

Proposed Changes on Loss Carryforwards Are a (R)BIG Deal for M&A

September 13, 2019 | Client Update

On September 9, 2019, the Internal Revenue Service released proposed regulations that, if finalized in their current form, would in many cases dramatically reduce the portion of a company's net operating loss carryforward that is available to be used following a so-called ownership change of the company. Critically, the proposed regulations would eliminate an approach for computing the recognized built-in gain (RBIG) of a company's assets that often had the effect of increasing the amount of taxable income that companies could offset with their pre-ownership change net operating loss carryforwards. The proposed regulations would be effective for ownership changes occurring after they are finalized, and they could chill M&A activity with respect to targets with significant net operating loss carryforwards.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

Neil Barr

+1 212 450 4125
neil.barr@davispolk.com

William A. Curran

+1 212 450 3020
william.curran@davispolk.com

Lucy W. Farr

+1 212 450 4026
lucy.farr@davispolk.com

Michael Mollerus

+1 212 450 4471
michael.mollerus@davispolk.com

David H. Schnabel

+1 212 450 4910
david.schnabel@davispolk.com

Patrick E. Sigmon

+1 212 450 4814
patrick.sigmon@davispolk.com

This communication, which we believe may be of interest to our clients and friends of the firm, is for general information only. It is not a full analysis of the matters presented and should not be relied upon as legal advice. This may be considered attorney advertising in some jurisdictions. Please refer to the firm's privacy notice for further details.

Related materials

[Read the full update](#)