CARES Act Offers Significant Tax Relief for Individuals and Businesses

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The Coronavirus Aid, Relief, and Economic Security Act, also known as the CARES Act, passed by Congress last week and signed into law by the President offers a number of significant tax relief provisions as well as cash payments to some individuals. The goal of the legislation is to provide individuals, businesses owners, and businesses with access to cash and reduced taxes in response to financial disruptions caused by the ongoing Coronavirus pandemic.

Individual Provisions

<u>Cash Payments to Individuals</u>
The law provides for cash payments of up to $1,200 per adult ($2,400 for married joint filers) and up to $500 for each dependent under the age of 17. The amount of the payment is reduced as income increases above $75,000 for single individuals and above $150,000 for married couples. The payments phase out by $50 for each $1,000 over the thresholds so, for those without children, the payments are fully phased out at income of $99,000 for single individuals and $198,000 for married couples. Information on the eligibility for the payments will come from 2018 or 2019 individual tax returns and from the Social Security Administration.

<u>Access to Retirement Plan Funds</u>
During 2020, individuals impacted[1] by the Coronavirus can withdraw up to $100,000 from their retirement plan without paying the 10% early withdrawal penalty that would otherwise apply in most cases for withdrawals by those younger than 59 ½. Retirement plan funds withdrawn under this provision are taxable to the recipient but the tax on the withdrawals can be spread over three years beginning in 2020. Alternatively, if the funds withdrawn from the plan under this allowance are repaid within three years, the withdrawal is not taxable.

In addition, the new law provides that employees can borrow up to $100,000 (up from the normal limit of the lesser of $50,000 or 50% of the vested balance) from most employer retirement plans (not IRAs) for 180 days from March 27 through September 22, 2020. Outstanding employer retirement plan loans with repayment dates from March 27 through December 31, 2020 have the repayment date extended for one year.

<u>Suspension of Required Minimum Distributions for 2020</u>
Those individuals subject to the required minimum distributions requirements for IRAs or other qualified plans can elect to not take a distribution for calendar year 2020 without being subject to any penalty.

<u>Changes to Charitable Contributions for 2020</u>
For individuals who do not itemize their deductions, the new law provides for an above-the-line charitable contribution deduction of up to $300 for 2020.

For individuals who claim itemized deductions on their 2020 tax returns, the new law relaxes the limitation on <u>cash</u> contributions to certain charities. Before the law change for 2020, individuals could claim a current year deduction for cash contributions of up to 60% of adjusted gross income (AGI). Under the new law, for 2020, these contributions can be deducted up to 100% of AGI. The increased limitations do not apply to noncash contributions or to charitable contributions of cash to donor advised funds, certain supporting organizations, or most private foundations.

Before taking advantage of the these new charitable contribution provisions, individuals may want to consider other giving alternatives such as qualified charitable distributions from IRAs for those over age 70 ½ or contributions of appreciated securities held for more than one year.

Business Tax Provisions

<u>Employee Retention Credit for Employees Subject to Closure Due to COVID-19</u>
The CARES Act provides a refundable payroll tax credit for 50% of wages paid by employers to employees during the COVID-19 crisis. The credit is available to employers whose 1) operations are fully or partially suspended due to a COVID-19 shutdown order, or 2) gross receipts declined by more than 50% when compared to the same quarter in the prior year. The credit is effective for wages paid or incurred from March 13 through December 31, 2020. The details of the credit's computation and limitations are beyond the scope of this summary.

<u>Delay of Payment of Employer Payroll Taxes</u>
Employers and self-employed individuals are allowed to defer the 6.2% portion of the employer's share of the Social Security tax for wages paid or self-employment income earned from March 27 through December 31, 2020. Half of the payroll tax or self-employment taxes deferred under this provision are required to be repaid by the end of 2021 and the other half is due by the end of 2022.

Modifications for Net Operating Losses
Under the 2017 Tax Cut and Jobs Act (TCJA), a business's net operating loss (NOL) was not eligible to be carried back to prior tax years and the deduction for any NOLs carried forward was limited to 80% of taxable income. The CARES Act relaxes these limitations on NOLs for tax years beginning in 2018, 2019 and 2020. NOLs for these years can now be carried back for five years and can be used to fully offset taxable income. If appropriate, by filing amended tax returns for prior tax periods, companies may receive a refund of taxes paid thereby providing a source of cash.

For individual taxpayers, beginning in 2018, the TCJA limited the amount of business losses allowed as a deduction. In general, excess business losses of greater than $250,000 for a single filer or $500,000 for married, joint filers were deferred to future years. Under the CARES Act, these excess business loss provisions are suspended for 2018, 2019 and 2020. A taxpayer limited by the excess business loss provisions in 2018 (or 2019) may be eligible to file an amended return to claim a tax refund.

Modification of Credit for Prior Year Minimum Tax Liability of Corporations
Under the TCJA, the corporate alternative minimum tax (AMT) was repealed and a corporation's existing AMT credit was available to be claimed as a refundable credit over several years, ending in 2021. The CARES Act accelerates the ability of companies to recover these AMT credits. Companies can now claim the full amount of any remaining AMT credits on their 2019 tax return. Under procedures that are beyond the scope of this summary, upon election by a corporation, the AMT credit may be eligible to be claimed on a 2018 tax return.

Modification of Limitation on Business Interest
Certain businesses, including pass-through entities such as partnerships, LLCs, and S corporations, may be subject to a limitation on the amount of interest expense eligible to be claimed as a deduction in the year incurred. Under complex provisions of the TCJA, these rules could have limited business interest deduction to 30% of the business's taxable income (with adjustments) for the year. The CARES Act increases this limitation to 50% for 2019 and 2020.

Technical Amendments Regarding Qualified Improvement Property (QIP)
Due to a drafting error in the TCJA, certain businesses, especially the hospitality business, were required to depreciate costs associated with improving facilities over 39 years rather than claiming 100% bonus depreciation for these costs. This error has been corrected in the CARES Act retroactive to property placed in service beginning January 1, 2018. Affected taxpayers may be eligible to file amended tax returns for 2018 and/or 2019 to claim additional depreciation.

Corporate Charitable Contributions
For 2020, a corporation's charitable contribution deduction, normally limited to 10% of the corporation's taxable income, is now allowed up to 25% of taxable income.

This summarizes some of the tax provisions of the CARES Act and is not intended to address all of the details of the various changes contained in the new tax law. We encourage you to reach out to your BPM tax advisor with any questions you may have regarding your individual or business taxe

[1] Impacted individuals are defined as those diagnosed with COVID-19 (including spouse or dependents) or one who experiences adverse financial consequences as a result of being quarantined, furloughed or laid off or having work hours reduced, or being unable to work due to lack of child care.