



September 9, 2020

The Honorable David J. Kautter  
Assistant Secretary for Tax Policy  
Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

The Honorable Charles P. Rettig  
Commissioner  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, DC 20224

**RE: Rev. Proc. 2020-23 and Request to Extend Deadline to December 31, 2020**

Dear Messrs. Kautter and Rettig:

The American Institute of CPAs (AICPA) appreciates the efforts of the Department of the Treasury (“Treasury”) and the Internal Revenue Service (IRS) in developing and issuing guidance related to the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”)<sup>1</sup> and other recent guidance (e.g., section 163(j)<sup>2</sup> final regulations and proposed regulations). On April 8, 2020, the IRS issued Rev. Proc. 2020-23, allowing partnerships to file an amended return for 2018 and 2019 tax years. These comments relate to the deadline provided to file an amended partnership return.

### Overview

In order for taxpayers to take advantage of certain beneficial tax provisions in the CARES Act, the IRS granted relief under Rev. Proc. 2020-23 permitting eligible Bipartisan Budget Act (BBA) partnerships to file amended returns, instead of administrative adjustment requests (AARs), when making adjustments to 2018 and/or 2019 returns. Revenue Proc. 2020-23 allows eligible BBA partnerships the option to file such amended returns *before* September 30, 2020. Final and proposed regulations under section 163(j)<sup>3</sup> were released on July 28, 2020, and proposed regulations under section 1061<sup>4</sup> were released on July 31, 2020.

### Recommendation

The AICPA respectfully requests an extension of the September 30, 2020 filing deadline in Rev. Proc. 2020-23 to December 31, 2020, in order to allow partnerships sufficient time to prepare and file amended partnership returns and issue amended Schedules K-1 (Form 1065), *Partner’s Share of Income, Deductions, Credits, etc.*, to their partners.

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<sup>1</sup> P.L. 116-136.

<sup>2</sup> Unless otherwise indicated, references to a “section” are to a section of the Internal Revenue Code of 1986, as amended (the “Code”), and references to a “Treas. Reg. §” are to the Treasury regulations promulgated under the Code.

<sup>3</sup> See T.D. 9905 and REG-107911-18.

<sup>4</sup> See REG-107313-18.

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### Analysis

The AICPA appreciates that the IRS quickly issued Rev. Proc. 2020-23, which allowed partners to benefit from the provisions of the CARES Act. In light of recent guidance, such as the final regulations and additional proposed regulations under section 163(j), and proposed regulations under section 1061, partnerships and their partners must make time sensitive decisions about whether 2018 or 2019 returns need to be amended in order to take advantage of benefits from the recent guidance. For example, partnerships would need to file an amended return as opposed to an AAR to take advantage of the increase to adjusted taxable income (ATI) of capitalized depreciation, amortization, and depletion under section 263A for 2018 and 2019. If partnerships could file an amended return and issue new Schedules K-1 to their partners, the benefit would be realized through decreases in tax liabilities for the 2018 and 2019 taxable years.<sup>5</sup> However, if the partnership files an AAR (and this is the only adjustment reflected on the AAR), the partners will take the benefit into account on their 2020 tax returns as a nonrefundable decrease to their tax liabilities, which could eliminate any benefits of the enacted provisions due to losses sustained in 2020 due to the COVID-19 pandemic.

Due to the unusual nature of the 2020 filing season with varying tax deadlines and large guidance projects that were released, extending the relief the IRS granted in Rev. Proc. 2020-23 is necessary for practitioners and taxpayers to properly determine tax liabilities and comply.

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The AICPA is the world's largest member association representing the CPA profession, with more than 431,000 members in the United States and worldwide, and a history of serving the public interest since 1887. Our members advise clients on federal, state and international tax matters and prepare income and other tax returns for millions of Americans. Our members provide services to individuals, not-for-profit organizations, small and medium-sized businesses, as well as America's largest businesses.

We appreciate your consideration of these comments and welcome the opportunity to discuss these issues further. If you have any questions, please contact Sarah Allen-Anthony, Chair, AICPA Partnership Taxation Technical Resource Panel, at (547) 235-6818 or [Sarah.Allen-Anthony@crowe.com](mailto:Sarah.Allen-Anthony@crowe.com); Alexander Scott, AICPA Senior Manager – Tax Policy & Advocacy, at (202) 434-9204 or [Alexander.Scott@aicpa-cima.com](mailto:Alexander.Scott@aicpa-cima.com); or me at (612) 397-3071 or [Chris.Hesse@CLAconnect.com](mailto:Chris.Hesse@CLAconnect.com).

Sincerely,



Christopher W. Hesse, CPA  
Chair, AICPA Tax Executive Committee

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<sup>5</sup> This immediate benefit would increase cash flow as opposed to waiting under the AAR. Also, partnerships and partners need time to assess which corrective action to take through modeling since there are multiple options available in the final and proposed section 163(j) regulations.

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cc: Ms. Holly Porter, Associate Chief Counsel, Office of Chief Counsel, Passthroughs & Special Industries, Internal Revenue Service  
Ms. Kathryn Zuba, Associate Chief Counsel, Office of Chief Counsel, Procedure & Administration, Internal Revenue Service