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The Coronavirus Economic Stabilization Act of 2020 (CARES ACT)
Business Tax Provisions

The following is a summary of certain key business tax provisions.

Paycheck Protection Program

The Act authorizes SBA loans to qualifying small businesses. Generally, a qualifying small business is defined as a business having no more than 500 employees. Qualifying businesses can be sole proprietorships and businesses with multiple locations, so long as the business has no more than 500 employees.

The amount that can be borrowed is the lesser of: (1) $10 million; or (2) 2.5 times the average monthly payroll over a one year period prior to disbursement of the loan. Annual salary per employee is capped at $100,000 for this purpose.

The Act provides for loan forgiveness for small businesses. The amount of the loan that can be forgiven is equal to the principal amount of any loan proceeds used to pay payroll costs, mortgage interest, rent and utility costs during the eight week period beginning on the origination date of the loan.

The amount of the loan that can be forgiven is reduced proportionately by a formula that takes into consideration reduction in head count and a reduction in gross pay. Borrowers that have terminated employees or reduced salaries can mitigate the reduction in loan forgiveness by re-hiring employees who were terminated between February 15, 2020 and April 26, 2020, and reinstating compensation that was reduced during the same period. Please call or email us if you need a more thorough explanation of these limitations.

Employee Retention Credit for Employers

The provision provides a refundable payroll tax credit for 50% of wages paid by Eligible Employers to certain employees during the COVID-19 crisis. The credit is available to employers, including non-profits whose operations have been fully or partially suspended as a result of government order limiting commerce, travel or group meetings. For employers who had an average of 100 or fewer full-time employees in 2019, all wages are eligible, regardless of whether the employee is furloughed. In the case of more than 100 employees, only those who were furloughed or faced reduced hours are eligible. Wages includes health benefits, and is capped at the first $10,000 of wages paid to eligible employees. The credit is for wages paid after March 12, 2020 and before December 31, 2020.

This credit is not available to employers receiving "Paycheck Protection Loans" discussed above.

Temporary Repeal of Taxable Income Limitation for Net Operating Losses (NOL's)

The TCJA eliminated NOL carrybacks for tax years arising after December 31, 2017, and limited the carryforward to 80% of modified taxable income for years ending before January 31, 2026. The CARES act removes that provision for 3 years (2018, 2019, and 2020) and NOL's can be computed without limitation for those three years. In addition, any losses incurred during 2018, 2019 and 2020 can be carried back 5 years. Therefore, losses in 2018 can be carried back to 2013.

Modification of limitation on losses for non-corporate taxpayers

In 2018, individual taxpayers were not allowed to deduct business losses in excess of $250,000 ($500,000 if married filing jointly). The business loss above these amounts ("Excess Business Losses") was suspended and carried forward. The CARES Act temporarily modifies the loss limitation rules so taxpayers can deduct otherwise excess business losses in 2018 – 2020. The loss limitation rules will resume in tax year 2021. 2018 tax returns prepared with the loss limitation can be amended to free up those losses. In addition, should a net operating loss result, the loss will be eligible to the 5 year carryback rule mentioned above.

Deductibility of Business Interest Expense Temporarily Increased

In 2018, a taxpayer's deduction for business interest expense was generally limited to 30% of adjusted taxable income. Any interest expense so limited was carried forward indefinitely to future years and considered as business interest paid, subject to that year's limitation.

The Act temporarily and retroactively increases the deductibility of interest expense from 30% to 50% of adjusted taxable income for years 2019 and 2020. Under a special rule for partnerships, the increase in limitation from 30% to 50% of adjusted taxable income will first apply in 2020. Taxpayer's may elect out of the increase in limitation for any tax year in the time and manner IRS prescribes.

Bonus Depreciation Technical Correction for Qualified Improvement ("QI") Property

The CARES ACT provides a technical correction to the TCJA and specifically designates QI Property as 15 year property. This makes QI Property a category eligible for 100 percent Bonus depreciation. QI property is also specifically assigned a 20-year class life for the Alternative Depreciation System (ADS). This is effective for property placed in service after December 31, 2017.

Delay of Payment of Employer Payroll Taxes

The CARES Act allows taxpayers to defer paying the employer portion of certain payroll taxes incurred through the end of 2020. 50% of these payroll taxes so deferred shall be payable no later than December 31, 2020, with the balance payable no later than December 31, 2021. For self-employed individuals, 50% of their self-employment taxes shall be subject to the above rules.

Corporate Minimum Tax Credit (MTC) is accelerated

Corporations for whom the AMT was repealed after 2017 were able to claim any outstanding credits (subject to limits) for years before 2021, at which time any remaining MTC may be claimed as fully refundable. The CARES Act allows corporations to claim 100% of AMT credits in 2018.

Individual Tax Provisions

The following is a summary of certain key individual tax-related provisions.

Recovery Rebates

Taxpayers will receive cash payments which are advance refunds of credits against 2020 taxes, in the amount of $1,200 for individual taxpayers or $2,400 for joint filers, with a $500 credit for each dependent child under 17 years of age. The amount of each rebate is phased out by $5 for every $100 in excess of a threshold amount. This threshold amount is based upon 2019 adjusted gross income (2018, if a 2019 return has not been filed), and the phase-out begins at $75,000 for single filers, $112,500 for heads of households, and $150,000 for joint filers. The rebates are completely phased out for single filers with 2019 (or 2018, if applicable) adjusted gross income over $99,000, heads of household with $136,500 (or higher, depending upon whether status is established because of children), and joint filers with $198,000.

Rebates will be issued as rapidly as possible, and may be disbursed electronically to latest account authorized by a payee at any date on or after January 1, 2018, for the delivery of a refund of taxes.

Retirement Plans

The Act waives the 10% penalty on early withdrawals up to $100,000 from qualified retirement plans for coronavirus-related distributions, which is a distribution made during the 2020 calendar year, to an individual (or the spouse of an individual) diagnosed with COVID-19 with a CDC-approved test, or to an individual who experiences adverse financial consequences as a result of quarantine, business closure, layoff, or reduced hours due to the virus. Any income attributable to an early withdrawal is subject to tax over a three-year period, and taxpayers may recontribute the withdrawn amounts to a qualified retirement plan without regard to annual caps on contributions, if made within three years.

The Act also waives all required minimum distributions for 2020, regardless of whether the taxpayer has been impacted by the pandemic.

Additionally, the limit on plan loans made during the 180-day period beginning on March 27, 2020 is increased to the lesser of $100,000 and 100% of the participant’s account balance. In addition, a Qualified Individual with an outstanding loan may delay, for one year, loan repayments that would have been due during the period March 27, 2020 and ending on December 31, 2020.

Charitable Contributions

Persons claiming the standard deduction, that is, persons who do not itemize, may still be eligible to receive an "above-the-line" deduction, up to $300, for charitable contributions made in cash in tax year 2020 and beyond. Taxpayers who itemize are generally limited to 60% of a taxpayer’s adjusted gross income (AGI) for cash contributions, but that limitation is suspended for 2020. Additionally, the deduction for the contribution of food inventory has been increased from 15% to 25% of AGI for the 2020 tax year.

Unemployment Insurance

The Act extends unemployment insurance by 13 weeks and extends coverage to those who provide self-certification that they are available to work but are unemployed or partially unemployed due to various Covid-19 reasons (i.e., self-employed individuals).

The Act also increases unemployment benefits by an additional $600 per week to each recipient of unemployment insurance for up to four months (this provision applies only to weeks of unemployment ending on or before July 31, 2020). The total amount of an individual’s benefit will be equal to the amount determined under state law, plus $600 per week.

Families First Coronavirus Response Act

The Families First Coronavirus Response Act (FFCRA) requires certain employers to provide employees with paid sick leave for specified reason related to Covid-19.

Generally, FFCRA provides that employees of covered employers are eligible for:

Ø Two weeks of paid sick leave at the employee’s regular rate of pay where the employee is unable to work because the employee is quarantined and/or experiencing Covid-19 symptoms and seeking a medical diagnosis; or

Ø Two weeks of paid sick leave at two-thirds the employee’s regular rate of pay because the employee is unable to work because of a bona fide need to care for an individual subject to a quarantine, or to care for a child under 18 years of age whose school or child care provider is closed or unavailable for reasons related to Covid-19.

Ø Up to an additional 10 weeks of paid family and medical leave at two-thirds the employee’s regular rate of pay where the employee, who has been employed for at least 30 calendar days, is unable to work due to a bona fide need for leave to care for a child whose school or child care provider is closed or unavailable for reasons related to Covid-19.

The paid sick leave and expanded family and medical leave provisions of the FFCRA apply to certain public employers, and private employers with fewer than 500 employees. Small businesses with fewer than 50 employees may qualify for exemption from the requirement to provide leave due to school closings or child care unavailability if the leave requirements would jeopardize the viability of the business as a going concern.

Refundable payroll tax credits are provided to partially compensate employers for these expanded sick, family and medical leave provisions.