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Coronavirus: Significant Tax Provisions in the CARES Act for Businesses and Individuals

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President Trump signed the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act) today, providing liquidity and other economic relief to individuals, families, and businesses facing the hardships of the coronavirus (COVID-19) pandemic. As part of the legislation, there are important tax provisions, which are in addition to the previous actions taken by President Trump and Congress in response to COVID-19. A summary of the previous tax relief implemented, including an extension for taxpayers until July 15, 2020 to file and pay 2019 income taxes and first quarter estimates, can be found [here](#).

Key tax provisions of the CARES Act include the following:

1. Recovery Rebates for Individuals

- A recovery rebate will be paid (payment date to be determined by Treasury Secretary) to eligible individuals in the amount of the lesser of net income tax liability or \$1,200 (\$2,400 in the case of a joint return).
- The recovery rebate will be increased by an additional \$500 per child.
- Adjusted gross income limitation of \$75,000 for eligible individuals, \$112,500 in the case of head of household, or \$150,000 in the case of a joint return.
- Recovery rebate will be reduced by 5 percent for adjusted gross income in excess of \$75,000 (\$150,000 in the case of a joint return).
- Eligible individual means all U.S. residents who have a work-eligible social security number and are not a dependent of another taxpayer. Eligible individuals are included even if they have no income as well as those individuals whose income is from non-taxable means-tested programs, such as SSI.
- Eligibility and benefit levels will be based on 2019 income tax return, if filed, or in the alternative, the 2018 income tax return.
- For most Americans, no action is required on their part to determine qualification for, or to receive, the recovery rebate.

2. Special Rules for Use of Retirement Funds

- Allows penalty free coronavirus-related distributions up to \$100,000 from qualified retirement accounts and IRAs made on or after January 1 and before December 31, 2020.
- Coronavirus distributions are taxable ratably over three years, but taxpayers may recontribute the distributed funds into their retirement accounts for three years and the recontribution shall be treated as a rollover contribution.

– Coronavirus-related distributions mean a distribution to an individual:

who is diagnosed with COVID-19;

whose spouse or dependent is diagnosed with such virus; or

who experiences adverse financial consequence as a result of being quarantined, being furloughed or laid off, or having work hours reduced as a result of such virus or disease, being unable to work due to lack of childcare due to such virus or disease, closing or reducing hours of a business owned or operated by the individual due to such virus or disease, or other factors determined by the Secretary of the Treasury.

- Loans from a qualified employer retirement plan allowed up to lesser of (i) \$100,000 or (ii) the full present value of the nonforfeitable accrued benefit under the plan, less the amount of any outstanding loans; loan repayment terms are extended.
- Waives required minimum distribution requirements for defined contribution plans and IRAs for 2020.

3. Modification of Limitations on Charitable Contributions During 2020

- In the case of taxable years beginning in 2020, allows an above-the-line charitable deduction of up to \$300 for certain cash charitable contributions by individuals who do not elect to itemize deductions.
- Allows additional charitable contributions in tax year 2020 for individuals and corporations as follows:
 - For cash contributions from individuals, the 60 percent AGI limitation is suspended;
 - For cash contributions from corporations, the 10 percent taxable income limitation is increased to 25 percent;
 - Increases deduction limitation for food inventory from 15 percent to 25 percent of applicable contribution base.

4. Exclusion for Certain Employer Payments of Student Loans

- The CARES Act enables employers to provide a tax-free student loan repayment benefit of up to \$5,250 annually for payments made by employer on behalf of an employee after the date of enactment and before January 1, 2021. The cap applies to the new student loan repayment benefit as well as other educational assistance (e.g. tuition, fees, books) provided by the employer under current law.

5. Business Provisions

• **Employer Payroll Tax Deferral**

Payment of employer's 6.2 percent portion of social security payroll tax payments and corresponding portion of self-employment taxes, otherwise due for the period beginning on the date of enactment of the CARES Act and ending before January 1, 2021, may be delayed as follows:

- 50 percent until December 31, 2021;
- remainder until December 31, 2022.

It does not apply to employers who receive forgiveness of a loan under CARES Act provisions.

• **Employee Retention Tax Credit**

Allows a refundable payroll tax credit equal to 50 percent of qualified wages paid by employers during the COVID-19 crisis.

- The credit is available to employers (including tax-exempt entities) whose:

Operations are fully or partially suspended due to a COVID-19 related shutdown order;

Gross receipts declined by more than 50 percent when compared to the same quarter in the prior year; credit applies to subsequent quarters unless gross receipts exceed 80 percent of gross receipts for same quarter in prior year.

- For employers with more than 100 full-time employees, qualified wages are wages paid to the employees when they are not providing services due to COVID-19 related circumstances. For

employers with 100 or fewer full-time employees, all employee wages qualify for the credit whether the employer is open for business or subject to a shutdown order.

- The amount of qualified wages with respect to any employee who may be taken into account by an eligible employer shall not exceed \$10,000.
- The refundable payroll credit is applicable to wages paid after March 13, 2020 and before January 1, 2021.
- Does not apply to employer receiving a small business interruption loan under CARES Act.
- **SBA Loan Forgiveness.** SBA loan forgiveness allowed under the CARES Act is excluded from gross income.
- **Net Operating Loss (NOL) Carrybacks.** Taxpayers may deduct net operating losses incurred in 2018, 2019, or 2020 and carryback for five years with no 80 percent of taxable income limitation.
- **Pass-thru Business Losses.** Eliminates retroactively for taxable years prior to 2021 the loss limitation for individuals applicable to pass-thru businesses and sole proprietors to allow utilization of business losses.
- **Business Interest Expense.** A net business interest deduction limitation is increased from 30 percent to 50 percent of adjusted taxable income for 2019 and 2020. Taxpayers may elect to substitute adjusted taxable income for 2019 for purposes of applying the deduction limitation in 2020.
- **Depreciation.** Allows expensing of costs associated with improving facilities rather than having to depreciate such improvements over the 39-year life of the building. (Retroactively corrects an error in the Tax Cuts and Jobs Act.)
- **Alternative Minimum Tax (AMT) Credits.** Allows companies to accelerate recovery of refundable corporate AMT credits.
- **Federal Excise Tax – Distilled Spirits.** Waives the federal excise tax on any distilled spirits used for or contained in hand sanitizer produced and distributed in a manner consistent with Food and Drug Administration (FDA) guidance, effective for calendar year 2020.
- **Advance of Certain Payroll Tax Credits.** Allows employers an advance of certain refundable payroll tax credits from the U.S. Treasury rather than having to be reimbursed, and creates regulatory authority to implement such advances.
- **Postponement of ERISA Filing Deadlines.** Provides authority for the Department of Labor (DOL) to postpone certain ERISA filing deadlines for a period of up to one year in the case of a public health emergency.
- **Single Employer Pension Plans.** Delays required funding dates for single employer pension plans.
- **Federal Excise Tax on Air Transportation.** Suspends the federal excise tax on payments made for air transportation (including the purchase of frequent flyer mileage), cargo, and kerosene fuel used in commercial aviation for the period from March 28 thru and including December 31, 2020.

For specific guidance about the tax benefits of the CARES Act summarized in this alert, please contact [Stuart M. Schabes](#), [David P. Webb](#), [Larry Ash](#), or any member of [Baker Donelson's Tax Group](#). For additional information you may also visit the [Coronavirus \(COVID-19\): What You Need to Know information page](#).