

Tax Controversy CARES - Where Are We Now

Presenters:

E. Martin Davidoff, CPA, Esq. - Partner-In-Charge

Robbin E. Caruso, CPA, CGMA - Partner

Moderator:

Sarah Fields, EA - Tax Controversy Manager

May 5, 2020 at 2pm ET

Meet Our Team

The Prager Metis Tax Controversy Department

Led by:

Marty Davidoff & Robbin Caruso



Moderator

Sarah Fields, EA Tax Controversy Manager



Expectations

- Our program today is geared to make you aware of new opportunities arising out of the 2020 federal legislation and alert you of a few pitfalls
- We will make ourselves available for at least 20 minutes following the presentation for questions
- Our contact information is available in the slide deck if you wish to contact us at a later time

Today's Agenda

- Time Sensitive Tax Opportunities
- Dealing with Tax Controversy Issues During and After the COVID-19 Crisis

Time Sensitive Tax Opportunities

Time Sensitive Tax Opportunities

CARES Act Modifications for Net Operating Losses (NOLs)

- Tax Cuts and Jobs Act - (*Oops*) effective for first tax year **ending** after December 31, 2017 (*not the first tax year beginning after*):
 - Eliminated 2-year carryback of NOLs,
 - Eliminated 20-year carryover limitation, and
 - Limited NOL deductions to 80% of taxable income
- *Oops... a fiscal year filer straddling December 31, 2017 was subject to the new regime (no carryback at old higher rates, and 80% limitation!)*

CARES Act Modifications for Net Operating Losses (NOLs)

CARES Act:

- Allows taxpayers to carryback NOLs arising in a taxable year **beginning** after December 31, 2017 and before January 1, 2021, to the preceding **5** years before the NOL tax year
- Corrected fiscal year 2017/2018 straddle issue by specifying that NOL changes did NOT apply to the first year ending after December 31, 2017
- Temporarily repeals 80% taxable income limitation through year 2020. → NOLs carried forward may offset 100% of taxable income

CARES Act Modifications & Guidance for Net Operating Losses (NOLs)

- **Opportunity:** Amend income tax returns for 2018 and amend/file 2019 to:
- Carry back NOLs arising in those year(s),
- Benefit from quicker refund(s) at higher tax rates (*think 35% corporate rate offset instead of 21%*)
- Use Form 1139 for corporations and Form 1045 for other businesses. *Must file on or after unextended due date and no later than one year after end of the taxable year in which the NOL arose (**see slide 12**)*

CARES Act Modifications & Guidance for Net Operating Losses (NOLs)

- **TIP:** Too late for Form 1139/1045? File an amended return for carryback year up until three years after the due date (filing date for extended returns) of the tax returns for year giving rise to the NOL
- **Revenue Procedure 2020-24 clarifies how to:**
<https://www.irs.gov/pub/irs-drop/rp-20-24.pdf>
- Waive carryback claim for NOLs arising in 2018 and/or 2019
- Attach separate, irrevocable election(s) to forgo NOL carryback for each year to the federal income tax return filed for the first tax year ending after March 27, 2020

CARES Act Modifications & Guidance for Net Operating Losses (NOLs)

- **Revenue Procedure 2020-24 clarifies how to:**
- Carryback (or waive carryback) an NOL claimed by fiscal year filers that ended after December 31, 2017
- NOL may be carried back using Form 1139 or 1045 filed before **July 27, 2020**, or
- Elect to waive carryback period for that year by attaching the election to an amended return filed by **July 27, 2020**. *“Filed pursuant to Rev. Proc. 2020-24”* must be written at the top
- Elect to exclude Section 965 years. *See Rev. Proc. 2020-24*

CARES Act Modifications & Guidance for Net Operating Losses (NOLs)

- **Notice 2020-26** provides additional 6-month extension of time to file Form 1139 or 1045 (up to 18 months) for any tax year beginning in 2018 and ending on or before June 30, 2019 to file a carryback claim - **Deadline is June 30, 2020!**

“Notice 2020-26, Extension of Time to File Application for Tentative Carryback Adjustment” must be written at top of Form 1139 or 1045.
<https://www.irs.gov/pub/irs-drop/n-20-26.pdf>

- Carryback of NOLs may impact other tax issues including general business credits, foreign tax credits, special deductions for corporations for export activities, Section 199A deduction, and AMT NOL(?)

CARES Act Modifications & Guidance for Net Operating Losses (NOLs)

- **Faxing form 1139 and 1045**
- **Until further notice, the IRS will accept and encourages eligible refund claims to be submitted by Fax:**
 - Form 1139: 844-249-6236
 - Form 1045: 844-249-6237

TIP: Although the IRS is encouraging taxpayers to Fax rather than mail their Forms 1139 and 1045 since mail processing is being impacted by the emergency, we encourage you to also send via Certified Mail, date-stamped by the post office, or accepted private courier to ensure documentation of timely filing of the claims.

The above information is on the IRS Website, posted on April 17, 2020 as “Temporary procedures to fax certain forms 1139 and 1045 due to COVID-19”

Modification of Limitation on Losses for Non-Corporate Taxpayers **Section 461(1)**

- TCJA: **excess business loss limitations** are imposed when total deductions from all trades or businesses exceeds total gross income and gains from those trades or businesses by more than \$250,000 (single filers) and \$500,000 (married filing jointly), *adjusted for inflation*
- CARES Act **suspends EBL through 2020**, which will allow for increased deductions for non-corporate taxpayers.
- Owners of passthrough entities must still meet other loss limitation rules such as basis, at-risk requirements, and passive loss rules
- **Opportunity:** Taxpayers that filed 2018 returns imposing an EBL are eligible to file an amended tax return to remove the limitation and request a refund

Modification of Limitation on Losses for Non-Corporate Taxpayers Section 461(1)

Section 461(l) also provided some technical amendments to the statute including:

- EBL is treated as NOL for subsequent tax years, and is eligible for carryforward or carryback
- EBL is computed without including a NOL or a Section 199A deduction
- W-2 wages are NOT included in EBL computation
- Capital gains are included in computation of EBL only to the lesser of gains and losses attributable to a trade or business or net capital gain income of taxpayer
- Net capital losses are not included in EBL computation

Technical Amendment Regarding Qualified Improvement Property

- CARES Act technically corrected Section 168(k) for qualified improvement property (QIP), *formerly known as qualified 1) leasehold improvements, 2) restaurant property, and 3) retail improvement property*
- QIP is any improvement made to interior portion of nonresidential real property after building was first placed in service, *excluding improvements to: enlarge building, any elevator or escalator, or internal structural framework of the building*
- TCJA had unintentionally left QIP with a 39-year life
- Fix retroactive to 2018 & provides QIP it's intended 15-year life → Eligible for bonus depreciation, *allowed for assets with class-life of 20 years or less*

Technical Amendment Regarding Qualified Improvement Property

- For alternative depreciative system (ADS) purposes, QIP is recovered over 20 years
- QIP qualified for Section 179 deductions, *subject to certain dollar limitations and taxable income limits*
- **Opportunity:** Consider amending 2018 & 2019 returns to benefits from QIP bonus depreciation. Any NOLs arising from such bonus depreciation in 2018, 2019 and/or 2020 may be carried back to request a quicker refund
- *What to do if you elected out of bonus deprecation for the 15-year asset class on your 2018 or 2019 return???*

Business Interest Limitation

Code Section Amended: 163(j)

- Enacted in 2017 by the Tax Cut and Jobs Act (“TCJA”)
- Initially effective for years beginning after 2017
- Applies ONLY to businesses with average revenue over 3 years in excess of \$25 million per year (Adjusted for Inflation)
- CARES Act makes certain amendments

Business Interest Limitation

Code Section Amended: 163(j)

As Initially Enacted by TCJA

- Limits interest expense deduction for businesses to 30% of ***adjusted taxable income*** (not less than \$0) plus business interest income plus floor plan financing interest

As Modified by CARES

- 30% limit increased to 50% for years beginning in 2019 and 2020 (§163(j)(10)(A)(i)), but Taxpayers may elect 30% limitation as described in Rev Proc 2020-22
- Note special rules for partnerships re: 50% in 2019

Business Interest Limitation

Code Section Amended: 163(j)

As Initially Enacted by TCJA

- Limits interest expense deduction for businesses to 30% of ***adjusted taxable income***

As Modified by CARES

- For years beginning in 2020, one may choose to use the ***adjusted taxable income*** of 2019 or 2020 (§163(j)(10)(B))

Business Interest Limitation

Code Section Amended: 163(j)

Exceptions:

- An “*electing real property trade or business*” and defines such by looking to the definition of such term in §469(c)(7)(C) relating to real estate professionals
- See Supplemental Slides for additional exceptions

Business Interest Limitation

Code Section Amended: 163(j)

163(j)(7)(B) Election under TCJA

- Certain businesses, such as real property trades or businesses (as defined by the passive loss rules of §469) could make an irrevocable election out of the 30% limitation and such election was irrevocable
- Once the election is made, the entity must use the Alternative Depreciation System (“ADS”). This is the “toll charge” for such businesses to get such benefit
- The Election provision remains unchanged by CARES

Business Interest Limitation

Code Section Amended: 163(j)

163(j)(7)(B) Election under TCJA

- However, the change in QIP makes the irrevocability of the election unfair
- See example following the next slide

Business Interest Limitation

Asset category	Applying interest limitation		Electing out of interest limitation	
	Depreciable life (years)	Eligible for bonus?	Depreciable life (years)	Eligible for bonus?
Nonresidential real property	39	No	40	No
Residential rental property	27.5	No	30	No
Qualified improvement property — under tax reform	39	No	40	No
Qualified improvement property — if Congress passes a technical corrections bill	15	Yes	20	No
Most other tangible property	5 to 15	Yes	5 to 15	Yes

Table credited to Magda Szabo and Michael Goodman. See their article, *New Interest Limitation Rules Can Be Costly*, in the March 2018 issue of Practical Tax Strategies

Business Interest Limitation

Code Section Amended: 163(j)

	2018 Tax Year			
	Per TCJA		Per CARES	
	Make Election 	No Election	Make Election	No Election 
Gross Rents	30,000,000	30,000,000	30,000,000	30,000,000
Real Estate Taxes	(6,000,000)	(6,000,000)	(6,000,000)	(6,000,000)
Utilities	(3,000,000)	(3,000,000)	(3,000,000)	(3,000,000)
Other Operating Expenses	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)
Net Income Before Interest & Depreciation (ATI)	11,000,000	11,000,000	11,000,000	11,000,000
Interest Expense	(6,000,000)	(6,000,000)	(6,000,000)	(6,000,000)
163(j) Deferral (30% of ATI)	0	2,700,000	0	2,700,000
Depreciation *	(101,550)	(104,325)	(101,550)	(7,500,000)
Net Taxable Income**	4,898,450 	7,595,675	4,898,450 	200,000

* \$7.5 Million of Leasehold Improvements - Assumed Placed in Service June of 2018

** Does not consider impact, if any, of Section 199A regarding QBI deductions.

Business Interest Limitation

Code Section Amended: 163(j)

Computation of 163(j) Deferral for Previous Slide

Computing 30% ATI Addback

ATI	11,000,000	11,000,000
Actual Interest Expenses	6,000,000	6,000,000
Less: 30% ATI Limit	(3,300,000)	(3,300,000)
Interest to be deferred	2,700,000	2,700,000

Business Interest Limitation

Code Section Amended: 163(j)

163(j)(7)(B) Election *Do-Over* under TCJA

IRS, through Revenue Procedure 2020-22, gives companies a “Do-Over” with regard to the election

Requirements & Considerations of the “Do-Over”

- Must file an amended return before October 15, 2021; or
- Partnerships can amend by September 30, 2020, or may instead file an Administrative Adjustment Request (“AAR”) before October 15, 2021

Business Interest Limitation

Code Section Amended: 163(j)

163(j)(7)(B) Election *Do-Over* under TCJA

Revenue Procedure 2020-22 requirements (cont'd)

- An amendment to the 2018 return will impact the 2019 return
- The election withdrawal statement should be titled, “Revenue Procedure 2020-22 Section 163(j)(7) Election Withdrawal”
- The statement must contain taxpayer’s name, address and TIN and state that pursuant to Revenue Procedure 2020-22, the taxpayer is withdrawing its election under §163(j)(7)

Business Interest Limitation

Code Section Amended: 163(j)

163(j)(7)(B) Election *Do-Over* under TCJA

To amend partnership returns to either:

- Change one's 163(j)(7)(B) election; and/or
- Take advantage of previously unavailable Bonus Depreciation on Qualified Improvement Property

Partnerships, that previously had not elected out of the centralized audit regime, could not simply amend their tax returns. Rather, their resolution was to file an AAR deferring refunds to 2021 as AARs must be filed with the 2020 tax return

Business Interest Limitation

Code Section Amended: 163(j)

Revenue Procedure 2020-23

- Revenue Procedure 2020-23 now allows partnerships still within the centralized audit regime to accelerate corrections to returns for 2018 and 2019 so long as the amended returns are filed on or before September 30, 2020. Such returns should mark the “Amended Return” box and furnish K-1s to the partners before September 30, 2020. the top of the return should indicate “FILED PURSUANT TO REV PROC 2020-23 and each K-1 should include the same notation

Business Interest Limitation

Code Section Amended: 163(j)

New York State & City

New York Personal Income Tax is **decoupled** from all federal changes made on or after March 1, 2020 but prior to January 1, 2022. This is effective for all provisions of CARES Act

This is known as fixed date conformity with Federal law changes

Part of the NY Budget Bill enacted on April 3, 2020

Business Interest Limitation

Code Section Amended: 163(j)

New York State & City

New York Corporate tax rules generally will follow all federal changes...have not decoupled

This is known as conformity on a rolling basis

However, New York corporations will not allow the increase from 30% to 50% for 163(j)

Above the Line Charitable Contributions and Other Modifications to Charitable Contribution Rules

- CARES Act allows individual taxpayers who do not elect to itemize deductions to claim an “above the line” deduction of up to \$300 from gross income
- CARES Act temporarily suspends the 60% limitation on AGI for the year 2020 for donations by generous individuals, enabling them to make substantially higher donations and benefit from the deductions
- Similarly, for corporate donations, the 10% limitations are to be increased to 25% of their taxable income
- For charitable contributions of food during 2020, CARES Act increases the limitation on taxable income to 25% (up from 15%)

Dealing with Tax Controversy Issues During and After the COVID-19 Crisis

Dealing with Tax Controversy Issues During and After the COVID-19 Crisis

Framework for Controversy Cases



Tools in Dealing with the IRS

- 1. Going up the chain of command:**
 - Collections
 - Examinations
 - Appeals
 - Automated Phone
- 2. Form 12153, Collection Due Process Hearing**
- 3. Form 9423, Collection Appeal Request**
- 4. Appealing denials of Penalty Abatement requests & Examination Findings**
- 5. The Taxpayer Advocate's Office - (Form 911)**
- 6. Fast Track Mediation/Settlement (See Publication 4167)**

Tools in Dealing with the IRS (cont'd)

(see materials, page 4)

- 7. Designation of Trust Funds**
- 8. Get account transcripts and prepare federal tax summary**
- 9. Freedom of Information Requests (“FOIA”)**
- 10. Deposit in the Nature of a Cash Bond**
- 11. IRS Website & E-Services**
- 12. OUR Analysis of the Client’s Situation**

These are predominantly “Collection” tools

Three Keys to Success in Collection Matters

- **Keep Current**
- **Make Financial Disclosure**
- **Present a Plan**



IRS Collection Activity & Statuses

- Passport Revocation – IRS has suspended through July 15, 2020 new certifications for taxpayers that are “seriously delinquent.” Existing certifications will remain in place.
- Final Notices or warning of enforcement action (*i.e.*, *levy/lien notices*) and general collection activity of IRS is suspended, absent exigent* circumstances through July 15, 2020.
- *If statute of limitations is expiring or the government will lose opportunity to collect taxes, they will enforce collection activity. Indication that taxpayer ‘may’ file Bankruptcy is not an exigent circumstance.
- Cases (*i.e.*, *audits*) will continue to be assigned to Revenue officers and employees will to work on their “inventory.”

IRS Collection Activity & Statuses

- Virtually all deadlines to get information in to IRS for examinations, collections, offers in compromise and appeals are generally July 15th unless there is consensus among the parties
- Tax Court Petitions deferred to July 15th, even if due previously.
- IRS “800” Phone lines are just opening up
- Incentive Pay to get back to work (10% to 25% premiums) and open mail; Paper processing and correspondence are starting up.
- Section 1031 deadlines due on or after April 1st now due July 15th

IRS Collection Activity & Statuses

- Consider suspending installment agreements payments
- Allowed to suspend through July 15, 2020
- Interest and late-filing penalties will still continue to accrue
- How to deal with direct debit installment agreements

IRS Collection Activity & Statuses

Rev Proc 2020-29 provides for electronic submission of requests for rulings, determination letters, advice from IRS Chief Counsel, etc.

- Sets forth specific procedures for E-Mail, Fax, Signatures, and payment procedures (www.pay.gov)
- Paper Submissions will still be accepted. (Likely to be delayed)
- May submit duplicate requests electronically if no response to previous paper request

Tax Controversy Opportunities

- Non-filers can catch-up on returns
- Take advantage of State Voluntary Disclosure programs
- Get advice on how to deal with federal non-filing
 - Voluntary Disclosure to avoid criminal prosecution
 - Soft Disclosure
 - How to get started with compliance
 - What are the risks of alternative paths
 - Is the IRS going to be more generous in these difficult times?

Alternatives if you owe the IRS Money

- Currently Not Collectible
- Partial Pay Installment Agreements
- Full-Pay Installment Agreements
- Offers in Compromise
- Special Situations:
 - Innocent Spouse
 - Bankruptcy
- Keeping Current:
 - Withholding
 - Estimated Tax Payments

IRS Installment Agreements

- Under \$50,000
- Between \$50,000 and \$100,000
- Over \$100,000
- Over \$250,000

New York State Collections*

- Phone Lines Are Up – Many moved off-site
- No new IEs (Income Executions)
- Stopped Field Collection Activity
- Can call to get temporary reductions to existing IPAs (Installment Payment Arrangements)
- Entering into new IPAs

* Per Conversation with the Deputy Commissioner for Civil Enforcement at the NYS Department of Taxation and Finance

E. Martin Davidoff, CPA, Esq.

Partner

E. Martin Davidoff is the National Managing Partner – Tax Controversy Practice of Prager Metis CPAs, a member of Prager Metis International Group. He has been practicing in the accounting industry for over 40 years.

Marty is a renowned expert in IRS and State tax controversy resolution as well as State and Federal income tax matters and Federal tax lien withdrawals. He has written over 30 articles on IRS representation in *CPA Magazine* and spoken on various tax issues on platforms including Fox News, WPIX and a number of radio shows. In addition, Marty is experienced in business start-ups, tax planning for both individuals and businesses, and the taxation of S-corporations and limited liability companies.

Marty's extensive knowledge, contacts, and experience allow him to develop a thorough and comprehensive strategy to resolve tax controversies and deliver results effectively. Marty provides his clients with compassionate, reliable service and is willing to go to great lengths to get the best possible outcome. Clients who meet with Marty on tax controversy matters receive Marty's detailed notes and a specific plan of action prior to leaving the meeting, relieving stress and providing peace of mind.

His comprehensive client service approach has led Marty to win several awards, including Accounting Today's 100 Most Influential People in Accounting from seven straight years. He has also previously been named by the US Small Business Administration as the Regional Advocate of the Year for small businesses and has participated in two White House conferences on Small Business.

In his spare time, Marty is dedicated to philanthropic endeavors, enjoying his grandchildren, and playing basketball, pickleball, and poker. Most notably, he is the Founder and Executive Director for Make A Smile Foundation Inc., a charity holiday shopping spree that benefits children in economic need.

Marty is also the owner of E. Martin Davidoff, Attorney at Law, which specializes resolution of Federal and State tax controversies, including representation before the IRS and in the United States Tax Court. Marty is admitted to practice law in the States of New York and New Jersey and has firm members or of counsel relationships allowing the firm to practice in 36 additional states.



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Tax Services

SERVICE EXPERTISE

Tax Controversy
Individual Tax Planning and Compliance
Business Tax Planning and Compliance
Representation & Controversy

EDUCATION

BS, Management, Massachusetts Institute of Technology
MBA, Boston University Graduate School of Management
JD, Washington University School of Law

Robbin Caruso, CPA, CGMA

Partner

Robbin E. Caruso, CPA, CGMA, is a co-managing Partner of the Tax Controversy Practice of Prager Metis CPAs, a member of Prager Metis International Group. She has been practicing in the accounting industry for over 25 years. She specializes in complex tax work, researching issues and providing oversight of individual, fiduciary, and business tax planning and compliance projects for clients. As an expert in tax controversy resolution, Robbin regularly represents clients before authorities in handling various federal and state tax controversy matters such as installment agreements, offers in compromise and tax audits. She also oversees the accounting and financial planning matters of her high-net-worth clients.

Robbin is an affiliate member of the American Academy of Attorney-CPAs. Her other active memberships include the American Institute of Certified Public Accountants, the New Jersey Society of CPAs, the NJ Association of Women Business Owners (NJAWBO), and the Chartered Global Management Accountant Network. She served on the finance committee of the Canyon Creek Condominium Association, the board of trustees and as chairman of the finance committee at Pine Brook Jewish Center and has also participated in Boomer Technology Circles and CEO Advantage.

Robbin was honored by the National Association of Professional Women as a 2013-2014 VIP Woman of the Year, a tribute in recognition of her professional achievements, community service, and future aspirations. Robbin served as an Adjunct Professor for almost ten years at Kean University, where she graduated summa cum laude. She taught courses in principles, intermediate and advanced accounting, auditing, personal finance, and computer accounting systems and procedures.

She also studied nursing at Wagner College. Robbin has been passionately active for over 30 years in raising funds and volunteering for many charities and organizations, including the Alzheimer's Association; Leukemia and Lymphoma Society; There Goes My Hero; Make A Smile Foundation, Inc.; Junior Achievement USA; National MS Society; and other local charities and groups. She enjoys skiing, hiking, ballroom dancing, hand-built pottery, travel, and other creative arts.



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EDUCATION

BS Summa Cum Laude, Accounting, Kean University, New Jersey
Nursing, Wagner College

Contact Info

E. Martin Davidoff, Esq., CPA
Partner-in-Charge
National Tax Controversy

Prager Metis CPAs
1249 South River Road,
Suite 303
Cranbury, NJ 0851

T: 732.274.1600 X 16000

E: emdavidoff@pragermetis.com

Robbin E. Caruso, CPA, CGMA
Partner
Tax and National Tax Controversy

Prager Metis CPAs
1249 South River Road,
Suite 303
Cranbury, NJ 0851

T: 732.274.1600 / Ext. 16003

E: rcaruso@pragermetis.com

Prager Metis Tax Controversy Mission

Our Mission is to simply give you:

Peace of Mind.

Your World. Worth More

In Dealing with State & Federal Tax Controversies

Thank You



Supplemental Information

Business Interest Limitation May 2018

Business Interest Limitation

Code Section Amended: 163(j)

- Limits interest expense deduction for businesses to 30% of ***adjusted taxable income*** effective after 2017 (not less than \$0) plus business interest income plus floor plan financing interest
- Applies ONLY to businesses with average revenue over 3 years in excess of \$25 million per year

Business Interest Limitation

Code Section Amended: 163(j)

Adjusted taxable income is taxable income, without taking into account (effectively adding back or excluding):

- Nonbusiness income, such as gains from sale of assets held for investment;
- Business interest expense or business interest income;
- Net operating loss deductions;
- The new 20% qualified business income deduction

Business Interest Limitation

Code Section Amended: 163(j)

Adjusted taxable income ...adding back:

- Depreciation, amortization, and depletion (applies to 2018 through 2021 only)

30% Limitation is tested at entity level

Accordingly, investors will be getting information on their K-1s

Business Interest Limitation

- Interest beyond limit may be carried over to subsequent years indefinitely
- \$25 Million indexed for inflation over 2018
- Generally, applies to all business interest, including proprietorships and flow-through entities

Business Interest Limitation

Exceptions:

- Real estate and farm trades and business **which elect ADS depreciation** to avoid limitation
- Does not apply to interest on debt to finance a dealer's purchase of motor vehicle inventory for sale or lease. (Motor Vehicles include cars, trucks, boats and farm machinery)

Business Interest Limitation

Exceptions (continued):

- Trades or business which sell:
 - Electrical energy, water or sewerage disposal services;
 - Gas or steam through a local distribution system; or
 - Transportation of gas or steam by pipeline, if the rates for such sales have been established or approved by a government body or agency or an electric cooperative

Business Interest Limitation

- Previous earnings stripping rules (deductible interest paid to a related person who pays no U.S. tax) is repealed.
- To be distinguished from investment interest.
- Effective in 2018 - Permanent

Business Interest Limitation

Asset category	Applying interest limitation		Electing out of interest limitation	
	Depreciable life (years)	Eligible for bonus?	Depreciable life (years)	Eligible for bonus?
Nonresidential real property	39	No	40	No
Residential rental property	27.5	No	30	No
Qualified improvement property — under tax reform	39	No	40	No
Qualified improvement property — if Congress passes a technical corrections bill	15	Yes	20	No
Most other tangible property	5 to 15	Yes	5 to 15	Yes

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Business Interest Limitation

New Rules replace previous “interest stripping” rules under §163(j)

Old rule disallowed interest as a deduction where the debt to equity ratio was greater than 1.5 to 1

For interim IRS guidance, see Notice 2018-28 issued on April 2, 2018 and announced by IR-2018-82