

COVID19 Accounting and Tax Issues

Marshall Stein, Principal and Raleigh Office Leader

Rebecca Leshman, Senior Manager (Tax)

JJ Littrell, Director (Consulting)

Economic Impact Disaster Loans (“EIDLs”)

Economic Impact Disaster Loans

- Businesses and most nonprofits with less than 500 employees or SBA size standards for applicable industry qualify
- Special accommodations for hospitality and dining industry
- SBA size standards - [Link here](#)
- Private equity/venture capital controlled businesses likely disqualify due to affiliate and common control rules

Economic Impact Disaster Loans

- Loan amounts of up to \$2 million (with discretion to exceed); \$25K unsecured
- Emergency advances of up to \$10K within 3 days of application
- Designed to pay payroll, fixed debts, accounts payable, and “other expenses that could have been paid should disaster have not occurred”
- Loan proceeds must be utilized during 2020
- No whole or partial loan forgiveness options

Economic Impact Disaster Loans

- One year payment deferral
- Collateral requirement (real estate preferred)
- No personal guarantees on amounts less than \$200K
- Fixed rate – 3.75% for businesses, 2.75% for nonprofits
- Maximum 30 year terms
- Apply online direct with SBA - [Link here](#)

Payroll Protection Program (“PPP”)

Payroll Protection Program

- Similar eligibility requirements at EIDL
- Businesses and most nonprofits with less than 500 employees or SBA size standards for applicable industry qualify
- SBA size standards - [Link here](#)
- Private equity/venture capital controlled businesses likely disqualify due to affiliate and common control rules

Payroll Protection Program

- Loan amount – 2.5x average monthly payroll costs (capped at \$10 million)
- Individual payroll amounts are capped at \$100,000 for cash; no cap on noncash compensation
- Includes Federal and State taxes and benefits
- Borrowers must certify in good faith that the loan is necessary to support ongoing operations (retain workers, maintain payroll, make mortgage, lease, and utility payments)
- Loan proceeds must be utilized by June 30, 2020 to be eligible for forgiveness

Payroll Protection Program

- Eligible for forgiveness (non-taxable)
- Forgiveness reduced by decreases in headcount and more than 25% reduction in individual compensation (capped at \$100,000) between 2/15/2020 and 6/30/2020
- Requires documentation and verification of payroll, mortgage, lease, and utility costs as well as borrower certification
- Six month payment deferral but interest still accrues
- No personal guarantees or collateral requirements

Payroll Protection Program

- Fixed rate of 1%
- 2 year terms
- No prepayment penalties or application, origination or maintenance fees
- Determine loan request using calculation and estimating potential loan forgiveness
- Apply via SBA approved financial institutions
- Visit the U.S. Treasury site for application overview and borrower information - [Link here](#)

Income Tax Considerations for Navigating the COVID-19 Pandemic

CARES Act

Payroll Tax Provisions

- Employee Retention Credit
 - Eligible employers can receive a credit for up to 50% of qualifying wages paid after March 21, 2020, for a maximum credit of \$5,000 per eligible employee
 - Qualified employers must either:
 - Have business fully or partially suspended by government order due to COVID19
 - Have gross receipts below 50% of the same quarter in 2019
 - Number of employees impacts qualifications for this credit
 - Employers with less than 100 employees – credit is based on wages paid, whether or not employees are performing work
 - Employers with more than 100 employees – credit is based only on wages paid to employees who did NOT work
- Deferral of Employer Social Security Tax Liability
 - Section 2302 of the CARES act allows for most employers to defer payment of the employers portion of the Social Security payroll tax for wages paid from March 27, 2020 – December 31, 2020
 - Deferred payments are due 50% on 12/31/2021 and 50% on 12/31/2022

CARES Act

Individual Provisions

- **Charitable Contribution Deduction:**
 - Deduction percentage limitation is removed for cash contributions (for 2020 tax year)
 - Eligible taxpayers who do not itemize deductions are entitled to an above-the-line deduction of up to \$300 (for 2020 tax year)
- **Recovery Rebates:**
 - Eligible individuals will be given a recovery rebate of \$1,200 (\$2,400 for MFJ), plus \$500 for each qualifying child, beginning in 2020.
 - Allowable rebate is reduced by 5% of the eligible individual's AGI in excess of \$75,000; \$150,000 (MFJ). Credit phases out entirely at \$99,000 (\$198,000 for joint filers)
- **Early Withdrawal of Retirement Funds:**
 - 10% early withdrawal penalty will be waived for distributions up to \$100,000 from qualified retirement accounts for COVID-19 related purposes, and income tax on such distributions is subject to a 3-year spread
- **Waiver of Required Minimum Distribution rules:**
 - Waived for calendar year 2020 for certain IRAs, 401(k)s, and similar accounts
- **Increased Unemployment Benefits:**
 - Weekly payments increased by \$600 atop state benefit

CARES Act

Business Provisions: Opportunities to Access Cash Based on Historical Taxes Paid

- NOL Revisions
 - Repeals 80% income limitation for post-Tax Reform generated NOLs for tax years beginning before January 1, 2021
 - NOLs generated in 2018, 2019, 2020 and before January 1, 2021 shall be carried back to each of the 5 preceding taxable years, unless taxpayer elects to forego the carryback.
 - Modeling exercises are highly recommended to understand benefit (value) of the carryback versus the decision to forego the carryback opportunity
 - NOL rules also apply to individuals
- Qualified Improvement Property:
 - A technical correction, which now defines qualified improvement property as 15 year property, thus allowing 100% of improvements to be subject to bonus depreciation in the year placed in service.
 - Effective for property acquired and placed in service after September 27, 2017.
- Acceleration of AMT Credit Refunds
 - Corporations with AMT credit refunds are accelerated to 2018 or 2019.

CARES Act

Business Provisions

- Excess Business Losses §461(l)
 - Suspended for 2019 and 2020; other business loss limitation provisions still apply
- Interest Expense Limitations under 163(j):
 - Increases the limitation from 30% to 50% of adjusted taxable income for 2019 and 2020
 - In calculating limitation for 2020, taxpayer may elect to use adjusted taxable income for 2019
 - If taxpayer made real property trade or business election, required to use ADS and cannot claim bonus depreciation, unless guidance is otherwise provided by the IRS
 - Special rules for partnerships:
 - The adjusted taxable income portion applies only to tax years beginning in 2020. An election to not use the increased limitation must be made at the partnership level.
 - A special rule provides that partners treat 50% of any excess business interest expense allocated to the partner in a tax year beginning in 2019 as paid or accrued without limitation in the partner's first tax year beginning in 2020, with the remaining 50% subject to the default limitation based on allocated excess taxable income. Partners can elect out of this rule.

Existing Relevant Tax Provisions

- IRC § 139, Disaster Relief Payments
 - (b)(1): any amount paid to or for the benefit of an individual to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses as a result of a qualified disaster
 - Not taxable to employee, fully deductible to employer
 - Not treated as wages/compensation: not subject to payroll taxes, not reportable on W-2 or 1099
 - Recommendation for taxpayers to document and substantiate these payments

Tax Deadline Changes

- Federal:
 - April 15th income tax filings and payments (returns, extensions, and first quarter 2020 estimates) have been deferred to July 15th, and this deferral is automatic
 - Corporate quick refund applications (Form 4466) are still due April 15th
 - Second quarter 2020 estimated tax payments are still due June 15, 2020
- North Carolina:
 - **Filing:** automatic extension of time to file income and franchise tax returns due on April 15th, 2020 to July 15, 2020 for individuals, corporations, and estates and trusts to mirror Federal deadline. The automatic extension also applies to partnerships.
 - **Payment:** the Secretary will not assess failure to pay penalties as long as income tax return is filed or extension is granted on or before July 15th; however:
 - *State law prevents the NC DOR from waiving or providing relief for accrued interest, which will accrue at 5% per year on payments deferred from April 15th to date of payment*
 - <https://www.ncdor.gov/home/ncdor-actions-covid-19>

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Thank You!