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## **Coronavirus Aid, Relief, and Economic Security Act (CARES Act) Business Tax Provisions**

On March 27, the House passed by voice vote, and the President signed, a third coronavirus relief package, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act, H.R. 748, the Act). The Senate had previously passed the Act on March 25 by unanimous vote.

### **Paycheck Protection Program (SBA Loan)**

The CARES Act makes amendments to section 7(a) of the Small Business Act to provide SBA guaranteed loans for the period from February 15, 2020 to June 30, 2020. Eligible businesses consist of businesses that employ 500 or fewer employees. The maximum amount of the loan is 250% (2.5 times) of average monthly payroll expenses, up to a total of \$10 million. Payroll expenses includes salaries, wages, various types of paid leave and payment of group health care benefits. The average is determined for the one-year period before the loan is made and does not include compensation to individual employees in excess of \$100,000. To be eligible for loan forgiveness, the loan proceeds should be utilized to pay the following costs: (A) payroll costs – employee salaries (up to an annual rate of pay of \$100,000 (\$8,333 per month)), hourly wages and tips, paid sick or medical leave, retirement contributions and group health insurance premiums; (B) rent payments, (C) utility service payments and (D) interest payments on certain existing mortgages.

Loan forgiveness is available for the amounts paid for the eligible costs, as outlined above during the 8-week period after the loan is issued. The purpose of the Paycheck Protection Program is to help employers retain your employees, at their current base pay. If you keep all of your employees, the entirety of the loan will be forgiven. If you still lay off employees, the forgiveness will be reduced by the percent decrease in the number of employees. If your total payroll expenses on workers making less than \$100,000 annually decreases by more than 25 percent, loan forgiveness will be reduced by the same amount. If you have already laid off some employees, you can still be forgiven for the full amount of your payroll cost if you rehire your employees by June 30, 2020. The amount of loan forgiveness will be excluded from taxable income when forgiven.

If the loan is not forgiven, the maximum term of the loan features a 10-year term with interest capped at 4% and a 100% loan guarantee by the SBA. There are no loan fees and collateral requirements and personal guarantees are wavier. Loan payment will be deferred for at least six months and up to one year starting at the origination of the loan.

**Loans will be provided by approved SBA loan institutions and we recommend contacting your bank to begin the process of applying for this loan.** We are here to support you in the application process, just contact your firm associate for assistance.

**Employee retention credit** - A refundable payroll tax credit is available for 50% of wages paid by employers, including non-profits, whose operations have been fully or partially suspended as a result of a government order limiting commerce, travel, or group meetings. For employers who had an average number of full-time employees in 2019 of 100 or fewer, all employee wages are eligible, regardless of whether the employee is furloughed. For employers who had a larger average number of full-time employees in 2019, only the wages of employees who are furloughed or face reduced hours as a result of their employers' closure or reduced gross receipts are eligible for the credit. ***The term "wages" includes health benefits and is capped at the first \$10,000 in wages paid by the employer to an eligible employee.*** The credit applies to wages paid after March 12, 2020 and before Jan. 1, 2021. The credit is not available to employers receiving a Payroll Protection Loan.

**Payroll Tax Deferral** - The CARES Act allows taxpayers to defer paying the employer portion of certain payroll taxes through the end of 2020. This include the employer share of Social Security and Medicare taxes or 50% of eligible SE taxes for self-employed individuals. 50% of the balance will be due 12/31/21, with the remaining balance due 12/31/22. Deferment is not available to employers that receive a Payroll Protection Loan.

**Net Operating Loss (NOL) Modifications** – The CARES Act temporarily removes the taxable income limitation to allow an NOL to fully offset income. This applies to NOLs originating in 2018 carried forward to 2019. NOLs arising in 2019, 2020 can be carried back to each of the five tax years preceding the tax year of the loss.

The CARES Act temporarily modifies the excess loss limitation for noncorporate taxpayers so they can deduct excess business losses arising in 2018, 2019, and 2020.

**Business Interest Deduction** - The CARES Act temporarily and retroactively increases the limitation on the deductibility of interest expense from 30% to 50% for tax years beginning in 2019 and 2020. In addition, taxpayers can elect to calculate the interest limitation for their tax year beginning in 2020 using the adjusted taxable income for their last tax year beginning in 2019 as the relevant base.

**Bonus depreciation for qualified improvement property** - The CARES Act provides a technical correction to the TCJA, and specifically designates Qualified Improvement Property as 15-year property for depreciation purposes. This makes QI Property a category eligible for 100% Bonus Depreciation. The amendments are effective for property placed in service after Dec. 31, 2017.

This is a summary of the provisions. We expect to gain a greater understanding of the provisions in the coming days and weeks.