

# WNTS Insight

A Washington National Tax Services (WNTS)  
Publication

November 10, 2011

## Strict year-end deadline for corporate tentative refund applications

The ability of a corporate taxpayer to obtain a quick refund by filing IRS Form 1139, *Corporation Application for Tentative Refund*, can quickly increase a corporation's cash flow in today's difficult economy.

Form 1139 must be filed within 12 months of the end of the tax year in which the relevant net operating loss (NOL), net capital loss, or unused credit arose. Therefore, for calendar-year taxpayers, the filing deadline to carry back an NOL generated in the tax period ended December 31, 2010, is December 31, 2011.

Corporate taxpayers should be aware not only of the benefits of filing Form 1139, but also of the 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 from obtaining a quick refund.

### *Implications of IRS policy change*

Pursuant to a recent internal policy change, the IRS has begun to routinely reject Forms 1139 that have timing issues, minor mathematical miscalculations, or administrative errors such as omitted schedules.

If a Form 1139 is rejected, the IRS determines whether it will permit the taxpayer to perfect the application after the filing deadline. If the IRS decides not to permit the taxpayer to make post-year amendments to the Form 1139, the taxpayer would have to pursue its refund claim by filing Form 1120X, *Amended U.S. Corporation Income Tax Return*, which in turn may cause delays in receiving the refund.



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Thus, it is imperative that the forms and documents associated with Form 1139 be filed precisely and timely.

**Note:** Taxpayers filing Form 1139 also need to consider the possible state tax return ramifications.

*For more information, please do not hesitate to contact:*

*Janice Flood (312) 298-2543 janice.m.flood@us.pwc.com*

*Devin Blackburn (312) 298-2521 devin.w.blackburn@us.pwc.com*

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