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CARES Act Provides COVID-19 Pandemic Relief to Businesses and Individuals

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) represents the third phase of Congress's legislative efforts to address the financial and health care crisis resulting from the coronavirus (COVID-19) pandemic. In addition to providing relief to individuals and mustering forces to shore up the medical response, the CARES Act includes numerous provisions intended to help affected businesses, including eligible self-employed individuals, weather the crisis.

Individual Provisions

- Cash rebates of up to \$1,200 for singles, \$1,200 for heads of households and \$2,400 for married couples filing jointly — plus \$500 per qualifying child — subject to income-based phaseouts starting at \$75,000, \$122,500 and \$150,000, respectively.
- Expansion of unemployment benefits, including for self-employed and gig-economy workers.
- Waiver of the 10% penalty on COVID-19-related early distributions from IRAs, 401(k)s and certain other retirement plans of up to \$100,000. Taxation on distributions under this provision can be spread out over three years beginning in 2020. If funds are repaid within three years, the withdrawal is not taxable.
- Waiver of required minimum distribution rules for IRAs, 401(k)s and certain other retirement plans for 2020.
- Expansion of charitable contribution tax deductions. Individuals who do not itemize can take an above-the-line deduction of up to \$300 for 2020. In addition, individuals who claim itemized deductions can claim a current year deduction for cash contributions to qualified charities of up to 100% of adjusted gross income for 2020.
- Exclusion for certain employer payments of student loans.

Business Provisions

Employee retention tax credit

To encourage employers to keep their workforces intact, the CARES Act creates a new refundable credit against payroll tax. The credit is generally available to employers whose:

- Operations have been fully or partially suspended due to a COVID-19-related governmental shutdown order, or
- Gross receipts have dropped more than 50% compared to the same quarter in the previous year (until gross receipts exceed 80% of gross receipts in the earlier quarter).

Employers with more than 100 employees can receive the credit for employees who've been furloughed or who've had their hours reduced due to one of the reasons above. Those with 100 or fewer employees can receive the credit

regardless of whether employees have been furloughed.

The credit equals 50% of up to \$10,000 in compensation — including health care benefits — paid to an eligible employee from March 13, 2020, through December 31, 2020. Additional rules and limits apply.

Payroll tax deferral

The new law allows employers to delay their payment of the employer share (6.2% of wages) of the Social Security payroll tax. These taxpayers can pay the tax over the next two years, with the first half due by December 31, 2021, and the second half due by December 31, 2022.

Self-employed individuals receive similar relief under the law.

Relaxed restrictions on losses

Before the Tax Cuts and Jobs Act (TCJA), taxpayers could carry back net operating losses (NOLs) two years, and carry forward the losses 20 years, to offset taxable income. The TCJA limited the NOL deduction to 80% of taxable income for the year, eliminated the carryback of NOLs and removed the time limit on carryforwards.

The CARES Act loosens the TCJA restrictions. It allows NOLs arising in 2018, 2019 or 2020 to be carried back five years and temporarily removes the taxable income limitation for years beginning before 2021, so that NOLs can fully offset income.

The new law also amends the TCJA to temporarily eliminate the limitation on excess business losses for pass-through entities and sole proprietors. These taxpayers can now deduct excess business losses arising in 2018, 2019 and 2020.

Taxpayers may need to file amended tax returns to obtain the full benefits of these changes.

Modified limitation on business interest deductions

For tax years beginning after 2017, the TCJA amended the Internal Revenue Code to limit the deduction for business interest incurred by both corporate and noncorporate taxpayers. It generally limits the deduction to 30% of the taxpayer's adjusted taxable income (ATI) for the year.

The CARES Act allows businesses to deduct up to 50% of their ATI for the 2019 and 2020 tax years. (Special partnership rules apply for 2019.) It also permits businesses to elect to use 2019 ATI, rather than ATI in 2020, for the calculation, which will increase the amount of the deduction for many businesses.

Expedited depreciation of qualified improvement property

Prior to the TCJA, qualified retail improvement property, restaurant property and leasehold improvement property were depreciated over 15 years under the modified accelerated cost recovery system (MACRS). The TCJA classifies all of these property types as qualified improvement property (QIP).

The legislative history of the TCJA is clear that Congress intended QIP placed in service after 2017 to have a 15-year MACRS recovery period and, in turn, qualify for 100% bonus depreciation through 2023, when the allowable deduction will begin to phase out. But, in what's been called "the retail glitch," the statutory language didn't define QIP as 15-year property, so QIP defaulted to a 39-year recovery period, making it ineligible for bonus depreciation.

The CARES Act includes a technical correction to fix this drafting error. Hotels, restaurants and retailers that have made qualified improvements during the past two years can claim an immediate tax refund for the bonus depreciation they missed. They also can claim bonus depreciation going forward, according to the

phaseout schedule.

Expanded SBA assistance for small businesses

The CARES Act expands the ways the Small Business Administration (SBA) can help small businesses remain open and meet payroll. For example, it temporarily doubles the maximum loan amount under its primary low-interest loan program from \$5 million to \$10 million (or 2.5 times the average total monthly payroll costs for the prior year, whichever is less).

The law expands the allowable use of the so-called “Section 7(a)” funds to include payroll support, including paid leave, mortgage payments, insurance premiums and debt obligations, and waives many of the usual requirements, such as collateral and personal guarantees. Moreover, if employers maintain their payrolls for eight weeks after the loan origination, the portion of the loan applied to payroll, mortgage interest, rent and utilities will be forgiven.

To qualify, businesses generally must have 500 or fewer employees and have been operational on February 15, 2020. Sole proprietors, independent contractors and other self-employed individuals may qualify.

Amendments to the new paid leave law

The CARES Act also makes some critical modifications to the Families First Coronavirus Response Act, which was signed into law on March 18. That law temporarily requires certain employers to provide expanded paid sick and family leave for certain employees affected by COVID-19.

The CARES Act provides a new rule that defines “eligible employee” for purposes of paid sick and family leave to include employees who:

- Were laid off by the employer March 1, 2020, or later,
- Had worked for the employer for at least 30 days in the 60 calendar days prior to the layoff, and
- Have been rehired by the employer.

And the CARES Act allows advances on anticipated tax credits for employers’ paid leave costs and provides penalty relief for employers that don’t deposit tax amounts because they expect credits.

More to come?

Several members of Congress have suggested that the CARES Act won’t be the end of the federal legislative relief in response to the COVID-19 pandemic. We’ll keep you informed of new developments that could affect your bottom line and help you navigate the best financial course forward during these uncertain times.

