LAW ALERT

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TAX RELATED PROVISIONS OF THE CARES ACT

Included in the CARES Act were many tax-oriented provisions. These include:

Retirement Plan Provisions

- Elimination of 10% additional tax on premature distributions of up to $100,000 of distributions taken for coronavirus purposes during the 2020 calendar year.
- Distributions will not be subject to withholding.
- Distributions will be subject to income tax unless repaid within 3 years of the date the distribution was received. Repayment can be made at any time during the 3 year period.
- To the extent not repaid, the taxpayer can elect to include the income ratably over the 3 year period, beginning with the taxable year in which the distribution was received.
- The foregoing only applies to those directly impacted by COVID-19 either as a result of the individual or a spouse or child being diagnosed as having the virus, or suffering adverse financial consequences as result of COVID-19 (including as a result of being quarantined, furloughed, or laid off; or as a result of reduced work hours due to the virus, lack of child care, or closing or reduction of business hours).
- For a limited period the amount that can be borrowed from a qualified plan has been increased to $100,000. The limitation that a loan be limited to 50% of the present value of the taxpayers benefit under the plan has been temporarily increased to 100% of the present value of the participant’s benefit.
- Required Minimum Distributions (RMDs) required to be taken by April 1, 2020 as well as 2020 RMDs can be delayed for up to one year.

Payroll Tax Provisions

- Employers may delay the payment of Social Security on wages paid during 2020 with half of the amount deferred payable by December 31, 2021 and the balance payable by December 31, 2022.
- Self-employed individuals can similarly delay the payment of 50% of their self-employment taxes related to Social Security.
- Under certain circumstances employers may be eligible for a refundable credit against the employer’s share of Social Security taxes, equal to 50% of the qualified wages paid to each employee in 2020. The term “qualified wages” includes payments for “qualified health care expenses." “Qualified wages” are capped at $10,000 per employee.
- Employer’s taking Payroll Protection Loans under 7(a) of the Small Business Act are not eligible for this credit.

Charitable Contributions

- Individual taxpayers will be permitted to take an "above the line" deduction for up to $300 of charitable contributions.
- Cap on charitable contributions made by individuals during 2020 is temporarily suspended meaning that charitable contributions made in 2020 can offset 100% of taxable income. Cap on charitable contributions made by corporations during 2020 has been increased from 10% to 25%.

Net Operating Losses

- Net operating losses incurred during 2018, 2019 and 2020 may now be carried back for up to 5 years.
- 80% taxable income limit on the use of net operating losses is suspended for 3 years such that the limit will not apply to 2018, 2019 and 2020.
- Consideration should be given to filing amended returns in order to take advantage of these provisions.

Interest Expense

- For tax years 2019 and 2020 the limitation on the amount of business interest expense taxpayers can deduct has been increased to 50% (from 30%) of adjusted taxable income.
- For 2020 taxpayers can elect to base the limitation on their 2019 adjusted taxable income.

Payments to Individuals

- The payment that will be made to millions of Americans ($1,200 per individual, $500 for each child, phased out for those earning income of more than $75,000 ($150,000 for joint returns)) is technically the advance payment of a credit that taxpayers will receive when they file their 2020 federal income tax returns.
- No application is required to be submitted in order to receive this payment. Payments will be deposited to the bank accounts of those having direct deposit and mailed to those without direct deposit.
- Since the amount of the payment will be based upon the information contained in the taxpayer's 2019, or if not yet filed, 2018 tax return, it is entirely possible that taxpayers will receive more than they should. Guidance has not been provided as to whether any excess amount received will need to be repaid. Since this is a credit, underpayments will not be an issue.
- For those that did not file 2019 or 2018 income tax returns, the payment will be based upon other information available to the government such as social security payments.

If you have any questions, please contact
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