

# Tax Provisions of the CARES Act

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# Our Speakers

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# Agenda

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Due date extensions

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Family First Coronavirus Response Act – Payroll  
Tax Credit

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CARES Act

- Payroll Tax Deferral and Employee Retention Credit
- Net Operating Loss Rules
- Interest Expense Limitation
- Qualified Improvement Property
- Retirement Account Provisions
- Charitable Contributions
- Stimulus Credit/Checks

# HOUSEKEEPING

- The content of this webinar is based on the information that is currently available as of April 14, 2020
- To ask any questions please use the questions pane in the GoToWebinar dashboard on your screen. We will try to answer as many questions as possible at the end.
- This webinar is being recorded and will be uploaded on to [www.wgcpas.com](http://www.wgcpas.com)

# Tax Filing Relief

Notice 2020-23

**Most recent cumulative guidance issued on April 9, 2020**

Overall Theme of Relief:

- Tax Returns Due
- Tax Payments Due
- Specified Time-Sensitive Actions

Actions or payments previously due on or after April 15, 2020 have been postponed to July 15, 2020

# Tax Filing Relief

What is NOT included (generally)

- Payroll tax returns and payments
- Excise tax returns and payments

# Tax Filing Relief

## Tax Returns included:

- 1040/1040NR
- Corporations
  - Forms 1120, 1120-S, 1120-F, 1120-C, 1120-H . . .
- Partnerships
  - Forms 1065
- Estate and Trusts
  - Forms 1041
- Estate, Gift and GST returns
  - Forms 706, 709
- Tax Exempt Organizations
  - Forms 990, 990-PF

# Tax Filing Relief

## Specified Time-Sensitive Actions

- Filing a petition in Tax Court
- Filing a refund claim
- Revenue Procedure 2018-50
  - Numerous specific items
  - Important to check your specific item



# Tax Filing Relief

## Estimated Tax Payments

Any payments otherwise due on or after April 15, 2020 prior to July 15, 2020 are now due on July 15, 2020

No interest charges will accrue

- Calendar year Individual taxpayers:
  - Amount due with 2019 tax return/extension
  - Q1 2020 estimated tax payment
  - Q2 2020 estimated tax payment

# Tax Filing Relief

## How to Receive Benefit from Notice 2020-23

- No action is required to take advantage of these postponements
- "Normal" extensions can be requested on July 15th, if applicable
- However, no extra time is permitted:
  - For example, a corporation with a June 2019 year end would have its original corporate tax return due on September 15, 2019.
  - Assuming the corporation filed a valid corporate extension request on or prior to September 15, 2019, the extended due date would be April 15, 2019.
  - Under Notice 2020-23, the extended due date is July 15, 2020.
  - As of now, no further extensions are available.

# FFCRA Payroll Tax Credit

## Background

- FFCRA signed by President Trump on March 18, 2020
- Required small and mid-size businesses to provide paid sick leave and paid family leave to certain employees
  - Applies to businesses with less than 500 employees
- Employees had to be impacted by COVID-19
  - Direct impact
  - Caregiver impact
- Employers entitled to refundable tax credits to offset cost of paid leave

# FFCRA Payroll Tax Credit

## The Basics

Credit is equal to the sum of:

- Qualified sick leave wages
  - \$511/day for 80 hours over 2 weeks (direct impact) - \$5,110 max
  - \$200/day for 80 hours over 2 weeks (caregiver) - \$2,000 max
- Qualified family leave wages
  - \$200/day for additional 10 weeks (\$10,000 max)
- Qualified health plan expenses
- Employer's share of Medicare tax

Applies only to payments made for leave during the period beginning April 1, 2020 and ending December 31, 2020

# FFCRA Payroll Tax Credit

## Claiming the Credit, Refunds and Advance Payments

- Credit is claimed on quarterly federal payroll tax return, Form 941
- Credit is allowed against employer portion of social security taxes
- If credit exceeds applicable taxes, excess can be refunded
- Employers can retain cash by reducing the amount of taxes it deposits for that quarter
- Advance payment can be requested on Form 7200

# Employer Retention Credit

## The Basics

### What is the Employee Retention Credit?

- Fully refundable tax credit equal to 50% of qualified wages (including health plan expenses)

### Who is an Eligible Employer?

- Those that carry on a trade or business during calendar year 2020 (includes tax-exempt organizations) that either:
  - Fully or partially suspend operations during any calendar quarter in 2020 due to governmental mandate; or
  - Experiences a significant decline in gross receipts during the calendar quarter
- Must not have received a PPP loan

# Employer Retention Credit

## Eligibility Requirements

### What Constitutes a Partial Suspension?

- Government mandate imposing restrictions on operations
- Continues to operate just not at normal capacity
- Example - Restaurants were ordered closed except to the extent they can continue to serve the public through carry-out, drive through or delivery

### What is a Significant Decline in Gross Receipts?

- Begins with first calendar quarter in 2020 in which gross receipts are less than 50% of gross receipts for the same quarter in 2019
- Ends with first calendar quarter in 2020 in which gross receipts are greater than 80% of gross receipts for the same quarter in 2019

# Employer Retention Credit

## Qualified Wages

- Wages paid after March 12, 2020 and before January 1, 2021
  - Includes qualified health benefits
- Capped at \$10,000 per employee for all quarters
  - Maximum \$5,000 per employee credit
- If 2019 average was more than 100 full-time employees
  - Only include wages paid to employees who are furloughed or who have had hours reduced
- If 2019 average was 100 or less full-time employees
  - Include wages on all employees
- Does not include wages used for credits under FFCRA



# Employer Retention Credit

## Claiming the Credit, Refunds and Advance Payments

- Credit is claimed on quarterly federal payroll tax return, Form 941
- Credit is allowed against employer portion of social security taxes
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# Payroll Tax Deferral

- Eligible employers can defer payment of employer portion of social security tax
- Applies to taxes required to be remitted beginning on March 27, 2020 and ending before January 1, 2021
- 50% of deferred amount must be paid by December 31, 2021 and the other 50% must be paid by December 31, 2022
- You are **not** eligible for this deferral once you receive notification that all or a part of your PPP loan has been forgiven

# Net Operating Losses

## Overview – Pre-CARES Act Rules

- Amount of NOL deduction was limited to 80% of taxable income
  - Only applied to NOLs generated in post-2017 years
  - Pre-2018 NOLs were able to fully offset taxable income
- NOLs arising in post-2017 years could only be carried forward
  - Indefinite carryforward period
- NOLs arising in pre-2018 years could be carried back two years and carried forward twenty years

# Net Operating Losses

## Income Limitation and Carryback Restriction Temporarily Lifted

- Taxable income can be fully offset by net operating losses
  - Applies to tax years beginning in 2018, 2019 and 2020
  - 80% limitation applies again for tax years beginning in 2021
- NOLs arising in tax years beginning in 2018, 2019 and 2020 can be carried back five years
  - Added benefit due to rate differential
- Applies to both corporate and individual taxpayers, and trusts

# Net Operating Losses

## Elections

- Carryback provisions are MANDATORY unless you elect out
  - Generally either a check box or a statement attached to a timely filed tax return
  - Must carryback to earliest year first – can't pick and choose
- What about for returns already filed (2018 & 2019)?
  - File a superseding return, if possible, or an amended return
  - Election out must be made by the extended due date of tax return for first taxable year ending after March 27, 2020
- Special election available for carryback years where repatriation income was reported

# Net Operating Losses

## Claiming Refunds

- Generally two options
  - Amended Return (Form 1120X, 1040X, 1041)
  - Application for Tentative Refund (Form 1139 or 1045)
- Form 1139/1045
  - Usually faster since IRS must review and issue refund within 90 days
  - Tentative Refund and subject to audit by IRS
  - Must be filed within 12 months of end of tax year in which NOL occurs
  - Fax to **844-249-6236 (1139)** or **844-249-6237 (1045)**
- Form 1120X/1040X/1041
  - Takes longer to process but is final
  - Must be filed within 3 years after tax return for year in which NOL arose is due/filed (whichever is later)

# Excess Business Losses

## Temporary Removal of \$500,000 Limitation

- Applies to noncorporate taxpayers
- CARES Act retroactively eliminates the overall \$500,000 limitation on deductibility of business losses
- Change applies to tax years beginning in 2018, 2019 and 2020
- Technical correction applicable to post-2020 tax years
  - Wages **CANNOT** be used to reduce or eliminate an excess loss

# Deduction for Business Interest Expense

## Temporary Increase in Overall Deduction Limitation

- TCJA imposed a limitation on the deductibility of business interest expense equal to 30% of Adjusted Taxable Income (ATI)
- CARES Act temporarily and retroactively increases limitation to 50% of ATI
- Applicable for tax years beginning in 2019 and 2020
- Opportunity to amend 2019 if already filed
- Permanent election out available
- For 2020 can elect to base deduction on 2019 ATI



# Deduction for Business Interest Expense

## Special Rules for Partnerships

- Increased limitation does not apply for 2019 (so election out not available)
- Any excess business interest expense allocated to partners will be treated as follows (unless partner elects out)
  - 50% treated as paid by partner in 2020 and fully deductible without any limitation
  - 50% subject to regular rules of Sec. 163(j) and is suspended until partnership allocates excess taxable income to partner
- Partnerships CAN ONLY elect out for 2020

# Qualified Improvement Property - Definition

- Part of Tax Cuts and Jobs Act
- Non-residential real property improvements
- Interior portion of the building
- Placed in service after the date the building is placed in service
- Following improvements do not qualify:
  - Enlargement of building
  - Elevators and escalators
  - Internal structural framework

# Qualified Improvement Property (QIP)

- Technical correction to the Tax Cuts and Jobs Act
- QIP revised to specifically designated as 15-year property
- QIP assigned a 20-year class life for ADS
- QIP now qualifies for bonus depreciation
- Impact of 163(j) election?

# Bonus 163(j) Guidance!

## Revocation of Elections-Out-of-163(j) Permitted

- TCJA allowed irrevocable election out of the 163(j) for real estate trades or businesses
- Decision to make election was impacted by type of depreciable assets and impact on bonus depreciation
- Favorable guidance issued which allows taxpayers a “do-over”
  - Can either undo an election or make an election
- Due primarily to technical correction issued related to QIP

# Retirement Account Provisions

- Required minimum distributions waived for 2020
- Waiver of 10% penalty for COVID-19 related distributions
- Income can be spread over 3-year period
- 3-year rollover period for COVID-19 related distributions
- Limit on plan loans increased to \$100,000
- Delay of due date for loan repayments for one year
- Good time to consider Roth conversions?

# Increased Charitable Contribution Limits

- **C Corporations:**  
charitable contribution limit raised to 25% for 2020
- **Individuals:**  
60% limit disregarded for qualifying contributions
- **Individuals:**  
\$300 above the line deduction beginning in 2020

# Stimulus Credit/Checks

- \$1,200 for eligible individual (\$2,400 for married filing joint)
- \$500 for each qualifying child
- Advanced payments during 2020
- Phaseout between \$75,000 and \$99,000 for individual (\$150,000 and \$198,000 MFJ)

# Thank You!



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