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IRS to restore sequestered funds (AMT only) to businesses pursuant to OMB determination

The IRS today announced that it will return sequestered funds to businesses that were affected by a recent Office of Management and Budget (OMB) determination regarding the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

According to the IRS release—[IR-2020-12](#) (January 16, 2020)—the IRS will restore any amounts sequestered since 2013 under section 168(k)(4).

Taxpayers will not be required to take any action to obtain a return of these funds. Additional information regarding the timing and process will be shared by IRS when available.

- OMB determined that the refundable corporate minimum tax credit claimed under sections 53 and 168(k)(4) (as in effect for tax years beginning before January 1, 2018) is not subject to sequestration.
- The IRS reported it has a complete list of all taxpayers affected by the OMB determination. Taxpayers do not need to take any action.
- Funds due a company will be used to offset current tax liabilities first. Funds and applicable interest then will be sent out during fiscal year 2020.
- According to the IRS, fewer than 1,000 businesses are affected by the OMB determination. Formerly, refund payments issued to, and credit elect and refund offset transactions for, corporations claiming refundable minimum tax credits for prior year alternative minimum tax liability were subject to sequestration. The OMB determination corrects and reverses the previous determination.

KPMG observation

The IRS announcement is viewed by tax professionals as a welcome reversal of OMB's prior position. However, the IRS release also provides that these funds are subject to offset, stating "Funds due a

company will be used to offset current tax liabilities first." As a result, the ultimate amount of sequestered funds actually returned to a taxpayer may not align with the total amount of funds sequestered, and funds sequestered for a year in which a taxpayer incurred a section 965 inclusion liability may be held back if a portion of such liability remains outstanding.

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