CARES”) Act temporarily removed or relaxed those limitations, as summarized below.

Net Operating Losses

Net operating losses (“NOL”) incurred in taxable years beginning after December 31, 2017 and before January 1, 2021 are not subject to the 80% taxable income limitation. Those losses also may be carried back five years without regard to that limitation. However, NOL carryforwards to taxable years beginning on or after January 1, 2021 will be subject to the limitation.

Excess Business Losses

For taxable years beginning before January 1, 2021, business losses of taxpayers other than C corporations are not subject to the excess business loss limitation.

Business Interest Deduction

For taxable years beginning in 2019 and 2020, the business interest deduction has been increased to 50% of adjusted taxable income (“ATI”) for electing taxpayers. However, for partnerships, one-half of the interest expense incurred in a taxable year beginning in 2019 (the “2019 Year”) and allocated

to a partner is treated as incurred in a taxable year beginning in 2020 (the “2020 Year”) and subject to the new 50% ATI limitation; the remaining one-half of the interest expense incurred in the 2019 Year is treated as incurred in the 2019 Year and subject to the 30% ATI limitation. In determining the amount of this deduction, taxpayers may use their ATI for the 2019 Year for both 2019 and 2020 calculations.

While these provisions are generally beneficial to businesses and their owners, it is important to evaluate their impact on a case by case basis. For example, taking advantage of the NOL carrybacks may raise statute of limitations concerns for years in the carryback period that would otherwise be closed and may necessitate amending state tax returns. Similarly, taxpayers who previously elected out of the limitation on deductibility of business interest must determine whether it is now advisable to revoke that election. Due to the complexity of the issues involved, no decisions should be made without consulting a tax advisor.

This summary is not intended to be relied upon as legal advice, and it does not create an attorney-client relationship with those to whom it is sent or who otherwise gain access to it. Instead, it has been prepared for general informational purposes only, and it is not a substitute for a legal consultation.

If you would like to discuss how these provisions affect your situation, please contact Eugenia Yudanin at ey@olss.com.