Alert - *Kwong v. United States*

Kwong v. United States, may provide certain taxpayers with an opportunity to claim refunds or other relief related to IRS penalties and interest assessed during the COVID-19 period. In its decision, the court defined the COVID-19 period as January 20, 2020, through July 10, 2023.

Following the *Kwong* decision, taxpayers who paid certain penalties or interest, or who still have unpaid tax assessments from that period, may be eligible to seek a refund, abatement, or other relief. This potential opportunity may apply to individuals, businesses, trusts, and estates.

The IRS has appealed the *Kwong* decision, and the legal issues remain unresolved. Nevertheless, July 10, 2026, may be an important deadline for preserving certain claims or requesting a refund or abatement. Taxpayers who may be affected should consider evaluating their situation before that date.

<u>Potential Relief</u>

May apply to taxpayers that:

- Filed returns or made payments late during the COVID-19 period.
- Paid failure-to-file, failure-to-pay, or related penalties.
- Paid interest attributable to those penalties.
- Filed returns or made payments that were due at any point during the COVID-19 period.

<u>Recommended Next Steps</u>

Taxpayers who may be affected should consider the following actions:

- Review IRS notices assessing penalties and interest during the COVID-19 period.
- Obtain and review IRS account transcripts for affected tax years to identify penalty and interest assessments. Transcripts are generally available through the taxpayer's online account at IRS.gov.
- Consult with your tax advisor regarding preparation and filing of Form 843, Claim for Refund and Request for Abatement, or an amended return for each applicable tax period or return type where a penalty or interest was charged or a refund was denied.

<u>Items to Note</u>

- The IRS is not currently issuing refunds automatically as a result of the *Kwong* decision.
- Filing Form 843 or an amended return does not guarantee that a refund or abatement will be granted.
- The IRS may hold protective claims pending the final resolution of the litigation.
- Future guidance from the IRS, legislation, or court cases could change the outcome of this issue.

If you believe you may be affected by this issue, please contact your Harper Pearson advisor to discuss your specific circumstances.