

IRS Hot Topics

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Critical IRS policy change regarding processing and filing deadline for Form 1139 to carryback 2010 net operating losses (NOL)

The ability for corporate taxpayers to obtain a quick refund by filing IRS Form 1139, *Corporation Application for Tentative Refund*, is important and can quickly increase a corporation's cash flow in today's difficult economy. As such, being aware of the strict filing deadline is critical.

Form 1139 must be filed within 12 months of the end of the tax year in which an NOL, net capital loss or unused credit arose. Therefore, the filing deadline to carryback an NOL generated in tax period ended December 31, 2010 is fast approaching

and must be filed with the IRS by December 31, 2011.

Corporate taxpayers should be aware of the benefits and necessary steps to obtain a tentative refund. An application for tentative refund is not treated as a claim for credit or refund and may be disallowed if certain computational omissions or errors are present. Such missteps may preclude a taxpayer's ability to obtain a quick refund.

Due to a recent internal policy change, the IRS has begun to routinely reject Forms 1139 due to timing issues, minor mathematical calculations and



administrative errors, such as omitted schedules. If rejected, the new policy authorizes the IRS to determine whether it will permit a taxpayer to perfect the application after the filing deadline, and often it may decide not to permit post-year amendments. Consequently, this may result in the taxpayer being forced to file Form 1120X, *Amended U.S. Corporation Income Tax Return*, which in turn may cause extensive delays in receiving the refund. Thus, it is imperative that the forms and

documents associated with Form 1139 be precise and timely filed.

What Should You Do?

It is important for taxpayers to become aware of the opportunities and particular nuances associated with preparing and filing Form 1139 to successfully obtain a refund.

Experienced tax controversy professionals can assist a taxpayer by working directly with the IRS to expedite processing and the receipt of the refunds.

For more information, please do not hesitate to contact:

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