




**COVID-19**

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**Coronavirus / COVID-19  
Response Team**


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**The CARES Act  
Key Tax Provisions**

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## CARES Act – Big Picture

- President Trump signed the CARES Act into law on Friday, March 27, 2020
- This \$2.2 trillion stimulus bill is intended to protect the economy from a prolonged and severe downturn
- Aimed at providing relief to individuals and business who are at risk of losing income due to COVID-19 pandemic
- Other sectors benefiting from bill include corporations, state and local governments, public health, and education

## CARES Act – Business Tax Provisions

- Tax Filing Extensions (not specifically in CARES)
- Employee Retention Payroll Tax Credit
- Unemployment Benefit Boost
- Bonus Depreciation for Qualified Improvement Property
- Increased Business Interest Expense Limitation
- AMT Credit Carryforwards
- NOL Carrybacks and Carryforwards

## CARES Act – Individual Tax Provisions

- Tax Filing Extensions (not specifically in CARES)
  - Notices addressing payment extensions, then filing extensions
  - Latest Notice 2020-20 addressing extension of certain transfer tax returns
  - Still no guidance on many types of returns and informational reporting
- Recovery Rebate and Credit
- Retirement Funds-Early Distribution and Penalty Relief
- Charitable Contribution Limits Lifted
- Exclusion for Employer Payments of Student Loans

## Employee Retention Tax Credit

- Certain employers can receive a payroll tax credit for paying wages (and health plan benefits) to employees
- Tax credit of up to \$5,000 per employee
- Credit equal to 50% of first \$10,000 in wages (and health plan benefits) per employee
- Potentially refundable

## Employee Retention Tax Credit

- Employers operating trade or business (and certain tax-exempt organizations) are eligible if:
  - Operations fully or partially suspended due to COVID-19 shut-down order; or
  - Experienced a 50% reduction in quarterly receipts compared to the same quarter last year
- But employers cannot receive retention credit and CARES Act loan.

## Corporate Net Operating Loss Carrybacks

- Prior to CARES, NOLs could only be carried forward
- Prior to CARES, NOL carryforwards could only offset 80% of taxable income in a given year
- Under CARES, NOLs arising in tax years beginning after December 31, 2017 and before January 1, 2021 can now be carried back five years
- NOL carrybacks and carryforwards can be used to offset 100% of taxable income in a given year
- NOLs can still be carried forward indefinitely

## NOL Carrybacks - Practical Implications

- Corporations with 2018 or 2019 NOLs can file amended returns seeking refunds immediately
- Carrying back NOLs to the 2017 tax year or earlier will maximize refunds by offsetting tax at the 35% corporate income tax rate in effect prior to 2017 tax reform (rather than post-reform 21% rate)
- Corporations anticipating a 2020 NOL should review year-to-date estimated tax payments and consider pursuing a “quickie refund” in 2021 (IRS Form 1139)
- Beware NOL carryback may affect the calculation of tax credits and deductions in prior years

## Loss Limitations on Non-Corporate Taxpayers

- Prior to CARES, the amount of business losses from a flow-through entity (sole proprietorship, partnership or S-corp) that an individual could use to offset non-business income (wages, investment income) was limited to \$250,000 (\$500,000 for joint filers) and excess losses were carried forward as an NOL
- CARES eliminates the \$250,000/\$500,000 limitation for tax years beginning in 2018, 2019 and 2020
- Impacted taxpayers can immediately file returns seeking refunds

## AMT Credit Carryforwards

- Prior to 2017 tax reform, corporations were subject to a corporative alternative minimum tax (“AMT”)
- 2017 tax reform eliminated the AMT and corporations with remaining AMT credit carryforwards were generally required to spread those carryforwards over a four year period ending in 2021
- Under CARES, a corporation with remaining AMT credit carryforwards may claim a refund for any remaining AMT credit carryforward on its 2018 or 2019 tax return

## Interest Expense Limitation (Corporations)

- Generally, interest expense deductions for a taxable year cannot exceed the sum of:
  - the taxpayer’s business interest income for the year;
  - the taxpayer’s floor plan financing interest expense for the year; and
  - 30% of the taxpayer’s adjusted taxable income (“ATI”) for the year.
- CARES increases the above ATI limitation from 30% of ATI to 50% of ATI for 2019 and 2020
- CARES allows taxpayers to elect to use 2019 ATI to compute 2020 ATI limitation
- Returns seeking refunds for 2019 can be filed now



## Interest Expense Limitation (Partnerships)

- For partnerships, the increase in the ATI limitation from 30% to 50% only applies for 2019 tax year
- Other special partnership rules apply; consult your tax advisor

## Bonus Depreciation for Qualified Improvement Property

- Accelerates depreciation deduction for Qualified improvement property (“QIP”)
- QIP refers to any improvement made by a taxpayer to an interior portion of an existing building that is nonresidential real property (residential rental property is excluded).
- Examples of such qualifying improvements include installation or replacement of drywall, ceilings, interior doors, fire protection, mechanical, electrical and plumbing.

## Bonus Depreciation for Qualified Improvement Property

- Provides QIP with a 15-year depreciable life; reduced from 39 years under the TCJA
- QIP is now eligible for bonus depreciation
- Retroactive to January 1, 2018 (corrects a TCJA drafting error)
- Provides for planning opportunities in tandem with other CARES Act provisions

## Retirement Funds – Early Distribution and Penalty Relief

- General rule on retirement plans accounts requires participant or IRA owner to take RMDs annually once reach age 72
- New law says RMDs don't apply for 2020 only (RMD waiver)
- Welcome news for individuals who don't rely on RMDs for living expenses and who otherwise may be required to liquidate retirement account assets in a down market to fund RMDs



## Penalty Relief for Early Retirement Account Withdrawals

- General rule is that early withdrawal from a qualified retirement plan is subject to a 10% additional tax unless the distribution meets a laundry list of exceptions
- New law says early withdrawal is allowed without penalty (up to \$100K), if made by a “qualified individual”

## Penalty Relief for Early Retirement Account Withdrawals

- Distribution is still included in gross income
- Qualified individual is one who needs the early withdrawal due to coronavirus
- Definition of qualified individual is fairly broad and includes not only diagnosis of virus, but family members, unable to work or reduced work causes financial hardship, or other related factors.

## **Penalty Relief for Early Retirement Account Withdrawals**

- More guidance needed on this. Doctor's note? Honor system? May be a nightmare for retirement plan account administrators
- Loans against retirement plan accounts still an option. Increased borrowing ceiling (\$100k) under CARES act.

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

- General rule is that employee's gross income doesn't include up to \$5,250 per year of employer payments, in cash or kind, made under an educational assistance program for the employee's education
- Exclusion doesn't include payments made for education of spouses or dependents

## Exclusion for Certain Employer Payments of Student Loans

- New law adds **eligible student loan repayments** to the types of educational payments excluded from employee gross income
- Time deadline—loan repayments must be made before January 1, 2021

## Charitable Contribution Limits Lifted: New Above Line Charitable Deduction

- Generally, adjusted gross income (AGI) is gross income, less certain deductions (above the line deductions)
- Charitable deductions are itemized deductions that further reduce AGI. They are known as below the line deductions
- New law adds new charitable deduction to the calculation of gross income for tax years beginning in 2020

## **Charitable Contribution Limits Lifted: New Above Line Charitable Deduction**

- Limit is \$300, but still meaningful
- TCJA resulted in dips in charitable giving. New law helps charitable organizations that depend on modest gifts from a large number of donors, even those who do not elect to itemize deductions

## **Charitable Contribution Limits Lifted: Modification on Limits for Charitable Cash Contributions**

- General rule is that individuals allowed a deduction for cash contributions to certain charitable organizations
- Limitation was increased under TCJA to 60% AGI in tax year. Excess carried forward for five years

## **Charitable Contribution Limits Lifted: Modification on Limits for Charitable Cash Contributions**

- New law says that for 2020 only, “qualified contributions” are disregarded in applying the 60% AGI limitation on cash contributions to qualifying charitable organizations
- Many limitations. Must be qualifying charity. DAFs and Supporting Organizations not included

## **Extended Tax Filing Deadlines**

- April 15 filing deadline (for 2019 returns) extended to July 15
- No need to file extension to take advantage of July 15 extended due date
- Some, but not all, states have extended deadlines
- If you cannot file by July 15, file an extension form (but payments will still be due by July 15)
- A filed extension form will give you until October 15 to file

## Extended Tax Payment Deadlines

- April 15 tax payment deadline (for 2019 returns) extended to July 15 (applies to individuals, trusts, estates, and corporations)
- April 15 estimated tax payment deadline (for 2020 taxable year) extended
- June 15 estimated tax payments (for 2020 taxable year) still due on June 15
- No penalty or interest between April 15 and July 15
- Some, but not all, states have extended deadlines

## Extension of Payroll Tax Payment Deadlines

- Employers can delay payment of certain 2020 payroll taxes.
- Delay applies to employers' 6.2% share of 2020 Social Security tax on employees' wages
- Does not apply to:
  - Medicare Tax
  - Any taxes withheld from employees



## Extension of Payroll Tax Payment Deadlines

- CARES Act allows the following delayed payments:
  - 50% deposit by 12/31/2021; and
  - 50% deposit by 12/31/2022
- Employers using payroll agents or PEOs will ultimately be liable for deferred tax
- Employers whose SBA loans are forgiven under the CARES act are not eligible

## Expanded Unemployment Benefits

- Substantial expansion of unemployment benefits that:
  - Extends duration of benefits
  - Increases amount of benefits
  - Makes more people eligible for benefits
  - Is retroactive to January 27, 2020 and continues through December 31, 2020

## Expanded Unemployment Benefits Duration and Dollars

- States
  - Most states offer 26 weeks
  - Most states have one week waiting period
  - Capped at \$362 per week

## Expanded Unemployment Benefits Duration and Dollars

- CARES Act
  - Extends state benefits to up to 39 weeks (adds 13 weeks to the state maximum)
  - Waiver of waiting period in most states
  - Additional \$600 benefit (on top of state benefit) for up to 4 months
  - Could result in benefits of \$932/week

## Expanded Unemployment Benefits Eligibility

- Eligibility Reasons
  - Child's school/daycare is closed and you need to stay home
  - Diagnosed or symptomatic
    - You
    - Someone in your household
    - Someone for whom you are providing care
  - Unable to reach place of employment because of COVID-19 public health emergency
    - i.e. Governor Whitmer's Executive Order 2020-21

## Expanded Unemployment Benefits Eligibility

- Eligibility Reasons (continued):
  - Can't start a new job because of COVID-19 public health emergency
  - Head of household died from COVID-19
  - Had to quit job as a direct result of COVID-19
  - Place of employment closed as direct result of COVID-19 public health emergency
  - Unable to work because healthcare professional advises him/her to self-quarantine

## Expanded Unemployment Benefits

- Employees do NOT qualify if
  - Can telework with pay
  - Receiving sick leave or other paid benefits
- Timing issue with 8-week Paycheck Protection Program

## Individual Recovery Rebate and Credit

- Relief to individuals by providing direct payments in form of a credit
- Eligible individual allowed an income tax credit for 2020 equal to the sum of: (1) \$1,200 (\$2,400 for eligible individuals filing a joint return) plus (2) \$500 for each qualifying child of the taxpayer for purposes of the child tax credit
- Must meet definitions for “eligible individual” and “qualifying child”

## Individual Recovery Rebate and Credit

- Even if no income or income comes solely from means tested benefits, can still be eligible for credit
- Phase-out of credit beginning at \$75K for married/\$150K individual
- Fully phased out when AGI exceeds \$99K for single/\$198K for MFJ
- IRS looks to last tax return filed to determine credit



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