CARES ACT
RELIEF FOR BUSINESSES

On March 27, 2020, President Trump signed the “Coronavirus Aid Relief, and Economic Security Act” (CARES Act), allocating $2.2 trillion in spending and tax breaks to increase liquidity in the economy, provide relief for individuals and businesses, as well as specific industries most seriously harmed by this pandemic.

Important tax provisions include deferrals of employer payroll tax liabilities coupled with an employee retention tax credit, rollbacks of TCJA limitations on net operating losses (NOLs), deferral of the business interest limitation under Section 163(j), and a technical correction on qualified improvement property (QIP) that benefits taxpayers.

Here are the **key business tax provisions** in the CARES Act:

PAYROLL TAX DELAY

Employers and self-employed individuals can defer payment of the 6.2% employer share of Social Security taxes on employee wages from 3/27/2020 to 12/31/2020, with 50% deferral required to be paid by the end of 2021 and the remaining 50% by the end of 2022. Employers, who have indebtedness forgiven under the paycheck protection program will not qualify for this deferral.

During the payroll tax deferral period, all employment tax payments made by the applicable dates above will be treated as having been timely made.

EMPLOYEE RETENTION CREDIT

Eligible employers could receive a 50% payroll tax credit on qualified wages each quarter to encourage the retention of employees who cannot work due to a COVID-19 related circumstance. If the requirements of qualified wages, qualified employees and qualified employers are met, the credit would be for wages paid or incurred from 3/13/2020 to 12/31/2020.

Eligible employers including non-profits are employers:

1. Whose operations have been fully or partially suspended as a result of a government order limiting commerce, travel, or group meetings, or
2. Who have experienced a greater than 50% reduction in quarterly receipts, measured on a year-over-year basis

Eligible wages:

- For employers who had an average of 100 or fewer full-time employees in 2019, all employee wages are eligible, regardless of whether the employee is furloughed.
- For employers who had more than 100 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.

Wages are capped at the first $10,000 and includes health benefits. Wages do not include amounts taken into account for purposes of the payroll credits, for required paid sick leave or required paid family leave in the Families First Coronavirus Act, nor for wages taken into account for the employer credit for paid family and medical leave.

The credit is not available to employers receiving Small Business Interruption Loans. No credit is also available with respect to an employee for any period for which the employer is allowed a Work Opportunity Credit.

NET OPERATING LOSSES (NOLS)

The law temporarily suspends the 80% taxable income limitation on utilizing NOLs through taxable years beginning before January 1, 2021.
Additionally, the law also allows for a 5-year carryback of NOLs arising in years 2018, 2019 and 2020. These provisions apply to individuals, estates and trusts as well.

LIMITATION ON BUSINESS INTEREST 163 (J)

The new law relaxes the limitation on the deduction of business interest from 30% of adjusted taxable income (ATI) to 50% ATI, for taxable years beginning in 2019 or 2020.

In anticipation that the 2020 income will be lower than 2019, the CARES Act also provides for an election whereby the taxpayer can use their 2019 ATI to calculate the 2020 limitation. In the case of a taxpayer who had 2019 as a short year, income should be annualized to 12 months.

Considering that most partnership returns for 2019 have already been filed, the law provides for a special rule for them. The increase in the ATI limitation to 50% will apply to the 2020 tax year.

For partners that don't elect out, any excess business interest disallowed in 2019 will be treated as follows:

1. 50% of the excess business interest will be treated as paid or accrued by the partner in the partner's first tax year beginning in 2020 and will not be subject to Section 163(j) limitation.
2. The balance of 50% of the excess business interest will be subject to the limitations of Section 163(j). In other words, it will remain suspended until the partnership allocates excess taxable income or excess interest income to the partner.

Taxpayers may elect out of the increase, for any tax year. Once made, the election can be revoked only with IRS consent. For partnerships, the election must be made by the partnership and can be made only for tax years beginning in 2020.

QUALIFIED IMPROVEMENT PROPERTY (QIP)

A correction to a drafting error in the Tax Cuts & Jobs Act (TCJA) now allows Qualified Improvement Property (QIP) to be treated as 15-year property. This will allow taxpayers to apply 100% bonus depreciation to eligible QIP retroactively for assets acquired and placed in service after 12/31/17.

Qualified Improvement Property includes any improvement made by the taxpayer, to a building's interior, provided such improvement was placed in service after the building itself was placed in service. However, improvements do not qualify if they are attributable to:

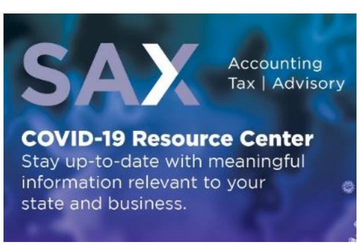
- the enlargement of the building;
- any elevator or escalator; or
- the internal structural framework of the building.

CHARITABLE CONTRIBUTIONS

The law increases the limitation of qualifying charitable contributions (QCC) made in 2020 from 10% to 25% of corporation's taxable income. QCC are contributions made in the form of cash and not made to donor advisor funds or non-operating private foundations.

OTHER ITEMS INCLUDED:

- The taxable income limitation on the deduction for food inventory has been increased from 15% to 25%.



Sax will keep you informed as important updates emerge. Reach out to your Sax advisor with questions or visit Sax's COVID-19 Resource Center for more information.