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COVID-19
CARES Act Business Tax Provisions

In our attempt to keep everyone up to date on coronavirus information, here's a brief summary of the provisions for businesses in the CARES Act during the COVID-19 shutdown. For other information, support, and resources, visit the COVID-19 Resource Center section on eNetwork.

Employee retention credit for employers

New law. This provision provides a refundable payroll tax credit for 50% of wages paid by eligible employers to certain employees during the COVID-19 crisis.

Eligible employers. The credit is available to 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. The credit is also provided to employers who have experienced a greater than 50% reduction in quarterly receipts, measured on a year-over-year basis.

Exception. The credit is not available to employers who receive a Small Business Interruption Loan.

Wages paid to which employees? 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 100 or more 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.

Effective date. The credit applies to wages paid after March 12, 2020 and before Jan. 1, 2021.

Delay of payment of employer payroll taxes

New law. The CARES Act allows taxpayers to defer paying the employer portion of certain payroll taxes through the end of 2020.

Which taxes need to be paid with each payroll? Employers will need to pay the employee's portion of Social Security and Medicare taxes PLUS any federal or state withholding taxes withheld from employee's paychecks.

Which taxes can be delayed? Employers can delay the employer portion of the Social Security and Medicare (50%).

When are the delayed taxes due? Dec. 31, 2020. An employer will be treated as having timely made all deposits of applicable employment taxes required to be made during the payroll deferral period if all such deposits are made not later than Dec. 31, 2020.

Effective date: March 27, 2020

Temporary repeal of taxable income limitation for net operating losses (NOLs)

Old law. Under Code Sec. 172(a) the amount of the NOL deduction is equal to the lesser of (1) the aggregate of the NOL carryovers to such year and NOL carrybacks to such year, or (2) 80% of taxable income computed without regard to the deduction allowable in this section. Thus, NOLs are currently subject to a taxable-income limitation and can't fully offset income.

New law. The CARES Act temporarily removes the taxable income limitation to allow an NOL to fully offset income.

Deductibility of interest expense temporarily increased

Background. The Tax Cuts and Jobs Act of 2017 (TCJA) generally limited the amount of business interest allowed as a deduction to 30% of adjusted taxable income (Code Sec 163(j)(10).

New law. The CARES Act temporarily and retroactively increases the limitation on the deductibility of interest expense under Code Sec. 163(j)(1) from 30% to 50% for tax years beginning in 2019 and 2020. ☞

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Bonus depreciation technical correction for qualified improvement property

Background. The Tax Cuts and Jobs Act of 2017 (TCJA) amended Code Sec. 168 to allow 100% additional first-year depreciation deductions (“100% Bonus Depreciation”) for certain qualified property. The TCJA eliminated pre-existing definitions for (1) qualified leasehold improvement property, (2) qualified restaurant property, and (3) qualified retail improvement property. It replaced those definitions with one category called qualified improvement property (“QI Property”). A general 15-year recovery period was intended to have been provided for QI Property. However, that specific recovery period failed to be reflected in the statutory text of the TCJA. Thus, under the TCJA, QI Property falls into the 39-year recovery period for nonresidential rental property. That makes the QI Property category ineligible for 100% Bonus Depreciation.

New law. The CARES Act provides a technical correction to the TCJA, and specifically designates QI Property as 15-year property for depreciation purposes. (Code Sec. 168(e)(3)(E)(vii), as amended by Act Sec. 2307(a)(1)(A)) This makes QI Property a category eligible for 100% Bonus Depreciation. QI property also is specifically assigned a 20-year class life for the Alternative Depreciation System.