



Coronavirus Aid, Relief and Economic Security Act: Tax Relief Provisions

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The Coronavirus Aid, Relief and Economic Security Act (the “**CARES**” Act) is the largest economic stimulus package ever enacted by the United States government. The two trillion dollar bill signed into law by President Trump on Friday, March 27, 2020, focuses on providing relief for individuals and businesses harmed by the COVID-19 pandemic. Many of the key provisions of the CARES Act are changes to the tax law which will impact both individual and business taxpayers. Below is a summary overview of tax provisions included in the CARES Act which may impact you or your business.

<u>Coronavirus Aid, Relief, and Economic Security Act</u>	
Qualified Improvement Property Fix	<p><i>Under the CARES Act, qualified improvement property (“QIP”) has a 15 year life, thus allowing taxpayers to claim accelerated depreciation on any such property.</i></p> <ul style="list-style-type: none"> • The 2017 Tax Cuts and Jobs Act (“TCJA”) intended to speed up depreciation on QIP from 39 to 15 years. <ul style="list-style-type: none"> ○ The intention was to allow taxpayers to claim 100% bonus depreciation for all assets with a life of 20 years or less. ○ However, a drafting error omitted the 15 year life for qualified improvement property. • The CARES Act fixes the drafting error, giving QIP the 15 year life intended under the TCJA. <ul style="list-style-type: none"> ○ The change is retroactive to January 1, 2018, meaning <i>taxpayers can take advantage of accelerated depreciation by filing amended returns for 2018 and 2019.</i>
2020 Recovery Rebate	<p><i>The CARES Act creates a new section of the Internal Revenue Code, Section 6428, under which taxpayers may be entitled to an automatic cash rebate, depending on their adjusted gross income level.</i></p> <ul style="list-style-type: none"> • <u>Amount of Rebate</u> <ul style="list-style-type: none"> ○ \$1,200 for individuals ○ \$2,400 if married filing jointly ○ \$500 for each child under 17

	<ul style="list-style-type: none"> • <u>Income Thresholds</u> <ul style="list-style-type: none"> ○ Rebate begins to phase out once your adjusted gross income exceeds \$75,000 for single taxpayers and \$150,000 for married taxpayers filing jointly. <ul style="list-style-type: none"> ▪ For every \$100 a taxpayer's AGI exceeds the threshold, their rebate will be decreased by \$5. ○ The IRS will look at a taxpayer's 2019 tax returns to determine AGI. For taxpayers who have not yet filed their 2019 return, the IRS will look at 2018 returns to determine AGI. • <u>The cash rebate will be treated as an advance payment of a credit which will need to be recalculated on a taxpayer's 2020 return.</u> <ul style="list-style-type: none"> ○ When filing their 2020 taxes next year, taxpayers will have to recalculate the amount of the cash rebate to which they should be entitled based on 2020 AGI. <ul style="list-style-type: none"> ▪ If the rebate amount the taxpayer received in 2020 is less than the amount the taxpayer would be entitled to based on the taxpayer's recalculation in 2021, the taxpayer will receive a credit for their 2020 tax liability equal to the difference. ▪ There is no requirement in the CARES Act that the taxpayer recognize income if the opposite is true.
Retirement Plans	<p><i>The ten percent penalty for early withdrawals from qualified retirement plans is waived for 2020.</i></p> <ul style="list-style-type: none"> • Generally, if a taxpayer takes money out of a qualified retirement plan before the age of 59 ½, they will be taxed on the distribution and subject to a ten percent penalty. • <u>Under CARES Act, a taxpayer can take a distribution of up to \$100,000 from a qualified retirement plan (including IRAs) for coronavirus-related reasons in 2020 without penalty.</u> <ul style="list-style-type: none"> ○ The taxpayer will still be subject to income tax, but can stagger income recognition over three years. • <u>To qualify, a taxpayer must satisfy one of the following:</u> <ul style="list-style-type: none"> ○ (1) Have been diagnosed with SRS-COV-2 or COVID-19; ○ (2) Have a spouse or dependent who has been diagnosed with SRS-COV-2 or COVID-19; or ○ (3) Have experienced adverse financial consequences as a result of being quarantined, furloughed, laid off, having reduced work hours or an inability to work completely due to a lack of child care.

<p>Charitable Contributions</p>	<p><i>The CARES Act temporarily lifts limits on deductions for charitable contributions and creates a separate itemized deduction for charitable contributions made by taxpayers who claim the standard deduction to incentivize charitable giving.</i></p> <ul style="list-style-type: none"> • Generally, charitable contributions will entitle taxpayers to an itemized deduction on their return. <ul style="list-style-type: none"> ○ However, when the TCJA doubled the standard deduction, most individuals stopped itemizing because they would be entitled to a greater deduction by taking the standard deduction. • <u>The CARES Act makes two changes to the deductibility of charitable contributions:</u> <ul style="list-style-type: none"> ○ For taxpayers who claim the standard deduction: <ul style="list-style-type: none"> ▪ Individuals who make cash contributions of up to \$300 to certain qualifying charities will receive an “above-the-line” deduction when computing their AGI. This is in addition to the standard deduction. ○ For taxpayers who choose to itemize: <ul style="list-style-type: none"> ▪ The CARES Act temporarily lifts limits imposed on charitable deductions by the TCJA. ▪ Cash contributions to public charities can be deducted up to 100% of a taxpayer’s AGI for 2020. ▪ Any excess contributions can be carried over for the next five years. ▪ The limit for corporate donors has increased from 10% to 25%.
<p>Employee Retention Credit (Payroll Tax Credit)</p>	<p><i>Under the CARES Act, businesses which have been forced to suspend operations due to coronavirus but continue to pay employees will receive a one-year credit against their share of Social Security payroll taxes.</i></p> <ul style="list-style-type: none"> • <u>Eligible businesses can fall into one of two categories:</u> <ul style="list-style-type: none"> ○ Businesses with operations which were fully or partially suspended for any calendar quarter during 2020 due to orders from a government authority relating to coronavirus; or ○ Businesses which remained open, but for any quarter in 2020, had gross receipts which were less than 50% of what they were for the same quarter in 2019. <ul style="list-style-type: none"> ▪ Businesses falling into the second category will be entitled to the credit for all subsequent quarters, until the business has a quarter for which receipts exceed 80% of the 2019 total, at which point their eligibility for the credit will end.

	<ul style="list-style-type: none"> • Credit Amount: For each eligible quarter, businesses will receive a credit against their share of Social Security payroll taxes equal to 50% of up to \$10,000 of “qualified wages” paid to each employee for that quarter. This effectively places a \$5,000 cap on the credit per employee for the 2020 tax year. • The definition of qualified wages depends on the size of business. <ul style="list-style-type: none"> ○ <i>Businesses with more than 100 employees in 2019:</i> Qualified wages are limited to only those paid by the employer during the period of time for which the business was shut down. Any qualified wages an employer pays to such an employee cannot exceed the amount the employee would have received for working during an equivalent time period in the 30 days immediately prior to the time period the business was shut down. ○ <i>Businesses with less than 100 employees in 2019:</i> Qualified wages will generally include all wages paid to an employee. ○ <i>Qualified wages for each employee for all quarters may not exceed \$10,000.</i> ○ <i>Qualified wages does not include wages taken into account for the purposes of the payroll tax credit under the Families First Coronavirus Response Act.</i> Costs incurred in maintaining a group health plan are included. • Credit is refundable if it exceeds business’ liability for Social Security taxes. • Cannot use credit if you apply for a Small Business Loan under the CARES Act.
<p style="text-align: center;">Extended Deadline for Employer Payroll Tax and Self- Employment Tax</p>	<p><i>The deadline for employer payroll taxes and self-employment taxes has been extended.</i></p> <ul style="list-style-type: none"> • With respect to the employer’s share of the 6.2% Social Security tax that would otherwise be due December 31, 2020, the deadline has been extended to December 31, 2021 (50% of tax due) and December 31, 2022 (50% of tax due). • A self-employed taxpayer can defer 50% of his or her self-employment tax through the end of 2021 (25% of tax due) and 2022 (25% of tax due). • There is no requirement that the employer prove a specific COVID-19 impact to its business to qualify. <ul style="list-style-type: none"> ○ All employers automatically qualify for this benefit, except for employers receiving loans under the Paycheck Protection Program. ○ Employers receiving loans under the Paycheck Protection Program are not eligible for this benefit

<p>Net Operating Loss Rules</p>	<p><i>Rules surrounding the carryback and carryforward of net operating losses were recently changed by the TCJA. The CARES Act temporarily reverses some of these changes.</i></p> <ul style="list-style-type: none"> • Prior to the TCJA, individual and corporate taxpayers could carryback net operating losses for 2 years and carryforward net operating losses for 20 years to offset 100% of taxable income. • The TCJA then disallowed all carrybacks related to post-2017 losses, provided an indefinite carryforward period and limited the use of post-2017 losses when carrying forward to only 80% of taxable income. • <u>Under the CARES Act:</u> <ul style="list-style-type: none"> ○ Taxpayers which have losses for 2018, 2019 and 2020 can carry those losses back for up to five years. Taxpayers can choose to forego the carryback and instead carryforward. <ul style="list-style-type: none"> ▪ Taxpayers can amend tax returns from 2013 onwards to take advantage of these rules. ○ Losses carried to 2019 and 2020 can be used to offset 100% of taxable income. • Note that the CARES Act does not modify the rules with regards to capital losses. The above only applies to net operating losses under Code Section 172.
<p>Net Business Loss Offset (Section 461(I))</p>	<p><i>The CARES Act puts a temporary moratorium on the net business loss limitation created under Section 461(I) of the TCJA.</i></p> <ul style="list-style-type: none"> • The TCJA also created Section 461(I), under which the amount of net business losses an individual taxpayer can use in a year to offset other sources of income is capped at \$250,000 for single individuals, \$500,000 for married individuals who file jointly. • Under the CARES Act: <ul style="list-style-type: none"> ○ Temporary halt to 461(I) for 2020, which will apply retroactively to January 1, 2018. Taxpayers who have losses limited under 461(I) for 2018 and 2019 can file amended returns to use trade or business losses to offset other income on their 2019 and 2020 returns. ○ However, when 461(I) takes effect again in 2021, wages will not be considered business income. • Note: The passive loss rules, at-risk rules and basis limitation rules still apply. Taxpayers with passive losses that have been suspended will not benefit from the temporary moratorium on Section 461(I) as those losses will not be freed up.



<p>Interest Limitation Rules</p>	<p><i>The CARES Act increases the limits imposed by the TCJA on a business' ability to deduct interest.</i></p> <ul style="list-style-type: none"> • The TCJA introduced Section 163(j), which limits a business's ability to deduct its interest expense to 30% of adjusted taxable income. • The CARES Act increases that limit to 50% of adjusted taxable income for 2019 and 2020. <ul style="list-style-type: none"> ○ Businesses can elect to use 2019 adjusted taxable income in computing the 2020 limitation.
<p>Employer Payment of Student Loan Debt</p>	<p><i>The CARES Act modifies Section 127 of the Code, allowing for an employer to pay off employee's student loan debt without a negative tax consequence for the employee.</i></p> <ul style="list-style-type: none"> • Before the CARES Act, employers could pay up to \$5,250 of an employee's qualified educational expenses tax-free to the employee. • The CARES Act expands the definition of "qualified educational expenses" to include student loan debt. <ul style="list-style-type: none"> ○ However, note that the employee will not be able to deduct the interest on employer-paid student loan debt under Section 221.
<p>Miscellaneous Provisions</p>	<ul style="list-style-type: none"> • <u>Excise Tax Relief</u>: Temporary exception from alcohol excise taxes for alcohol used and contained in hand sanitizer and on aviation and kerosene used in aviation fuel for 2020. • <u>Debt Relief</u>: Forgiveness of a small business loan, mortgage obligation or other loan obligations forgiven by a lender during an applicable period will be excluded from tax. • <u>Health Plan Safe Harbor</u>: Telehealth services are automatically included in the definition of a high deductible health plan. • <u>Minimum Tax Credits</u>: Acceleration of the year for businesses can claim the fully refundable credit for unused minimum tax credits to 2019.

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