



CARES Act Income Tax Loss Carry-Back and Carry-Forward Provisions

In case you missed it, a pair of lesser-known provisions included in the Coronavirus Aid, Relief, and Economic Security (CARES) Act may provide architecture firms organized as sole-proprietorships, partnerships, or S Corps (so called “pass-through” entities) a big tax break at the end of the year. About 57% of architecture firms are pass-through entities.

One of the provisions would suspend for tax years 2018–20 language from the 2017 tax reform legislation that capped, (beginning in 2018), the amount a non-corporate (individual or pass-through) entity can carry as losses from a given year to minimize their tax bill in other years at \$500,000 for taxpayers filing jointly. Another CARES Act provision would suspend for the same period provisions in the 2017 tax law that prohibited corporate and non-corporate taxpayers from carrying losses back in time, and that cap the amount of losses that can be carried forward to offset future taxable income.

Since passage of the CARES Act, these provisions have become controversial and somewhat political, with some Democrats claiming they were unaware of this language in the bill or unaware that it would disproportionately benefit higher-income taxpayers, especially those making over \$1 million annually. Following passage of the CARES Act, the Joint Committee on Taxation estimated that the provisions together would reduce revenue by \$195 billion over 10 years, together, among the costliest provisions in the bill. Although there has been some discussion of repealing these provisions in future stimulus or relief bills, as of now they are the law of the land.