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Tax Relief From The COVID-19 Pandemic

Chamberlain Tax Planning Update - Tax Relief From The COVID-19 Pandemic

March 31, 2020

COVID-19 is a public health crisis that has already had a profound impact on the U.S. economy. Businesses and individuals are struggling to adapt to restrictions imposed by federal, state and local governments in an attempt to "flatten the curve" and limit the consequences on public health. Several major laws were recently enacted to help partially offset the economic effects of this crisis and hopefully put businesses and the economy in a position to hit-the-ground running once this time has passed.

The Chamberlain Tax Planning & Business Transactions Team has prepared this summary to highlight the tax-relief provisions in the Families First Coronavirus Response Act ("FFCRA"), Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act"), and tax extensions provided by the IRS and the Texas Comptroller of Public Accounts. Given the expedited nature in which this legislation was passed, there is limited guidance, which will undoubtedly cause questions and issues until more guidance is issued. As such, please let us know of any questions.

I. Tax Provisions for Businesses

A. FFCRA

Tax credits (as summarized below) are available for employers with less than 500 employees to offset the employers' costs to provide paid leave benefits to employees under the Emergency Family and Medical Leave Expansion Act and Emergency Paid Sick Leave Act. The tax credits are refundable and are credited against the employer's payroll tax liability, which allows a tax refund in cases where the employer cannot utilize all of the tax credit. The tax credits are subject to certain limitations.

Applicability: Applies for wages paid between April 1, 2020 through December 31, 2020.

1. Payroll Tax Credit - Sick Leave

Employers are allowed a tax credit for 100% of the wages paid to employees who need time off for quarantine, isolation, diagnosis, or treatment related to COVID-19. The tax credit is capped at $200 or, in certain circumstances, $511 per day for each employee. The total number of sick days for which the employer is entitled to the credit for all quarters is 10 days per employee.

2. Payroll Tax Credit - Family Leave

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Employers are allowed a tax credit for 100% of the wages paid to employees who need time off to care for a family member who is subject to a quarantine or isolation order or has been exposed to or diagnosed with COVID-19, or has a child under the age of 18 whose school or childcare provider has closed due to COVID-19 precautions. The tax credit is capped at $200 per day for each employee and is capped at $10,000 per employee for all quarters.

3. Self-employed Individuals

Similar tax credits are available to self-employed persons. The tax credit is based upon the lesser of 67% of a self-employed person's self-employment income or the amount of tax credit they would be entitled to if they were employed by an employer subject to these provisions, and is subject to similar caps.

B. CARES Act

1. Net Operating Loss Deductions

The Tax Cuts and Jobs Act of 2017 (the "TCJA") limited the use of net operating loss with the result that the NOL deduction could only offset 80% of taxable income, and NOLs arising after December 31, 2017 could not be carried back to offset previous years' taxable income.

The limitations are relaxed so that NOLs incurred after December 31, 2017 and before December 31, 2021 can be carried back 5 years. Any losses incurred in this period are not subject to the 80% limitation and can be utilized to fully offset income.

2. Business Interest Expense Deduction

The business interest expense deduction is temporarily increased to 50% (instead of 30%) of business income for tax years 2019 and 2020.

3. Loan Forgiveness for Section 7(a) loans of the Small Business Act

Loan proceeds will be forgiven to the extent they are used for costs related to payroll, interest, rent, and utilities and amount forgiven is capped at the principal amount of the loan . Since the aim of the loans is to incentivize employers to retain their employees, any loan forgiveness amount is reduced in proportion to any workforce reductions or certain wage reductions for employees earning less than $100,000 a year.

Typically, loan forgiveness amounts are includable in gross income, however under this provision any amounts forgiven will not be included in gross income.

4. Employee Retention Credit

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There is a refundable tax credit for 50% of the wages paid to employees by employers who had to suspend their business operations or had gross receipts decline by more than 50% compared to the same quarter in the previous year.

For employers with more than 100 full-time employees, only employee wages of those who are furloughed or have reduced hours are eligible. For employers with 100 or fewer full-time employees, all employee wages are eligible whether the employer is open for business or closed.

The credit is capped at $10,000 per employee for all quarters. Note that wages do not include required paid sick leave or required paid family leave under the FFCA, nor wages taken into account for the employer credit for paid family and medical leave.

Applicability: Applies for wages paid between March 13, 2020 through December 31, 2020.

5. Bonus Depreciation

The TCJA was intended to simplify the bonus depreciation rules for qualified improvement property ("QIP"), which includes improvements made to the interior of a non-residential building after such building is placed in service, by classifying all such property as having a 15- year life. However, due to a drafting error, the final statutory language of the TCJA omits QIP from the definition of qualified property for bonus depreciation purposes. This error was known as the "retail glitch," as it prevented restaurants and retailers from immediately writing off the costs of interior improvements. The "retail glitch" is fixed at long last. The CARES Act corrects this error and allows taxpayers to claim bonus depreciation for QIP effective retroactively.

6. Lending Program for Mid-Size Businesses

The Treasury Secretary will provide a lending program to eligible businesses (including nonprofit organizations) with between 500 and 10,000 employees. These loans will not have an interest rate higher than 2% and will require no repayment for at least 6 months. The eligible businesses must make the following good-faith certifications:
- The business has significant operations and employees in the United States;
- The business is not in bankruptcy;
- The funds will be used to maintain at least 90 percent of their current workforce until September 30, 2020;
- The business will not outsource or offshore jobs during the loan period or 2 years thereafter;
- The business will not pay dividends or repurchase stock;
- The business will not abrogate existing collective bargaining agreements with labor union during the loan period or 2 years thereafter; and
- The company will remain neutral in any union organizing activity during the term of the loan.

7. Deferred Payment of Social Security Payroll Taxes

Employers can defer payment of the share of Social Security payroll taxes that are imposed on the employer. The first half of the deferral amount is due on December 31, 2021 and the remaining half is due on December 31, 2022.

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Applicability: Applies for wages withheld from March 27, 2020 to January 1, 2021.

8. Corporate AMT Credits

Under the TCJA, the corporate alternative minimum tax credit refunds were recoverable over a 4-year period. Companies can now accelerate these refunds for use in 2018 and 2019.

9. Charitable Contributions

Certain limitations on charitable contribution deductions have been increased for 2020. Corporations may now deduct charitable contributions up to 25% of taxable income.

10. Limitation on Excess Business Losses

Previously, the TCJA denied non-corporate taxpayers a deduction for excess business losses for tax years beginning after December 31, 2017 and before January 1, 2026. An excess business loss is generally the excess of aggregate deductions attributable to a trade or business over the sum of aggregate gross income plus a threshold amount. Pass-through entities and sole proprietors may now deduct excess business losses for tax years beginning before January 1, 2021.

11. Aviation Excise Tax

The federal aviation excise tax on commercial aviation has been waived for the period beginning on March 27, 2020 and ending on December 31, 2020.

12. Distilled Spirits

The federal excise tax on any distilled spirits used for the production of hand sanitizer has been waived for the 2020 calendar year if produced and distributed in a manner consistent with guidelines issued by the Food and Drug Administration.

II. Tax Provisions for Individuals (CARES Act)

1. Individual Recovery Rebates

The IRS will send eligible individuals a rebate check equal to $1,200 ($2,400 for married joint filers) with an additional $500 per qualifying child. Eligible individuals must have a social security number and must not be a dependent of another taxpayer.

The rebate amount will begin to reduce by 5% as the individual's income exceeds $75,000 ($112,500 for head-of-house filers and $150,000 for married joint filers).

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Furthermore, individuals whose income exceeds the following income thresholds will not be eligible for a rebate: (i) $99,000 for individuals with no qualifying children; (ii) $146,500 for head-of-house filers with one child; and (iii) $198,000 for married joint filers.

2. Charitable Contributions

The cap for individuals who itemize deductions has been raised to 100% of adjusted gross income. Individuals who do not itemize (i.e., claim the standard deduction) are afforded an above-the-line deduction up to $300.

3. Retirement Funds

Individuals can withdraw up to $100,000 from their eligible employer retirement plans for COVID-19-related withdrawals without penalties. The income tax on such distributions is over a 3-year period. Furthermore, the requirement that participants or owners of certain retirement accounts take required minimum distribution rules do not apply for calendar year 2020.

III. Other Tax Relief

A. IRS

1. U.S Federal Income Tax Return Filing and Tax Payment

The April 15, 2020 deadline for tax return filings and payments is postponed until July 15, 2020. The extension applies automatically and there will be no interest or penalty applied.

2. Audits

During the suspension period (April 1 to July 15, 2020), the IRS will not start any new audits
except where necessary.

B. Texas Comptroller

1. Motor Vehicle Tax Extension

For certain vehicle purchases, there is a 90-day extension from the original due date to pay the motor vehicle tax due. The extension is not available to seller-financed vehicle sales.

2. Sales Tax

There is potential relief for taxpayers who were unable to pay the full amount of sales tax collected in February, which was due on March 20. Taxpayers can call the Enforcement Hotline to discuss options for a short-term payment agreement or a waiver of penalties and interest on unpaid amounts.

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We stand ready to provide guidance and answer questions related to the tax-relief provisions described above, and we are continually monitoring new legislation related to COVID-19. This crisis will eventually pass. As always, throughout this difficult time and after, we will be here to serve our clients.

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