Coronavirus Aid, Relief and Economic Security Act (CARES Act)

This past Friday, March 27th, the congress passed and the president signed into law a $2 trillion stimulus bill (the CARES act) which provides substantial relief to individuals and employers. The CARES act is the third major initiative out of Washington to deal with the economic effects of Coronavirus. The week before, the Families First Coronavirus Response Act, was enacted providing for paid sick and family leave for individuals effected by the Coronavirus, and the IRS issued several notices extending the filing and payment due date for the 2019 income tax returns from April 15, 2020 to July 15, 2020.

The CARES act is intended to address minimizing the economic fall out from the Coronavirus by providing cash to individual taxpayers, enhanced unemployment benefits and incentives to small businesses to retain their workforces. The information below summarizes some of the more relevant provisions of the act.

Cash Payments directly to Individuals

All US residents with an adjusted gross income up to $75,000 for individuals or $150,000 for joint filers are eligible to receive a recovery payment of $1,200 ($2,400 for joint filers) as well as an additional $500 per child under age 17. Nonresident aliens and individuals who are dependents are ineligible for the payment. Eligibility for the payments phases out at higher income levels.

The payments will be based on an individual's 2018 or 2019 tax information, and is subject to a "true-up" based on the actual 2020 tax information when filed. Individuals who are not required to file income tax returns are still eligible to receive the recovery payments, provided they have a social security number and are not a dependent of another.

Small Business Interruption Loans

The Act authorizes a new SBA "*Business Interruption Loan*" or "7(a)" loan that is available to all employers with 500 or less employees that were in operation on or before February 15, 2020. The 7(a) loans are limited to 2.5 times an employer's average annual payroll and related costs. The loan can be used to pay payroll, rent, utilities and interest on existing debt.

A key provision of the 7(a) loans is that a portion of the loan may be "forgiven" for qualifying employers. The maximum amount forgiven will be payroll costs plus rent, utilities and interest on debt for the first 8 weeks following the inception of the loan up to salaries of $100K per annum. However, to the extent an employer reduces staff, the amount forgiven will be reduced pro rata.

Unlike the Economic Injury Disaster Loans (EIDL) which are applied for directly through the SBA, employers should apply for 7(a) loans through an FDIC insured bank or credit union and are advised to contact their own bank first.

Employee Retention Credit

Eligible employers can receive a credit on their quarterly Federal employment tax filings for each quarter equal to 50% of the qualified wage and health benefits paid to employees up to $10,000 per employee.

To be eligible for the credit, the employer must meet the following qualifications:

- Their operation was fully or partially shut down due to a governmental order limiting operations due to COVID-19, ***or***
- The employer has a significant decline in gross receipts (i.e. less than 50% of the comparable quarter the prior year).

Additionally, the Employer Retention Credit is not available to employers receiving a Small Business Interruption Loan ("7(a) Loan") or if a Work Opportunity Tax Credit is allowed for an employee.

Payroll Tax Payment Deferral

The Act permits employers to defer the depositing of the employer's share of social security taxes (6.2%) on payroll paid from the date of the enactment of the CARES act until December 31, 2020. Half of the deferred taxes are due December 31, 2021 with the balance due December 31, 2022.

The deferral applies only to the employer's share of social security taxes (not medicare taxes) and is not available to any employers receiving a Small Business Interruption Loan.

Waiver of Required Minimum Distributions & Other Retirement Plan Changes

Required Minimum Distributions for qualified plans and individual retirement accounts are suspended for 2020 (i.e. are not required during the year).

Additionally, individuals who receive distributions from retirement plans up to $100,000 due to Coronavirus related events can pay the income tax over a three year period. Early withdrawal penalties are also waived. Individuals may also recontribute the amounts back to the plan over a three year period without affecting the year's maximum contribution limitations.

The maximum loan amount from retirement plans is increased to $100,000 or 100% of the individuals accrued benefit.

Enhanced Unemployment Benefits

The Act provides for an additional $600 per week of unemployment benefits to employees laid-off or furloughed for up to four months and further provides for an additional 13 weeks of unemployment benefits through December 31, 2020 for individuals who remain unemployed after state unemployment benefits are no longer available.

Mortgage Relief

Servicers of Federally backed mortgages are required to postpone mortgage payments at the request of a borrower who affirms financial hardship due to COVID-19. The postponement must be granted for up to 180 days, with an additional 180 day extension available at the request of the borrower. Additionally, a moratorium on foreclosures prevents federally backed mortgage servicers to initiate foreclosure process for at least 60 days.

Student Loan Relief

All federally owned student loan payments are automatically suspended through September 30, 2020 without any interest or penalties accruing.

Other Provisions

The CARES act includes a number of other tax relief provisions intended to assist individuals and businesses in the economic aspects of the COVID-19 crisis, including the following items:

- ***Net Operating Losses –*** suspends the limitations on NOL's created by the Tax Cuts and Jobs Act (TCJA), permitting NOL's from 2018, 2019 and 2020 to be carried back up to five years with no limitations.

- ***Suspension of use of Business Losses in Excess of Business Income –*** The TCJA limited taxpayers with business losses to using only $250,000 ($500,000 for married filing joint) against non-business income. The CARES act suspends the limit for 2018, 2019 and 2020.

- ***Business Interest Expense Limit Increased –*** The TCJA provided that business interest would be deductible only to the extent of 30% of adjusted taxable income for certain taxpayers. The CARES act increases the limit to 50% for 2019 and 2020 and permits affected taxpayers to use 2019 income level in computing the limitation.

- ***Charitable Contributions –*** permits a deduction of up to $300 for charitable contributions regardless of whether or not a taxpayer itemizes (normally the deduction only applies to individuals itemizing their deductions). Also suspends the 50% limit on charitable contribution deduction for 2020.