



# TaxNewsFlash

United States



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## IRM update, addressing CARES Act provisions concerning net operating losses and minimum tax credits

The IRS updated sections of the Internal Revenue Manual (IRM)\* specifically addressing the treatment of net operating losses (NOLs) in light of legislative changes made by the “Coronavirus Aid, Relief, and Economic Security Act of 2020” (CARES Act) (Pub. L. No. 116-136).

The IRM update also addresses the election under section 53(e)(5) as amended by the CARES Act to utilize 100% of minimum tax credits (MTCs) for the first tax year beginning in 2018.

\*The IRM is an official compendium of internal guidelines for IRS personnel.

Read the [IRM update](#) [PDF 208 KB] (dated May 6, 2020, and redacted in part) that reflects the following new IRM sections.

The new IRM sections contain specific guidance for processing Form 1139 or Form 1045 with NOLs, section 965 inclusions, and 100% refund of MTCs filed under provisions of the CARES Act.

- IRM 21.5.9.5.10.16.1 providing guidance for repeal of 80% taxable income limitation per the CARES Act
- IRM 21.5.9.5.10.16.2 providing guidance for entities eligible for five-year carryback period per the CARES Act.
- IRM 21.5.9.5.10.16.3 providing guidance for repeal of limitation of business losses, Form 461, for non-corporate taxpayers per the CARES Act.
- IRM 21.5.9.5.10.16.4 providing guidance for carryback net operating losses incurred by life insurance companies per the CARES Act.

- IRM 21.5.9.5.10.16.5 providing guidance for net operating losses incurred by real estate investment trust (REIT) taxpayers per the CARES Act.
- IRM 21.5.9.5.10.16.6 providing guidance for carryback elections included in the CARES Act.
- IRM 21.5.9.5.10.16.7 providing guidance for processing net operating loss tentative carryback applications (TENTS) filed per the CARES Act.
- IRM 21.5.9.5.10.16.8 providing guidance for net operating loss tentative carryback applications (TENTS) filed with Section 965 involvement under the CARES Act.
- IRM 21.5.9.5.10.16.9 providing guidance for Form 1139 net operating losses filed to request a refund of prior year minimum tax credit under the CARES Act.
- IRM 21.5.9.5.10.16.10 providing guidance for net operating loss tentative carryback applications (TENTS) filed under the CARES Act provisions via the temporary EFAQ process.

As noted in the IRM update, beginning April 17, 2020, the IRS implemented a temporary EFAQ process to provide taxpayers receive refunds filed on Form 1139 or Form 1045 during the timeframe IRS Service Centers are closed due to COVID-19. The IRM update indicates the temporary EFAQ process to receive Forms 1139 and 1045 will continue to be operational until further notice. Read [TaxNewsFlash](#) for more information on the EFAQ process.

### **KPMG observation**

The IRM update also revises IRM sections that reflect different numbering from the online version of the IRM and includes references to what appear to be new IRM sections, suggesting that more interim guidance on CARES Act claims may be in the works.

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