The CARES Act: Individual and Business Tax Provisions

April 10, 2020

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Agenda

- Keiter COVID 19 Resource Center
- Breaking News-Tax deadlines
- CARES Act: Individual Tax Provisions
- CARES Act: Business Tax Provisions

Keiter COVID 19 Resource Center

https://keitercpa.com/covid-19-resources/

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Breaking News!!!!

- IRS Notice 2020-23
- IRS Broadens tax filing and payment deadlines to July 15,2020
- Now includes all payments originally due April 1-July 14, 2020
- Also extends elections, schedules and ESTIMATED Taxes

THE CARES ACT:
TAX RELIEF PROVISIONS FOR INDIVIDUALS

RETIREMENT ACCOUNT DISTRIBUTIONS

CHARITABLE CONTRIBUTIONS

STUDENT LOAN PAYMENTS

EXCESS BUSINESS LOSS LIMITATIONS

RECOVERY REBATES FOR INDIVIDUALS

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Retirement Account Distributions

- PENALTY FREE WITHDRAWALS FROM IRA AND RETIREMENT ACCOUNTS
  - Normally, a distribution from an IRA or retirement plan is subject to a 10% penalty if taken prior to age 59 ½. The CARES Act provides that the 10% penalty does not apply to any coronavirus-related qualifying distribution.

Qualified Distribution

- A “qualifying distribution” (subject to dollar limits discussed below), is one made on or after January 1, 2020, and before December 31, 2020, from an eligible retirement plan made to a qualified individual.

Qualified Individual

- A "qualified individual" is an individual
(1) who is diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019 (COVID-19) by a test approved by the Centers for Disease Control and Prevention (CDC),
(2) whose spouse or dependent is diagnosed with such virus or disease by such a test, or
(3) who experiences adverse financial consequences as a result of being quarantined, being furloughed or laid off or having work hours reduced due to such virus or disease, being unable to work due to lack of child care 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.

Distribution Limitations

- The aggregate amount of distributions received by an individual which may be treated as coronavirus-related distributions for any tax year cannot not exceed $100,000.
  - *The distribution can be paid back to the IRA or retirement plan* at any time during the 3-year period beginning on the day after the date on which such distribution was received, in a lump sum or series of payments and avoid paying income tax on the distribution.
- In the case of any coronavirus-related distribution, unless the taxpayer elects not to, any amount required to be included in gross income for such tax year will be so included ratably over the 3-tax year period beginning with the first tax year of the distribution.

INCREASE IN AMOUNT OF QUALIFIED PLAN LOANS

- The maximum allowable employer plan loan for a "qualified individual" is increased from $50,000 to $100,000 for loans made during the 180-day period beginning March 27, 2020.

- In addition, if a qualified individual has an outstanding loan from a qualified plan, the due date for any payments due during the period March 27,2020, through December 31, 2020, is extended for one year.
- Note: The Plan must provide for such provisions

REQUIRED MINIMUM DISTRIBUTION (RMD) RULES WAIVED FOR 2020

- IRA owners and retirement plan participants who turned age 70 ½ prior to and during 2019 are not required to take RMDs for 2020. These waived rules also apply to inherited IRAs and retirement plans.

- IRA owners that turn 70 ½ after December 31, 2019 are not impacted by this change, as their RMDs do not have to start until age 72.

- A RMD that has already been taken in 2020 can be paid back to the IRA or qualified plan and not be subject to tax or penalty for 2020, if the distribution is paid back within 60 days of the distribution.

- Qualified IRA owners can still take advantage of the favorable direct payments to a charity during 2020

CHARITABLE CONTRIBUTION DEDUCTION CHANGES

- The CARES Act contains two key changes for individuals for charitable contributions in 2020.
  - Individuals that take the standard deduction will be allowed to take a $300 above-the-line deduction for calculating adjusted gross income (AGI) for qualifying charitable contributions made in 2020.
  - The AGI limitation for determining the amount of the contribution deduction for qualifying cash contributions made in 2020 is generally increased to 100% of AGI.
  - Contributions to private foundations and donor advised funds do not qualify

EXCLUSION FOR EMPLOYER PAYMENTS OF STUDENT LOAN DEBT

- IRC section 127 provides that expenses paid by an employer for educational assistance for an employee can be excluded from the taxable income of the employee for up to $5,250 of such payments in a taxable year.
- Under the CARES Act, educational assistance now includes payment by an employer during the period March 27, 2020, and before January 1, 2021, of principal or interest on an employee's qualified higher education loan. The payments can qualify if made to the student loan lender or directly to the employee.
- To the extent the employer pays student loan interest, the employee cannot take a deduction on their personal tax return for the amount of the interest paid.

EXCESS BUSINESS LOSS LIMITATIONS

- The Tax Cuts and Jobs Act (TCJA) provided that certain business losses incurred in tax years beginning after 2017 could no longer be available to offset other income of an individual taxpayer.
- The CARES Act Temporarily removes the $500,000/$250,000 limitation on deducting “excess business losses” for 2018, 2019 and 2020.
- Note: Taxpayers who had losses limited under these provisions for 2018 and 2019 should consider whether to amend their 2018 or 2019 tax returns to claim the full amount of the business losses.

RECOVERY REBATES FOR INDIVIDUALS

- To help individuals stay afloat during this time of economic uncertainty, the government will send up to $1,200 payments to eligible taxpayers and $2,400 for married couples filing joint returns.
- An additional $500 additional payment will be sent to taxpayers for each qualifying child dependent under age 17 (using the qualification rules under the Child Tax Credit).
- These rebates will **<u>not</u>** be considered taxable income for 2020.
- Rebates are payable whether or not tax is owed. Individuals who had little or no income, such as those who filed returns simply to claim the refundable earned income credit or child tax credit, qualify for a rebate.

RECOVERY REBATE PHASEOUT

- Rebates are gradually phased out, at a rate of 5% of the individual's adjusted gross income (AGI) over $75,000 (singles or marrieds filing separately), $122,500 (head of household), and $150,000 (joint).
- The rebate/credit is phased out for a single filer with AGI exceeding $99,000 and for joint filing taxpayers with no children AGI in excess of $198,000.

RECOVERY REBATES QUALIFICATIONS

- Tax filers must have provided, on the relevant tax returns or other documents, Social Security Numbers (SSNs) for each family member for whom a rebate is claimed.
- SSNs are not required for spouses of active military members.
- The rebates are not available to nonresident aliens, to estates and trusts, or to individuals who themselves could be claimed as dependents.

RECOVERY REBATE QUALIFICATIONS

- The ultimate decision concerning whether a taxpayer is entitled to a rebate/credit will be based on a taxpayer’s AGI on their 2020 tax returns.
  - Taxpayer’s will file a schedule computing the amount of the credit/rebate with their 2020 tax return.
  - If AGI has declined substantially from 2018 or 2019, a taxpayer could be entitled to a credit on their 2020 tax return. Conversely, if AGI has substantially increased compared to 2018 or 2019, taxpayers will not be required to repay any rebate funds previously received.

RECOVERY REBATE PAYMENTS

- The rebates will be paid out in the form of checks or direct deposits. Most individuals won’t have to take any action to receive a rebate.
- IRS will compute the rebate based on a taxpayer’s tax year 2019 return (or tax year 2018, if no 2019 return has yet been filed).
  - If no 2018 return has been filed, IRS will use information for 2019 provided in Form SSA-1099, Social Security Benefit Statement, or Form RRB-1099, Social Security Equivalent Benefit Statement.

THE CARES ACT:
TAX RELIEF PROVISIONS FOR BUSINESSES

NET OPERATING LOSS (NOL) RULES
CHARITABLE CONTRIBUTIONS
AMT CREDITS
INTEREST EXPENSE LIMITATIONS
QUALIFIED IMPROVEMENT PROPERTY

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NET OPERATING LOSS (NOL) CARRYBACK RULES CHANGED

- The Tax Cuts and Jobs Act (TCJA) provided that NOLs incurred in tax years beginning after 2017 could no longer be carried back to a prior tax year of the taxpayer. Instead, they must be carried forward to offset 80% of taxable income in future years.
- The CARES Act makes changes to these carryback and carryover rules.
  - NOLs incurred in tax years 2018-2020 may be carried back five years.
  - If carried over to future years, the NOLs can be used to offset 100% of taxable income but only 2018-2020; 80% limits revert back after that.

Rules before TCJA

- The rules before TCJA required carryback first, then carryover unless the taxpayer made an irrevocable election to forgo the carryback.
- The same rules now apply for taxpayers who incur an NOL in tax year 2018 or 2019. In many cases, it will make sense to carryback the NOL, not only for the refunded taxes but also when the taxpayer's effective income tax rate in past years exceeded the current corporate rate of 21%.
- For corporations, the use of an NOL for the 2017 tax year or earlier may result in the imposition of alternative minimum tax. That tax, however, may then be recovered via the refundable AMT credit.

CHARITABLE CONTRIBUTION DEDUCTION INCREASED TO 25%

- Under the CARES Act, businesses get increased limitations on allowable cash charitable contributions.
  - Before 2020, deductible charitable contributions by C-corporations were limited to 10% of taxable income before the effect of charitable donations.
  - For 2020, the allowable contribution limitation is increased to 25% of taxable income. There are also enhanced contributions for food inventory.
  - C-corporations will elect the 25% in the appropriate tax year return.
  - For Pass-through entities, individual partners/shareholders will make the election.

CORPORATE AMT CREDIT

- After 2017, corporate alternative minimum tax was repealed. However, corporations may still have refundable AMT credits available.
  - Under the TCJA, 50% of the remaining AMT was refundable each year, with the remaining portion fully refundable in 2021.
- The CARES Act allows the AMT credit to be fully refunded on the 2019 tax return.
  - Corporations may also elect to recover the entire credit in 2018, made by way of filing Form 1139.
- Note: the carryback of an NOL may result in a corporation paying additional alternative minimum tax, which can be recovered.

INTEREST EXPENSE LIMITATION INCREASED

- Under Section 163(j), deductible interest expense was limited to 30% of “adjusted taxable income” after 2017 (for larger taxpayers $25MM+ revenue).
- Pass-through entities with excess business interest expense passes to the individual owners. They can then apply “excess business interest income” or “excess taxable income” from the pass-through against the excess business interest expense.
- Under the CARES Act, the C-corporation and S-Corporation limit is increased to 50% of ATI for 2019 and 2020.
- The Partnership limitation stays at 30% for 2019, increasing to 50% for 2020.
- Taxpayers may elect out of the increased limitation
- Section 163(j) is complex, but the change should provide relief for leveraged businesses.

QUALIFIED IMPROVEMENT PROPERTY- BONUS DEPRECIATION

- Qualified improvement properties (QIP) are interior common areas of non-residential buildings and were intended by Congress to be 15-year depreciable property, eligible for 100% expensing through bonus depreciation.
- Due to the rushed passing of the TCJA, the depreciable lives of QIP remained at 39-years, <u>ineligible</u> for bonus depreciation.

QIP FIXED

- The CARES Act provides a correction, retroactive to QIP placed in service in 2018, and keeps the 15-year life for QIP placed in service through 2023.
- If the taxpayer has not filed its 2019 return, the options include:
  - Amend its 2018 tax return, or
  - Wait for guidance to see if the IRS will permit a Form 3115, accounting method change, so that it can claim the additional depreciation in 2019. (The IRS does not generally allow a method change unless two years)
- If a 2019 return has already been filed:
  - Form 3115 can be filed, but currently, the change will not be automatic requiring permission and user fees.
- Anticipate further IRS guidance on correcting or revising the QIP treatment.

States?

Remember that states have varying positions on federal laws/legislation

- Some states have rolling conformity
- Others have set conformity as of a date

Stay Tuned!

Questions?

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