COVID-19 UPDATE

STOWE & DEGON
CERTIFIED PUBLIC ACCOUNTANTS AND CONSULTANTS

By a unanimous vote on March 25th 2020, the Senate passed a third Coronavirus relief package, the Coronavirus Aid, Relief and Economic Security ("CARES") Act. This newsletter provided by Stowe & Degon, LLC ("S&D") aims at providing some of the key tax and some non-tax relief provisions that are contained in the Act.
Please note that we still await additional guidance on these topics discussed below. As we receive additional information, we will keep you updated. But please feel free to reach out to our office with any questions that you may have in the meantime.

BUSINESSES

PAYCHECK PROTECTION PROGRAM ("PPP") LOANS

- The program would provide cash-flow assistance through 100 percent federally guaranteed loans to employers who maintain their payroll during this emergency. If employers maintain their payroll, the loans would be forgiven, which would help workers remain employed, as well as help affected small businesses and the economy snap-back quicker after the crisis.
- PPP has several interesting features:
  - Forgiveness of up to 8 weeks of payroll based on employee retention and salary levels.
  - No SBA fees
  - At least six months of deferral with maximum deferrals of up to a year.
- Small businesses and other eligible entities will be able to apply, if they were affected by COVID-19 between February 15, 2020 and June 30, 2020. This program would be retroactive to February 15, 2020, in order to help bring workers who may have already been laid off back onto payrolls. Loans are available through June 30, 2020.
- S&D has communicated with many banks in our business network because of our concern over the ambiguity of the forgiveness provision. There appears to be some latitude as to whether the loan will be forgiven or 100% forgiven based on some of the language in the Act. We have asked for clarity and the banking, accounting and legal community do not have 100% clarity at this time. There are obvious quantitative guidelines the borrower would have to meet as it relates to validating qualifying expenses but it is unstated as to any other more subjective guidelines. We will communicates any updates as guidance becomes clearer.

EMPLOYEE RETENTION CREDIT

- This provision provides a refundable payroll tax credit for 50% of qualified wages paid between 3/12/20 and 12/31/20, limited to $10,000 per employee, paid by eligible employers to certain employees during the COVID-19 crisis. The maximum available credit is $5,000 per employee (50% of $10,000)
- An eligible employer is one with operations suspended by orders issued in response to COVID-19 or has suffered a significant decline (more than 50% decrease year over year) in gross receipts during the quarters that begin with the quarter in which gross receipts declined by more than 50% and ending with the quarter in which gross receipts have recovered by more 80%.
- This credit is not available to employers receiving assistance through the PPP Loans available through the SBA.

DELAY OF PAYMENT OF EMPLOYER PAYROLL TAXES

- Employers and self-employed individuals will be able to defer payments of the employer share (6.2% of employee wages) of Social Security payroll taxes that would have otherwise been due from the date of enactment of the legislation through December 31, 2020.
- The provision requires that the deferred taxes be paid over a two-year period, with half the amount required to be paid by December 31, 2021, and the other half by December 31, 2022. Otherwise required estimated tax payments during the deferral period would also exclude the payroll taxes that are being deferred.
- Self-employed individuals would be eligible to defer 50% of self-employment social security tax payments
- This deferral is not available to employers receiving assistance through the PPP Loans available through the SBA.

NET OPERATING LOSSES ("NOL")

- The use of NOLs for corporate and non-corporate businesses has been expanded. Taxpayers will be able to use NOLs to offset income without the 80% taxable income limitation enacted as part of the Tax Cut & Jobs Act ("TCJA") and will be able to carry back NOLs to offset prior year income for 5 years. These are temporary provisions that apply to NOLs incurred in the 2018, 2019, or 2020 tax years.
- Certain states that adopted the 80% limitation will have to adopt the CARE Act modifications.

CREDIT FOR PRIOR YEAR MINIMUM TAX LIABILITY FOR CORPORATIONS

- Taxpayers with AMT credits will be able to claim a refund for the entire amount of the credit instead of recovering the credit through refunds over a period of years, as originally enacted by the TCJA.

BUSINESS INTEREST EXPENSES

- Taxpayers will be able to deduct more interest expense because the limitation, under section 163(j), on the interest deductions based on 30% of adjusted taxable income (ATI) under the TCJA will be increased, temporarily for 2019 and 2020, to 50% of a taxpayers' ATI.

CHARITABLE CONTRIBUTIONS

- Modification of limitations on charitable contributions during 2020 will allow corporate taxpayers to deduct more of their charitable contributions by increasing the taxable income limitation from 10% to 25%.

INDIVIDUALS

RECOVERY REBATE/CREDIT

- Under the CARES Act, an eligible individual is allowed an income tax credit for 2020 equal to the sum of: (1) $1,200 ($2,400 for eligible individuals filing a joint return) plus (2) $500 for each qualifying child of the taxpayer. The credit is refundable. Qualifying child, in this case, would be a dependent who has not reached the age 17.
- The amount of the credit is reduced (but not below zero) by 5% of the taxpayer's adjusted gross income (AGI) in excess of: (1) $150,000 for a joint return, (2) $112,500 for a head of household, and (3) $75,000 for all other taxpayers.
- The IRS will base these amounts on the taxpayer's 2019 tax return, if filed, or in the alternative, their 2018 return.

RETIREMENT PLAN DISTRIBUTION

- Normally there would be a 10% additional tax for early withdrawal from a qualified retirement plan. The CARES Act provides that 10% additional tax does not apply to any coronavirus-related distribution, up to $100,000. A coronavirus-related distribution is any distribution (subject to dollar limits discussed below), made on or after January 1, 2020, and before December 31, 2020, from an eligible retirement, made to a qualified individual.
- A qualified individual is an individual (1) who is diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019 (COVID-19) by a test approved by the Centers for Disease Control and Prevention (CDC), (2) whose spouse or dependent (as defined in Code Sec. 152) is diagnosed with such virus or disease by such a test, or (3) who experiences adverse financial consequences as a result of being quarantined, being furloughed or laid off or having work hours reduced due to such virus or disease, being unable to work due to lack of child care due to such virus or disease, closing or reducing hours of a business owned or operated by the individual due to such virus or disease, or other factors as determined by the Secretary of the Treasury.
- In general, the regulations require a retirement plan or IRA owner to take required minimum distributions (RMDs) annually once the owner reaches age 72. The CARES Act provides that the RMD requirements do not apply for calendar year 2020.

CHARITABLE CONTRIBUTIONS

- The CARES Act adds a deduction to the calculation of gross income, in the case of tax years beginning in 2020, for the amount (not to exceed $300) of qualified charitable contributions made by an eligible individual during the tax year.
- Currently individuals are allowed a deduction for cash contributions to charitable organizations up to 60% of their adjusted gross income ("AGI"). If the aggregate amount of an individual's cash contributions to these charities for the year exceeds 60% of the individual's contribution base, then the excess is carried forward and is treated as a deductible charitable contribution in each of the five succeeding tax years. The CARES Act provides that qualified contributions are disregarded in applying the 60% limit on cash contributions of individuals. Please note that contributions to a donor advised fund are not qualified contributions.

CORRECTION TO QUALIFIED IMPROVEMENT PROPERTY

- Taxpayers that placed qualified improvement property ("QIP") in service during 2018 and 2019 may now claim bonus depreciation on such property, rather than depreciating over 39 years as previously required under the 2017 tax reform bill.
- Taxpayers with QIP in 2018 that filed their 2018 return treating the assets as bonus-ineligible 39-year property should consider amending that return to claim additional depreciation. Alternatively, taxpayers can file an automatic change in accounting method with their 2019 tax returns to claim the missed depreciation as a favorable section 481(a) adjustment.

TIMELINE

- All tax returns Individuals, trust, estates, partnerships, associations, companies or corporations that have a filing and payment due date of April 15, 2020 have been automatically extended to July 15, 2020. No extension is required to be filed. The 2020 Q1 payment has been extended to July 15 as well. As of today, the Q2 payments are still due on June 15.

  No extension is provided for the payment or deposit of any other type of federal tax or for the filing of any federal information return.

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CERTIFIED PUBLIC ACCOUNTANTS AND CONSULTANTS

95A TURNPIKE ROAD, WESTBOROUGH, MA 01581
(508) 983-6700

220 BROADWAY, STE. 204, LYNNFIELD, MA 01940
(781) 581-7600

STOWEDEGON.COM