

COVID-19: Tax Law Developments

APRIL 9, 2020

The following is a summary of federal law impacted by the CARES Act enacted on March 27, 2020, as well as other federal actions taken as of April 9, 2020

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Business Provisions

- **Due date for filing and paying corporate, partnership and other business income taxes, including estimated taxes for Q1 and Q2 2020, deferred to July 15, 2020**
 - Deferral also applies to the 2019 installment of the 2017 transition tax imposed on retained foreign earnings, as well as numerous time-sensitive elections (including check-the-box elections, Section 338 elections and Section 83(b) elections) and various other deadlines
 - New York State and New York City are expected to permit similar deferral for state and local income taxes
- **Deferred payment for employer portion of social security taxes (and half of self-employment social security taxes) for remainder of 2020**
 - 50% of deferred amount is due on December 31, 2021; the other 50% is due on December 31, 2022
 - Does not apply to the 1.45% Medicare tax on earned income
 - No deferral for employee portion of social security taxes
 - Not available to employers that have loans forgiven under the Paycheck Protection Program (PPP) provisions of the Act
- **Temporary expansion of deductions for NOLs arising in 2018, 2019 or 2020**
 - NOLs arising in 2018, 2019 or 2020:
 - Can be carried back five years (previously, no carrybacks of post-2017 NOLs)
 - Taxpayers should carefully consider whether to elect to carry back NOLs, as doing so may have collateral tax consequences
 - Can be carried forward indefinitely (no change from prior law)
 - Can offset 100% of taxable income when carried back or forward to 2020 or earlier years (previously, carryforward offset limited to 80% of taxable income)
 - Can offset 80% of taxable income when carried forward to 2021 or later years (no change from prior law)
 - NOLs arising in 2017 or earlier: no change from prior law (can be carried back 2 years and forward 20 years; can offset 100% of taxable income when carried back or forward to any year)
 - NOLs arising in 2021 or later: no change from prior law (cannot be carried back; can be carried forward indefinitely; carryforward offset limited to 80% of taxable income)

Business Provisions

- **The cap on interest deductions is increased from 30% to 50% of EBITDA for 2019 and 2020**
 - Taxpayers can elect to use their 2019 EBITDA to calculate their 2020 cap
- **Tax credit for wages paid by certain employers affected by the coronavirus pandemic**
 - Credit generally equals 50% of certain wages paid by “eligible employers” from March 13 to December 31, 2020, up to a maximum credit of \$5,000 per employee
 - Eligible employers: those whose operations were fully or partially suspended due to a coronavirus-related shutdown order or those whose gross receipts declined by more than 50% from the prior year (on a quarterly basis)
 - Small employers (\leq 100 full-time employees): all wages qualify
 - Large employers ($>$ 100 full-time employees): wages qualify only if paid to employees when they are not providing services due to coronavirus-related circumstances
 - Credit is taxable income to the employer
 - Not available to businesses that borrow money under the PPP provisions of the Act
- **Limitations on the use of business losses to offset non-business income of individual taxpayers are suspended until 2021**
- **Immediate deduction for costs incurred in connection with improvements to the interior of existing non-residential property**
 - Due to a glitch in the 2017 tax reform law, these costs were depreciable over 39 years
 - Retroactive to the effective date of the 2017 law
- **Limit on deductions for charitable contributions by corporations is increased from 10% to 25% of taxable income for 2020**

Individual Provisions

- **Due date for most tax returns and payments otherwise due between April 1 and July 15, 2020, extended to July 15th**
 - Includes income taxes, estimated tax payments, excise taxes and gift and estate taxes
 - New York State and New York City are generally expected to permit the same deferrals to July 15
- **Eligible individuals will receive a cash payment of up to \$1,200 (\$2,400 for joint filers)**
 - Increased by \$500 for each child
 - Phased out for individuals with adjusted gross income between \$75,000 and \$99,000 (between \$150,000 and \$198,000 for joint filers)
- **Expanded deductions for charitable contributions made in 2020**
 - 50% of adjusted gross income cap on charitable deductions waived in 2020 for individuals who itemize deductions
 - \$300 of cash contributions deductible by individuals who do not itemize
- **Required minimum distributions under certain retirement plans are waived for 2020**
- **No penalty for \$100,000 of coronavirus-related distributions from IRAs and other retirement accounts**
 - Available to any individual who experiences adverse financial consequences related to the pandemic (such as being furloughed or laid off), who is diagnosed with coronavirus or whose spouse or dependent is diagnosed with coronavirus
 - Income attributable to the distribution generally can be spread over three years
- **Employers can pay off up to \$5,250 of an employee's student loans on a tax-free basis to the employee**
 - Applies to payments made in 2020 after the date of enactment of the CARES Act

Please feel free to contact us if we can provide further information on these matters

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