Coronavirus Aid, Relief and Economic Security (CARES) Act

Summary of Tax Provisions

March 30, 2020

Business Tax Provisions

Employee retention credit for employers reducing operations due to COVID-19

- Significant refundable credit whereby employers can be reimbursed for 50% of certain compensation paid from 3/13/20 through 12/31/20.
- The reimbursement will occur via a credit against the employer's share of social security tax.
- Eligible Employers
    - Operations were fully or partially suspended due to a COVID-19 related shut-down order, or
    - Gross receipts declined by more than 50% when compared to the same quarter in the prior year.
- Credit not available to employers participating in the Paycheck Protection Plan loan program.
- Compensation eligible for the credit
    - More than 100 employees: Compensation of employees who were furloughed or face reduced hours
    - 100 or fewer employees: Compensation of all employees, whether or not they were furloughed.
    - Compensation includes wages and health benefits.
    - Limited to the first $10,000 of wages per employee.

Delay of payment of employer payroll taxes

- Employers and self-employed individuals can defer payment of the employer's share (6.2%) of the Social Security payroll tax.
- Deferred amounts must be repaid in equal installments by 12/31/2021 and 12/31/2022.

Net operating losses (NOLs)

- Current Law: no carryback of NOL's; carryforward only, limitation on the amount of income that can be offset.
- New Law
    a. NOLs arising in tax years 2018, 2019, or 2020 to be carried back 5 years, which allows for refunds of prior year taxes and potential positive impact on cash flow.
    b. Removes the 80% of taxable income limitation, retroactively, so that NOLs can fully offset taxable income in 2018, 2019, and 2020, regardless of the year in which they arose; however, in 2021, the 80% rule goes back into effect, including for tax years 2018 through 2020.

Modification of Excess Business Loss (EBL) rules

The provision modifies various aspects of the excess business loss (EBL) limitation applicable to pass-through businesses and sole proprietors, so they can utilize losses sooner. Specifically, it repeals the EBL limitation for tax years 2018 through 2020.

Temporary modification of business interest deduction limitation

- Current Law: certain business taxpayers are limited to an interest expense deduction of 30% of their income.
- New Law: permitted interest deduction is increased to 50% (with adjustments) for 2019 and 2020. Taxpayers have other elections and options under this temporary new rule.

Technical amendment regarding qualified improvement property

Makes a retroactive, technical change to depreciation rules so that businesses, especially in the hospitality industry, will be able to utilize bonus depreciation and write off immediately costs associated with improving facilities instead of having to depreciate them over a 39-year period.

Individual Tax Provisions

Individual tax credit/rebate

- All US residents who are not dependents of another and have a valid Social Security number will receive a one-time payment directly from the federal government.

- Rebate amount
  - $1,200 per individual
  - $2,400 for married couples
  - Additional rebate of $500 per child under the age of 17

- Income Limits
  - The rebate declines (phase-out) and is completed eliminated depending on income level, based on Adjusted Gross Income (AGI).
  - The phase-out reduction is $5 for each $100 of adjusted gross income (AGI) over the relevant threshold.
  - Phase-out level depends on filing status and begins at the following AGI levels:
    - Single filing status: full rebate if income is below $75,000; phase-out begins at income above $75,000; complete phase-out (no rebate) at $99,000.
    - Married filing joint filing status with no children: full rebate if income is below $150,000; phase-out begins at income above $150,000; complete phase-out (no rebate) at $198,000.
    - Head of household filing status with no children: full rebate is income if income is below $112,500; phase-out begins at income above $112,500; complete phase-out (no rebate) at $146,500.
    - Phase-out amounts are higher depending on the number of children if any.
    - Potential issues with changes in marital status, deceased, etc.

- Year for determining income
  - Initial payment is an advance of the rebate amount and will be based on 2019 tax returns (if filed), or 2018 tax returns if 2019 is not filed yet.

- Payment amount will ultimately be based on 2020 income.
    - Payment amount will presumably be "trued up" when 2020 income tax returns are filed.
    - People who were "overpaid" do not have to return the excess.
    - People who were "underpaid" will receive what they were due, but presumably not until their 2020 return is filed in 2021.
  - If a return was not filed for 2018 or 2019, IRS will use other means (social security records, etc.) and a public relations campaign to identify eligible recipients.

- How will payments be made
  - Direct deposit info from tax returns or social security payments
  - Last known address
  - Potential issues with closed accounts and taxpayers who have moved.

- Amount received does not have to be reported as income.

Retirement Plan Provisions

- Required Minimum Distributions
  - Stock market volatility in early 2020 has created reduced retirement plan balances for many.
  - Required minimum distributions (RMD) rules for retirement plans and IRAs are waived for the 2020 calendar year.

- Distributions for Coronavirus related purposes
  - 10% early withdrawal penalty is waived for distributions during 2020 to eligible individuals during 2020 for Coronavirus related purposes, up to $100,000.
  - Eligible individuals
    - Themselves, a spouse or dependent is diagnosed with Coronavirus, or
    - Experience adverse financial consequences for a variety of reasons related to Coronavirus.
      - It is anticipated this provision will be interpreted liberally.
      - Eligibility is documented by the recipient's self-certification.
  - Distributions can be taxed over a 3 year period starting in 2020.
  - Distributions can be re-contributed to the retirement plan any time for 3 years following distribution and avoid tax. In essence, these distributions are granted a 3-year rollover period.

- Loans from Employer Retirement Plans
  - Maximum loan amount increased from $50,000 to $100,000.
  - 100% of vested balance may be used for a loan. Previously, this was 50% for balances in excess of $20,000.
  - Loan payments due through the end of 2020 may be delayed for up to a year.

Charitable contributions

- $300 charitable deduction for taxpayers who don't itemize deductions
  - Taxpayers that use the standard deduction will be allowed a $300 deduction when computing adjusted gross income for cash contribution made to qualifying charitable organizations.
  - Applies only to cash contributions and doesn't apply to contributions made to donor-advised funds.
  - Applies to tax years beginning after December 31, 2019, with no sunset date.

- Income limit for contributions is eliminated
  - Under current law, an individual's deduction for charitable contributions is limited to 60% of their income. Any excess is carried forward to future years.
  - For 2020 only, this limit is eliminated thereby increasing the amount of deductible contributions.

Student Loan Provisions

- Loan Payments
  - Required payments on student loans are deferred through September 30, 2020.
  - No interest accrues during this deferral period.
  - Borrowers must proactively contact their loan provider.
  - Deferral period continues to count towards any loan forgiveness programs.
  - Collection action is suspended during the deferral period.

- Employer payments of student loans
  - Employers can make payments of up to $5,250 towards an employee's student loans and the payment is not reported as income.
  - Applies through the end of 2020.