

## State Tax Observations

# NYC Explains Its Decoupling from Certain CARES Act Tax Provisions

By Sandy Weinberg, JD, Principal and Steven J. Eller, CPA, JD, Partner

Finance Memorandum 20-6 issued by the New York City Department of Finance sets forth that NYC's Business Corporation Tax (BCT), General Corporation Tax (GCT), Unincorporated Business Tax (UBT), and Banking Corporation Tax (BTX) are decoupled from CARES Act amendments to IRC §163(j), IRC §172 and IRC §461(l). Our prior article, [here](#), discussed how NYS and NYC had decoupled from certain CARES Act tax provisions.

The NYC Memorandum provides instructions for completing 2018 and 2019 business tax returns. Details of the decoupling are as follows:

**Interest Expense Limitations** - For tax years beginning in 2019 and 2020 for NYC GCT, UBT, and BTX purposes, the favorable increase in the business interest expense deduction limitation from 30% to 50% in IRC §163(j), as amended by the CARES Act, will not be followed. As such, if a BCT, GCT, UBT, or BTX filer recently filed a 2019 business tax return reflecting an interest expense deduction conforming to IRC §163(j)(10) under the CARES Act, it **must** file an amended return using the instructions found in the [Memorandum](#).

**Net Operating Losses (NOLs)** - For tax years beginning before January 1, 2021, the GCT, UBT, and BTX are decoupled from the federal CARES Act changes to the NOL provision according to IRC §172. If a GCT, UBT, or BTX taxpayer filed a 2018 or 2019 NYC business tax return and applied IRC §172 when calculating its NOLs, then the business **must** file an amended return using the instructions found in the [Memorandum](#).

**Limitation on Excess Business Losses** - The CARES Act repealed the excess business loss limitation under IRC §461(l). The Code section as it had been enacted, limits business losses of non-corporate taxpayers to the sum of a taxpayer's aggregate trade, or business gross income, or gain plus a threshold amount, generally \$250,000 (adjusted for inflation). The NYC UBT decoupled from all CARES Act changes to IRC §461(l) for taxable years beginning before January 1, 2021. In light of the decoupling, NYC issued UBT instructions addressing the inclusion of the amount of any increase in the IRC §461(l) deduction. The instructions are in the [Memorandum](#).

### Contact Us

If you have questions or need assistance regarding the recent New York City tax changes, or state taxes generally, contact your client partner or the following:

Sandy Weinberg, JD  
Principal  
[sweinberg@pkfod.com](mailto:sweinberg@pkfod.com) | 203.705.4170

Steven J. Eller, CPA, JD  
Partner  
[seller@pkfod.com](mailto:seller@pkfod.com) | 551.249.1836

## **About PKF O'Connor Davies**

PKF O'Connor Davies, LLP is a full-service certified public accounting and advisory firm with a long history of serving clients both domestically and internationally. With roots tracing to 1891, twelve offices in New York, New Jersey, Connecticut, Maryland and Rhode Island, and more than 800 professionals, the Firm provides a complete range of accounting, auditing, tax and management advisory services. PKF O'Connor Davies is ranked 27th on *Accounting Today's* 2020 "Top 100 Firms" list and is recognized as one of the "Top 10 Fastest-Growing Firms." PKF O'Connor Davies is also recognized as a "Leader in Audit and Accounting" and is ranked among the "Top Firms in the Mid-Atlantic," by *Accounting Today*. In 2020, PKF O'Connor Davies was named one of the 50 best accounting employers to work for in North America, by *Vault*.

PKF O'Connor Davies is the lead North American representative in PKF International, a global network of legally independent accounting and advisory firms located in over 400 locations, in 150 countries around the world.

Our Firm provides the information in this e-newsletter for general guidance only, and it does not constitute the provision of legal advice, tax advice, accounting services, or professional consulting of any kind.