

## **INDIVIDUAL AND BUSINESS PROVISIONS WITHIN THE CARES ACT**

*By Nick Hopkins, CPA, CFP®  
Partner, Director of Tax Services  
[nhopkins@sponselcpagroup.com](mailto:nhopkins@sponselcpagroup.com)*



On March 25, 2020, the Senate passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), intended to provide a third round of federal government support in the wake of the COVID-19 health and economic crisis. The bill includes several changes in tax policy aimed at providing tax benefits to individuals and businesses, and now moves to the House of Representatives, which is expected to vote on the legislation today Friday, March 27, 2020.

### **INDIVIDUAL PROVISIONS**

#### **Recovery Rebates for Individuals**

This provision would provide \$1,200 for singles and heads of households (\$2,400 for married couples filing joint returns). The provision also provides \$500 per qualifying child dependent under age 17 (using the rules under the Child Tax Credit). A family of four would receive \$3,400. Rebates phase out at a 5% rate above adjusted gross incomes of \$75,000 (single)/ \$122,500 (head of household)/ \$150,000 (joint). There is no income floor or phase-in and all recipients will receive the same amounts, provided they are under the phase-out threshold. Tax filers must provide Social Security Numbers (SSN) for each family member claiming a rebate. The rebates will be paid out as advance refunds (in the form of checks or direct deposit) on the basis of taxpayers' filed tax year 2019 returns (or tax year 2018, if a 2019 return has not yet been filed). Non-filers generally need to file a tax return in order to claim a rebate, although IRS may coordinate with other federal agencies in some instances to get checks out.

#### **Special Rules for Use of Retirement Funds**

This provision would waive the additional 10 percent tax on early distributions from IRAs and defined contribution plans (such as 401(k) plans) in the case of coronavirus-related distributions. A coronavirus-related distribution may be made between January 1 and December 31, 2020, by an individual who is (or whose family) is infected with the coronavirus or who is economically harmed by the coronavirus. Distributions are limited to \$100,000 and may be re-contributed to the plan or IRA. Employers are permitted to amend defined contribution plans to provide for these distributions. Additionally, defined contribution plans are permitted to allow plan loans up to \$100,000 and repayment of existing plan loans is extended for employees who are affected by the coronavirus.

#### **Temporary Waiver of Required Minimum Distribution Rules for Certain Retirement Plans and Accounts**

This provision would waive required minimum distributions that are required to be made in 2020 from defined contribution plans (such as 401(k) plans) and IRAs. The waiver includes required minimum distributions that are due by April 1, 2020, because the account owner turned 70 ½ in 2019.

#### **Partial Above-the-line Deduction for Charitable Contributions During 2020**

This provision would provide a \$300 above-the-line deduction for cash contributions generally to public charities in 2020.

#### **Modification of Limitations on Charitable Contributions During 2020**

This provision would increase the limitation on charitable deductions from 60% to 100% of modified income for cash contributions generally to public charities in 2020. It would also increase the limitation for food contributions by corporations from 15% to 25% of modified income.

#### **Exclusion for Certain Employer Payments of Student Loans**

Under current law, an employee may exclude \$5,250 from income for an employer sponsored educational assistance program. The provision would expand the definition of expenses to include an employer paying student loan debt. The provision is effective for student loan payment made before January 1, 2021.

### **BUSINESS PROVISIONS**

#### **Employee Retention Credit for Employers Subject to Closure or Experiencing Economic Hardship Due to COVID-19**

This provision would provide a refundable payroll tax credit for 50 percent 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 a government order limiting commerce, travel or group meetings. The credit is also provided to employers who have experienced a greater than 50 percent reduction in quarterly receipts, measured on a year-over-year basis. Wages of employees who are furloughed or face reduced hours as a result of their employers' closure or economic hardship are eligible for the credit. For employers with 100 or fewer full-time employees, all employee wages are eligible, regardless of whether an employee is furloughed. The credit is provided for wages and compensation, including health benefits, and is provided for the first \$10,000 in wages and compensation paid by the employer to an eligible employee. Wages do not include those taken into account for purposes of the payroll credits for required paid sick leave or required paid family leave, nor for wages taken into account for the employer credit for paid family and medical leave. The Secretary of the Treasury is granted authority to advance payments to eligible employers and to waive applicable penalties for employers who do not deposit applicable payroll taxes in anticipation of receiving the credit. The credit is not available to employers receiving Small Business Interruption Loans. The credit is provided through December 31, 2020.

#### **Delay of Payment of Employer Payroll Taxes**

This provision would allow taxpayers to defer paying the employer portion of certain payroll taxes through the end of 2020, with all 2020 deferred amounts due in two equal installments, one at the end of 2021, the other at the end of 2022. Deferral is not provided to employers that avail themselves of SBA 7(a) loans designated for payroll. Payroll taxes that can be deferred include the employer portion of FICA taxes, the employer and employee representative portion of Railroad Retirement taxes (that are attributable to the employer FICA rate), and half of SECA tax liability.

#### **Modification of Net Operating Losses (NOLs)**

The 2017 Tax Law limited net operating losses (NOLs) arising after 2017 to 80 percent of taxable income and eliminated the ability to carry NOLs back to prior taxable years. First, this provision would modify the treatment of NOL carrybacks. In the case of taxable years beginning before 2021, taxpayers will be eligible to carry back NOLs to the prior five taxable years. Effectively, this delays the 80 percent taxable income limitation until 2021 and temporarily extends the carryback period from zero to five years. The provision also temporarily disregards NOL carrybacks for the section 965 transition tax. C corporations may elect to file for an accelerated refund to claim the carryback benefit. Second, this provision would modify the treatment of NOL carryforwards. In the case of taxable years beginning before 2021, taxpayers will be entitled to an NOL deduction equal to 100% of taxable income (rather than the 80 percent limitation in present law). In the case of taxable years beginning after 2021, taxpayers will be eligible for: (1) a 100 percent deduction of NOLs arising in tax years prior to 2018, and (2) a deduction limited to 80 percent of modified taxable income for NOLs arising in tax years after 2017. The provision would also include a technical correction to the 2017 Tax Law, relating to the effective date of the NOL carryback repeal.

#### **Modification of Limitation on Losses for Taxpayers other than Corporations**

This provision would retroactively turn off the excess active business loss limitation rule implemented with 2017 Tax Law by amending the provision to apply to tax years beginning after December 31, 2020 (rather than December 31, 2017). It also turns off active farming loss rules for tax years beginning after December 31, 2017 and before December 31, 2020. An active business loss is defined as deductions in excess of income and gain attributable to a trade or business in which the taxpayer actively participates plus \$250,000 (\$500,000 for joint filers) (i.e. active business losses in excess of \$250,000 (\$500,000 for joint filers) were disallowed by the 2017 Tax Law and treated as NOL carryforwards in the following tax year).

#### **Modification of Credit for Prior Year Minimum Tax Liability of Corporations**

The 2017 Tax Law repealed the corporate alternative minimum tax (AMT) and allowed corporations to claim outstanding AMT credits subject to certain limits for tax years prior to 2021, at which time any remaining AMT credit may be claimed as fully refundable. This provision allows corporations to claim 100% of AMT credits in 2019 as fully refundable and provides an election to accelerate claims to 2018, with eligibility for accelerated refunds.

#### **Modification of Limitation on Business Interest**

The 2017 Tax Law generally limited the amount of business interest allowed as a deduction to 30% of adjusted taxable income (ATI). This provision generally allows businesses to elect to increase the interest limitation from 30% of ATI to 50% of ATI for 2019 and 2020 and allows businesses to elect to use 2019 ATI in calculating their 2020 limitation.

A special rule for partnerships allows 50% of any excess business interest allocated to a partner in 2019 to be deductible in 2020 and not subject to the 50% (formerly 30%) ATI limitation. The remaining 50% of excess business interest from 2019 is subject to the ATI limitation. The 2019 ATI limitation remains at 30% of partnership ATI rather than 50% of ATI. The ATI limitation for 2020 is 50% of partnership ATI and partnerships may elect to use 2019 partnership ATI in calculating their 2020 limitation.

**Qualified Improvement Property Technical Correction**

This provision is a technical correction to the 2017 Tax Law that would allow the interior improvements of buildings to be (1) immediately expensed in the case of restaurant, retail, and most other property (classified as 15-year property), or (2) depreciated over 20 years in the case of a real property trade or business.

If we can assist you further with better understanding these updates and how they may affect you or your business, please call Nick Hopkins at (317) 608-6695 or email [nhopkins@sponselcpagroup.com](mailto:nhopkins@sponselcpagroup.com).