

CARES Act Signed Into Law

On March 27, 2020, President Trump signed into law H.R. 748, also known as the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act” or the “Act”), which provides \$2 trillion of Government funding to help individuals, families, and businesses financially weather the storm of the COVID-19 pandemic.

Please note, to be as comprehensive as possible, this Tax Alert includes a short summary of non-tax provisions, such as unemployment insurance benefits and small business loans, in addition to tax provisions. We are available to answer your questions, however on non-tax provisions it may be more appropriate for you to speak with an attorney and/or human resources specialist.

Small Business Administration (“SBA”) Loans

- Small businesses and non-profits with no more than 500 employees (per physical location) are eligible to receive an SBA loan of **up to \$10 million**.
 - Number of employees includes both full-time and part-time.
 - Exact amount of loan = 2.5 x average payroll costs this time last year. Payroll costs is broadly defined and may include independent contractors.
 - Covered loan period is between February 15, 2020 and June 30, 2020.
 - Payments deferred for 6-12 months. Interest rate is no more than 4% payable over 10 years in excess of amount forgiven.
 - Loans may be used for wages, payroll costs, paid leave, costs related to the continuation of group health benefits, mortgage payments, rent, utilities, and interest on other debts.
 - Loans are available for certain sole proprietors, independent contractors, and self-employed individuals; must provide documentation such as payroll tax filings, 1099s, and income and expenses.
 - No collateral or personal guarantees are required.
- Some loans may be eligible for forgiveness to the extent of the borrower’s payroll costs, mortgage interest, rent, and utility payments made during an 8-week period after loan origination date.

- Amount of loan forgiveness is reduced to the extent employees are laid off or salaries are reduced by more than 25%.
- Borrowers who previously laid off employees will not be penalized (in the form of less loan forgiveness) for having reduced payroll if the employees are rehired by April 26, 2020.

Unemployment Benefits

- Temporary unemployment benefits for those who do not traditionally receive it (i.e., self-employed, independent contractors, etc.)
- Payments to states to reimburse nonprofits, government agencies, and Indian tribes for half the costs they incur through the end of 2020 to pay unemployment benefits.
- An additional \$600 per week payment to each unemployment recipient for up to 4 months.
- Funding to pay the cost of the first week of unemployment for states that choose to pay recipients as soon as they become unemployed instead of the 1-week waiting period.
- An additional 13 weeks of unemployment benefits through the end of 2020 to help those who remain unemployed after state unemployment benefits are no longer available.
- Funding to support “short-term compensation” programs, in which employers reduce employee hours instead of lay-offs; states may reimburse employers 100% of the costs incurred and employees may receive a pro-rated unemployment benefits from the state.

Stimulus Checks

- US residents with AGI up to \$75,000 (or \$150,000 for married persons) are eligible for a rebate of \$1,200 (or \$2,400 if married) plus an additional \$500 rebate per child.
 - Amount reduced by \$5 for each \$100 of income that exceeds threshold;
 - Completely phases out when income exceeds \$99,000 (or \$146,500 for head of household, one child; or \$198,000 for married, no kids);
 - Eligibility based on 2019 income (if return already filed), otherwise 2018 income; but may have to pay it back if 2019 income exceeds threshold.

Retirement Accounts

- Waives 10% early withdrawal penalty for distributions of up to \$100,000 from qualified retirement accounts for certain corona-virus related purposes made on or after January 1, 2020; income on distributions taxed over 3 years.
- Greater flexibility for loans from certain retirement plans for coronavirus-related relief.
- Temporary waiver of required minimum distribution (“RMD”) rules for 2020 for certain retirement plans and accounts.

Charitable Contributions

- Additional above-the-line deduction of up to \$300 of cash contributions to charities (for taxpayers who do not itemize).
- Increased limitations on charitable deductions for individuals (who itemize) and corporations:
 - For individuals, 60%-of-AGI limitation for cash contributions to a public charity is suspended for 2020 (i.e., such contributions may be fully deductible);
 - For corporations, 10% limitation is increased to 25% of taxable income;
 - Limitation on deductions for contributions of food inventory increased from 15% to 25% for 2020.

Student Loans

- Employees may exclude from gross income the amount of student loan repayment assistance received from employers, up to \$5,250 annually, through the end of 2020.

Employee Retention Credit

- Payroll tax credit of 50% of wages paid by employers to employees during the COVID-19 crisis (i.e., March 13, 2020 through end of 2020);
 - Credit only available to employers whose: a) business operations have been suspended (fully or partially) due to the crisis; or b) gross receipts have declined by more than 50% compared to last year’s quarter.
 - If 100 or fewer full-time employees, all wages qualify regardless of whether employee was furloughed.

- For employers with more than 100 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.
- Maximum credit of \$5,000 per employee (based on maximum qualified wages of \$10,000 per employee, including health benefits).
- The term “wages” includes health benefits but does not include amounts considered for emergency paid leave under the Families First Act.
- Tax-exempt organizations are eligible for the credit.
- This credit is **not** available if the employer is also receiving an SBA loan under the Paycheck Protection Program (described in this Tax Alert above).

Payroll Tax Deferral

- Employer can defer their share of 6.2% Social Security tax; deferred tax must be paid over 2 years (half by end of 2021 and remainder by end of 2022).
- Self-employed persons may delay deposit of half their self-employment tax liability under these rules.

Net Operating Loss (“NOL”) Modifications

- NOLs arising in 2018, 2019 or 2020 tax years may be carried back 5 years.
- Temporary removal of 80% taxable income limitation for NOL deductions taken in 2018, 2019 and 2020; so, NOLs can fully offset income.
- NOLs can fully offset income; can amend prior year returns to get refunds.

Modified Limits on Excess Business Losses

- Repeals excess business loss limitation for pass-through entities and sole proprietors for 2018, 2019, and 2020 tax years.
- Can use business losses to reduce other income.

Corporate Alternative Minimum Tax (“AMT”) Credits

- Accelerates ability for companies to recover corporate AMT credits.



Business Interest Expense Modifications

- Deductible amount of business interest expense increased from 30% to 50% of taxable income for 2019 and 2020, thereby increasing ability to deduct interest paid on loans.
- Taxpayers can elect to use 2019 taxable income to compute the interest limitation for 2020.
- For partners in partnerships, 50% of excess 2019 interest limitation can only be used to offset income in 2020.

Qualified Improvement Property Amendment

- Businesses can write off costs associated with improving facilities instead of having to depreciate them over 39 years.
- Can file amended return for 2018 to claim 100% bonus depreciation during year of improvement.

We will continue to stay abreast of any developments in this area and will send updated Tax Alerts as necessary. For any tax-related questions, please contact any of the following individuals:

Name: Meghan Andersson, JD, LLM
Office: Irvine, CA
Phone: (949) 623-0542
Email: mandersson@singerlewak.com

Name: Jason Borkes, CPA, CM&AA
Office: Irvine, CA
Phone: (949) 623-0516
Email: jborkes@singerlewak.com

Name: Mark Cook, MBA, CPA, CGMA
Office: Irvine, CA
Phone: (949) 623-0478
Email: mcook@singerlewak.com