

Partnership Filing Relief

April 13, 2020

On April 8, 2020, the IRS released Revenue Procedure 2020-23, which allows certain partnerships to file amended partnership returns and issue amended Schedules K-1 to their partners for taxable years beginning in 2018 and 2019, in order to claim tax benefits under the CARES Act and other legislation.

The Bipartisan Budget Act of 2015 rewrote the provisions governing partnership tax returns and audits. The new rules apply to all partnerships, except for a limited category of partnerships eligible to elect out, and generally took effect with the taxable year 2018.

Section 6031 of the Internal Revenue Code, which requires that partnerships file their Forms 1065 with the IRS and furnish Schedules K-1 to partners, also generally prohibits partnerships from voluntarily amending Schedules K-1, except “as otherwise provided by the Secretary [of Treasury or his delegate].” Prior to the publication of this Revenue Procedure, the Secretary had provided no such exception.

Partners in a partnership are generally required to file their federal income tax returns consistently with the information reported to them by the partnership. As discussed in Caplin & Drysdale’s recent client alerts, the CARES Act provides retroactive relief for tax years beginning as early as 2018. However, section 6031 would have prevented partnerships and their partners from amending their past tax returns. Instead, they would have had to file an “Administrative Adjustment Request,” which would result in these benefits being reflected on the partners’ current tax returns, which in most cases would not be filed until 2021.

By allowing partnerships to file amended returns and furnish amended Schedules K-1 to take advantage of the provisions of the CARES Act (and make any other needed corrections), the Revenue Procedure allows partnerships and their partners to realize tax benefits in the same timeframe as other taxpayers.

Partnerships may take advantage of the Revenue Procedure only by filing their amended Forms 1065 and furnishing their amended Schedules K-1 for tax years beginning in 2018 or 2019 before September 30, 2020, and they must clearly indicate that they wish to take advantage of the Revenue Procedure when they do so. Only partnerships that filed their original returns prior to the Revenue Procedure’s issuance are eligible.

If you have questions about the applicability of the CARES Act to your business or you need to understand the implications of filing an amended return, Caplin & Drysdale’s attorneys are standing by to assist.

[Mark Allison](#)

212.379.6060

MAllison@capdale.com

[Christopher Rizek](#)

202.862.8852

CRizek@capdale.com

[Charles Ruchelman](#)

202.862.7834

CRuchelman@capdale.com

[James Salles](#)

202.862.5012

JSalles@capdale.com

[Jonathan Black](#)

202.862.5061

JBlack@capdale.com

[Benjamin Eisenstat](#)

202.862.7859

BEisenstat@capdale.com



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For more information, please visit us at www.caplindrysdale.com.

Washington, DC Office:
One Thomas Circle, NW
Suite 1100
Washington, DC 20005
202.862.5000

New York, NY Office:
600 Lexington Avenue
21st Floor
New York, NY 10022
212.379.6000

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