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## **Federal Tax Provisions**

### **Rebate Payments**

The Act provides for immediate rebate payments to millions of Americans. The maximum rebate is \$1,200 per individual taxpayer and \$2,400 for married taxpayers filing a joint return. An additional \$500 credit for each child is also provided.

The rebate is reduced by \$5 for each \$100 that a taxpayer's income (based on data from their 2019 income tax return, if already filed, or 2018 income tax return, if not filed) exceeds \$75,000 or \$150,000 for single and joint filers, respectively. The rebate will be completely phased out for income in excess of \$99,000 for single taxpayers and \$198,000 for joint filers.

### **Postponed Tax Deposit Deadlines**

The 6.2% employer portion of Social Security taxes for wages paid from the date of enactment through December 31, 2020 may be deferred and paid during the subsequent two tax years. Half of the deferred payment is due on December 31, 2021 and the remaining half is due on December 31, 2022.

### **Employee Retention Tax Credit**

The ACT provides a refundable payroll tax credit for wages paid by an employer whose operations were suspended due to a COVID-19 business shut-down order or whose gross receipts declined by more than 50% compared to receipts in the same prior-year quarter.

The credit applies to all qualified wages paid by an employer with 100 or fewer full-time employees whether or not the employer's business is closed or subject to a shut-down order. For an employer with more than 100 employees, the credit applies to qualified wages paid to employees that are unable to work in the employer's business due to the situations previously described.

The credit is equal to 50% of the qualified wages paid or incurred from March 13, 2020 to December 31, 2020, limited to the first \$10,000 (including health benefits) of wages paid to each eligible employee.

### **Business Tax Loss Limitations**

The Tax Cuts and Jobs Act ("TCJA") eliminated the ability of taxpayers to carryback net operating losses and implemented an 80% taxable income limitation for the utilization of net operating loss carryforwards generated in tax years beginning after 2017. The TCJA also instituted an excess business loss limitation for losses attributable to sole proprietorships or pass-through entities.

The CARES Act allows a five-year carryback of net operating losses generated in tax years beginning after December 31, 2017. The ACT also temporarily suspends the 80% taxable income limitation. Similarly, the Act modifies the excess business loss limitation for 2019 and 2020 so that sole proprietorship and flow-through losses also may be more easily utilized.

### **Charitable Contributions**

The new law suspends the individual charitable contribution limitation of 60% of adjusted gross income for the 2020 tax year and creates a \$300 charitable contribution deduction that is available to taxpayers that do not itemize deduction. Similarly, the Act increases the charitable contribution limitation for corporations for the 2020 tax year from 10% to 25% of taxable income and increases the limitation for food inventory contributions from 15% to 25%.

### **Retirement Plan Withdrawals**

Individuals diagnosed with COVID-19 or those subject to a COVID-19 related financial detriment (layoff, reduced hours, required child care, etc.) may withdraw up to \$100,000 from a qualified retirement plan account through the end of 2020. The withdrawals are not subject to the 10% early withdrawal penalty. Amounts repaid to the plan within three years would be treated as tax-free rollover contributions and amounts that are not repaid would be taxable over a three-year period.

### **Other Tax Provisions**

The new law contains several favorable changes to business provisions including:

- Increases the interest expense deduction limitation from 30% to 50% of adjusted taxable income for the 2019 and 2020 tax years.
- Accelerates the ability of corporations to recover alternative minimum tax (AMT) credit carryforwards.
- Amends the provisions defining the class life of certain qualified improvement property making that property eligible for immediate bonus depreciation. This amendment is a permanent technical correction to the TCJA.
- Allows employers to provide up to \$5,250 of tax-free educational assistance and student loan payments to each of its employees during 2020.

## **Small Business Loan Provisions**

The Act creates an approximately \$350 billion loan program for small businesses. The program (“Payment Protection Program”) allows more small businesses access to the Small Business Administration (“SBA”) 7(a) loan program, the SBA’s primary program for providing financial assistance to small businesses. Formerly, access to the program was restricted based on certain industry-specific parameters. The Act now allows any business or public or private nonprofit organization with 500 or fewer employees that has been substantially affected by COVID-19 to borrow under the SBA 7(a) program. Eligible borrowers include sole-proprietors, independent contractors, and other self-employed individuals.

The period to which the program applies begins on February 15, 2020 and ends on June 30, 2020. The Act increases the maximum 7(a) loan amount to \$10 million and increases the maximum amount of an “express loan” with 36-hour turnaround time from \$350,000 to \$1 million. The amount that may be borrowed through the program is determined under a formula based on payroll costs for the year preceding the loan date. The program waives borrower and lender participation fees for utilizing the Paycheck Protection program. Lender servicing fees are 5% for loans up to \$350,000, 3% for loans up to \$2,000,000 and 1% for loans in excess of \$2,000,000.

The specified uses of the loan proceeds include employee wages, paid sick or medical leave, insurance premiums, mortgage, rent and utility payments. Borrowers are required to make a good faith certification that the loan is necessary due to economic conditions caused by COVID-19 and that they will use the loan proceeds to retain employees and maintain payroll, make rent and utility payments and are not receiving duplicate funds for the same purposes from another SBA program.

Loans made under the program are fully guaranteed by the Federal government through December 31, 2020. After that date, the guarantee percentages are 75% for loans exceeding \$150,000 and 85% for loans \$150,000 or less. Qualifying costs incurred by the borrower during the 8-week period after the loan origination date may be forgiven. Qualifying costs include employee compensation, interest on a mortgage in place before February 15, 2020, rent on a lease in force before February 15, 2020, and utilities for services that originally began before February 15, 2020. The amount of compensation is limited to \$100,000 per year.

The amount of loan forgiveness is determined using a formula of the qualifying costs compared to the previous year or time period, subject to adjustments for the number of employees and to compensation in those periods. Employers that previously laid off employees due to COVID-19 related difficulties will receive a benefit in the determination of loan forgiveness for any of those employees that are rehired.

The amount of the loan forgiveness cannot exceed the principal amount of the loan. Any loan forgiveness will not be included in the taxable income of the borrower. Any principal that is not forgiven after one year will be payable over a maximum 10-year term at a maximum 4% interest rate.

The SBA will pay the principal, interest and any associated fees that are currently owed on certain SBA loans for a six-month period starting on the next payment due date. Loans that are already on deferment would include an additional six months of payment by the SBA beginning with the next payment.

## **Other Provisions**

### **Student Loans**

The Act defers student loan principal and interest payments on all federally owned loans for six months through September 30, 2020 without penalty to the borrower.

### **Unemployment Benefits**

The Act creates a temporary Pandemic Unemployment Assistance (“PUA”) program through December 31, 2020 that provides assistance to individuals not traditionally eligible for unemployment benefits (self-employed individuals, independent contractors, individuals with limited work history, etc.) that are unable to work due to a COVID-19 health emergency. The PUA program also provides an additional 13 weeks of benefits through December 31, 2020 to individuals whose state unemployment benefits are no longer available. In addition, the Act also

provides an additional \$600 weekly payment to each recipient of Pandemic Unemployment Assistance or unemployment insurance payments for a period of up to four months.

### **Bankruptcy**

The Act increases the eligibility threshold to file under Chapter 11 of the Bankruptcy Code to businesses with less than \$7,500,000 of debt. The provision sunsets back to the current law after one year. The Act also changes the definition of income for purposes of Chapters 7 and 13 of the Bankruptcy Code to exclude coronavirus related payments from the Federal government and clarifies that coronavirus related payments are not included in the calculation of disposable income for purposes of confirming a Chapter 13 plan. These provisions also sunset after one year.

### **Credit Protection**

Businesses that furnish information to credit reporting agencies who agree to modify payments for a consumer that has been impacted by COVID-19 are required to report the underlying obligation or account as "Current" or as the same status at which the account was reported prior to the modification. This applies only to accounts for which the consumer has met the requirements agreed upon in the modification. The credit protection begins on January 31, 2020 and ends on the date that is the later of 120 days after the Act's enactment date or 120 days after the national emergency declaration is lifted.

### **Foreclosure and Eviction**

The Act prohibits foreclosures on all federally-backed mortgages for a 60-day period beginning March 18, 2020. Similarly, a landlord is prohibited from initiating legal action to evict a tenant or to assess fees, penalties, or other charges for nonpayment of rent for a 120-day period after the enactment date where the landlord's mortgage is federally backed.