



# WHAT THE STIMULUS MEANS FOR YOUR COMPANY

An AAFA Webinar

March 31, 2020



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# MODERATOR



**Steve Lamar**  
President and CEO  
AAFA



# SPEAKERS



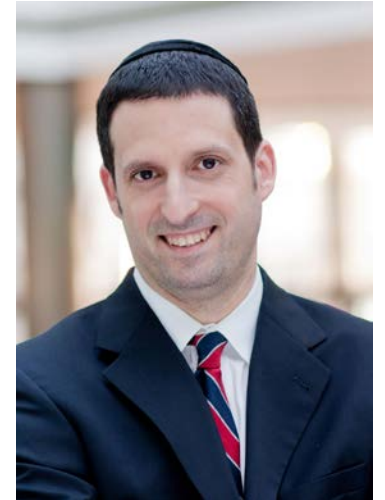
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Employment Department,  
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Cozen O'Connor



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**Joshua Weinberger**  
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# **FFCRA and CARES Act Labor and Employment Update**

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# Families First Coronavirus Response Act (Eff. 4/1/20)

## CARES ACT (Friday 3/27/20)

### EMPLOYEE RIGHTS

PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

The Families First Coronavirus Response Act (FFCRA or Act) requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

► **PAID LEAVE ENTITLEMENTS**  
**Generally, employers covered under the Act must provide employees:**

Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1-3 below, up to \$511 daily and \$5,110 total;
- ⅔ for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
- Up to 10 weeks more of paid sick leave and expanded family and medical leave paid at ⅓ for qualifying reason #5 below for up to \$200 daily and \$12,000 total.


A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

► **ELIGIBLE EMPLOYEES**  
 In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). *Employees who have been employed for at least 30 days prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.*

► **QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19**  
 An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to telework, because the employee:


|  |  |
|--|--|
| <ol style="list-style-type: none"> <li>1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;</li> <li>2. has been advised by a health care provider to self-quarantine related to COVID-19;</li> <li>3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;</li> <li>4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);</li> </ol> | <ol style="list-style-type: none"> <li>5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or</li> <li>6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.</li> </ol> |
|--|--|

► **ENFORCEMENT**  
 The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes paid sick leave or expanded family and medical leave under the FFCRA, files a complaint, or institutes a proceeding under or related to this Act. Employers in violation of the provisions of the FFCRA will be subject to penalties and enforcement by WHD.



**WAGE AND HOUR DIVISION**  
UNITED STATES DEPARTMENT OF LABOR

For additional information or to file a complaint:  
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[dol.gov/agencies/whd](https://dol.gov/agencies/whd)



WH142 REV 0320

- Applies to leave taken between 4/1/20 and 12/31/20.
- Applies to companies with fewer than 500 FT and PT employees within the U.S. as of the time the employee's leave is to be taken.
- Applies to employees employed for at least 30 calendar days. **NEW CARES: Also if (i) laid off after 3/1/20, (ii) employed for at least 30 of 60 calendar days prior to layoff, and (iii) subsequently re-hired.**
- Federal PSL: Provides paid sick leave in certain Coronavirus-related situations with caps.
- Federal FMLA: Provides paid leave in certain Coronavirus-related situations with caps.



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WH1422 REV 0320

- PSL and FMLA are not retroactive.
- PSL and FMLA are in addition to any PTO/leave already provided by employer.
- PSL and FMLA leave can be taken intermittently (while teleworking) only if employer permits.
- If workplace closed and employee sent home w/out work to do before or after 4/1/20 (or if employee is furloughed by employer is not closed), employee not entitled to PSL or FMLA (maybe UI). However, employer must still pay for any PSL or FMLA used before closing.
- New U.S. DOL Guidance on “small business exemption” for employers with < 50 employees.

# Families First Coronavirus Response Act (Eff. 4/1/20)

## DOL New Posting Requirements



**EMPLOYEE RIGHTS**  
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UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

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WHD1422 REV 03/20

U.S. DOL provided new posting requirements:

- <https://www.dol.gov/agencies/whd/pandemic/ffcra-poster-questions>
- **Where do I post this notice? Since most of my workforce is teleworking, where do I electronically “post” this notice?**
- Each covered employer must post a notice of the Families First Coronavirus Response Act (FFCRA) requirements in a conspicuous place on its premises. An employer may satisfy this requirement by emailing or direct mailing this notice to employees, or posting this notice on an employee information internal or external website.
- **Do I have to post this notice in other languages that my employees speak? Where can I get the notice in other languages?**
- You are not required to post this notice in multiple languages, but the Department of Labor (Department) is working to translate it into other languages.
- **Do I have to share this notice with recently laid-off individuals?**
- No, the FFCRA requirements explained on this notice apply only to current employees.
- **By when do I have to post the notice?**

April 1, 2020.

# Unemployment Benefits

- ✓ **New CARES:**
  - ✓ Very much (still) a state-by-state question (eligibility, benefit amounts, etc.).
  - ✓ Applicant must self-certify he or she is otherwise able to work and is available for work within meaning of state law, unless such inability to work is due to Coronavirus-related reasons.
  - ✓ Covers period starting 1/27/20 and ending 12/31/20.
  - ✓ Not eligible if able to telework w/ pay, or are receiving paid sick leave or other paid leave benefits.
  - ✓ Through 12/31/20, additional workers are eligible (self-employed, independent contractors/gig workers, insufficient work history) if unable to work as direct result of Coronavirus-related reasons.



# Unemployment Benefits

- ✓ **New CARES:**
  - ✓ Adds automatic \$600/week to every recipient of benefits for up to 4 months.
  - ✓ Through 12/31/20, provides additional funding from fed gov't to states who waive waiting period and pay cost of 1<sup>st</sup> week of UI.
  - ✓ Through 12/31/20, adds 13 weeks of UI benefits (from 26 to 39 weeks).
  - ✓ Through 12/31/20, provides additional 100% funding of “short-time compensation” when employers just reduce hours, instead of laying off, to make up difference between reduced/prorated UI benefits.



# Federal WARN Act

- The WARN Act requires covered employers provide at least 60 days' advance notice of a mass layoff or plant closing.
- A covered employer is an employer that employs at least 100 employees, excluding part-time employees.
- **Don't forget state mini-WARN Acts!**



# Plant Closings & Mass Layoffs

## – Plant Closing

- A “plant closing” is a permanent or temporary shutdown, resulting in an “employment loss” for at least 50 employees during a 30-day period, of either (i) a single site of employment; or (ii) facilities or operating units within a single site of employment.

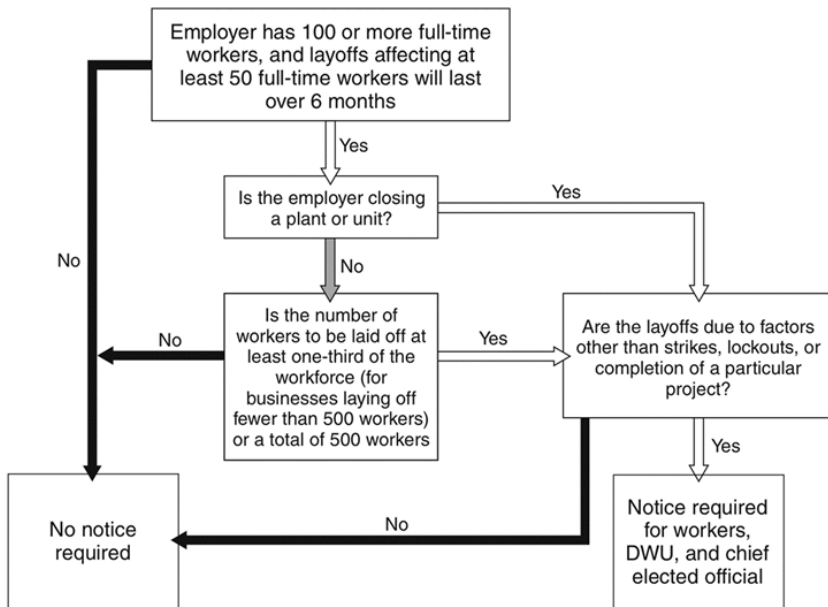
## – Mass Layoff

- A mass layoff means a reduction in force that is not the result of a plant closing and that results in an employment loss at a single site of employment during any 30-day period for:
  - (a) at least 33% of the employees and at least 50 employees (excluding part-time employees) or
  - (b) at least 500 employees, excluding part-time employees.



# Federal WARN Act

Figure 1: WARN Decision Matrix



- Whether a furlough or layoff is subject to the WARN Act depends on:
  - the employer's size,
  - the nature of the action the employer takes,
  - its duration, and
  - the number of affected employees.
- If the employer furloughs or lays off fewer than 50 employees, there is no WARN event.
- If the layoff last less than six months or less, there is no WARN event.

# Exceptions to Full Notice Requirement

- **Faltering company:** This exception applies when, before a plant closing, a company is actively seeking capital or business and reasonably in good faith believes that advance notice would preclude its ability to obtain such capital or business, and this new capital or business would allow the employer to avoid or postpone a shutdown for a reasonable period.
- **Natural disaster:** This exception applies when a plant closing or mass layoff is the direct result of a natural disaster such as a flood, earthquake, drought, storm, tidal wave, or similar effects of nature. In this case, notice may be given after the event.
- **Unforeseeable business circumstances:** This exception applies when the plant closing or mass layoff is caused by business circumstances that were not reasonably foreseeable at the time that 60-day notice would have been required.





# **Small Business Financing Options for Your Practice in Light of COVID-19**

Steven J. Dickinson  
Cozen O'Connor

# Small Business Loans and Assistance

- The US Small Business Administration has a variety of loan programs for eligible small businesses
  - CARES Act appropriated additional \$349 billion for 7(a) loans, including working capital, SBA Express and Paycheck Protection
  - In early March, Congress appropriated funding for additional \$7 billion of disaster loans
- CARES Act provides 6 months of payments on existing SBA loans, beginning at next loan payment date
- Some states have loan and/or financial assistance programs for businesses affected by COVID-19



# SBA 7(a) Working Capital Loan

- Up to \$5 million
- Use for general working capital
- Term – up to 10 years
- Interest rate – negotiated with lender
- Collateral and personal guarantee required
- “Credit elsewhere” requirement
- Participating lenders have delegated authority to approve loans. Otherwise, SBA must approve eligibility.



# SBA Express Loan

- Up to \$1 million during 2020 (increased from \$350,000 by CARES Act)
- Use for general working capital
- Term – up to 7 years with extensions permitted
- Interest rate – negotiated with lender
- Collateral and personal guarantee according to lender’s usual policies.
- “Credit elsewhere” requirement
- Participating lenders approve loans
- Expedited turnaround time
- Express bridge loan up to \$25,000 available on interim basis



# SBA Economic Injury Disaster Loans

- Entire country declared a disaster area for COVID purposes
- Up to \$2 million
- Use for general working capital
- Term – Based on ability to pay, up to 30 years. However, maximum is 7 years for businesses with available credit elsewhere.
- Interest rate – 3.75%
- CARES Act provides for self-certification of eligibility and approval based only on credit score, without submitting tax returns
- Collateral and personal guarantee required, but will not decline because of inadequate collateral. CARES Act eliminates personal guarantees for loans under \$200,000.
- Credit elsewhere requirement waived for 2020
- SBA approves loans – apply online at SBA.gov
- EIDL advance of \$10,000 authorized under CARES Act, forgiven if loan is not approved. SBA is still creating the application forms.



# SBA Paycheck Protection Loans

- 2.5 times average monthly payroll costs for year before loan, up to \$10 million. Payroll cost is generally “fully loaded” cost, but excludes salary over \$100,000 and foreign employees.
- Use for payroll, rent, utilities and interest on debt existing at February 15, 2020
- Term – up to 10 years. Grace period of 6-12 months before payments start.
- Interest rate – 4%
- Collateral, personal guarantee and credit elsewhere requirements waived
- Participating lenders will approve. SBA preparing forms.
- Forgivable in whole or part depending on rehiring and restoring decreases in compensation by June 30, 2020
- May not use Paycheck Protection Loan and also use the tax credit under CARES Act Section 2031 or the wage credit under the Families First Act
- SBA is drafting the rules and creating the forms



# SBA Eligibility Rules

- “Small business” size requirements
  - For most borrowers, number of employees (250-1,500, depending on industry classification)
  - For some borrowers, revenues rather than employees
- SBA counts worldwide employees of applicant and its affiliates
  - Affiliation is based on totality of circumstances, including ownership, contractual relationships, economic dependence, etc.
  - This may present issues for applicants with private equity or venture investors, part of larger holding companies, etc.



# Three Special Eligibility Changes for Paycheck Protection Program

- Uses higher of 500 employees or the otherwise applicable employee number. Disregards revenues.
- Waives affiliation rules for three types of businesses:
  - NAICS Sector 72 (e.g., hotels, restaurants and bars)
  - SBA-approved franchisees
  - Recipients of financial assistance from SBA-registered small business investment company (SBIC)
- Counts number of employees on a per-location basis for businesses in NAICS Sector 72





# **Financial Relief Opportunities for Distressed Industries and Mid-Size Businesses**

Presented by Jeff R. Vogel, Cozen O'Connor.

# Distressed Industries

- CARES Act provides Treasury with \$500 billion in authority for loans, loan guarantees, and other investments to a range of distressed industries (\$46 billion reserved for air carriers and businesses critical to maintaining national security)
- Open to any U.S. business that has not otherwise received adequate economic relief in the form of loans or loan guarantees under the CARES Act
- Treasury is required to issue implementing guidance by April 6, 2020
- All loans appear to have certain restrictions (issuance of dividends, stock buy-backs, and employee compensation)
- As part of the \$454 billion in funding for other “eligible businesses” Treasury is directed to seek the implementation of a mid-size business (500 to 10,000 employees) relief program

# Mid-Size Business (MSB) Relief

- Treasury to provide financing to commercial lenders that will provide direct loans to MSBs
- Low interest (2% per annum) with at least a six month principal and interest grace period
- Additional restrictions, e.g., recipient must:
  - Use funds to retain at least 90% of workforce at full compensation and benefits until September 30, 2020
  - Intend to restore 90% of workforce that existed on February 1, 2020, and restore all compensation and benefits to workers no later than four months after termination of the COVID-19 public health emergency
  - Refrain from outsourcing or offshoring jobs for 2 years after term of the loan
  - Refrain from abrogating existing CBAs for 2 years after term of the loan
  - Remain “neutral” in any effort related to union organization for the term of the loan
- Much remains unknown, including interplay with FRB Main Street Lending Program

# **Tax Related Provisions to the COVID Stimulus Legislation**

Presented by Joshua C. Weinberger, Cozen O'Connor.

# Tax Related Provisions to the COVID Stimulus Legislation

- BUSINESS TAX PROVISIONS
- INDIVIDUAL INCOME TAX PROVISIONS

# Tax Related Provisions to the COVID Stimulus Legislation

- BUSINESS TAX PROVISIONS

# Tax Related Provisions to the COVID Stimulus Legislation

- BUSINESS TAX PROVISIONS

- 1. Employee Retention Tax Credit for Employers Subject to Closure and/or Reduced Sales Due to COVID-19 (Section 2301 of the Act)**

- A new refundable payroll tax credit is available for employers (including tax exempt organizations) whose (1) operations were fully or partially suspended in a calendar quarter, due to a COVID-19 related shutdown order, or (2) gross receipts declined in a 2020 calendar quarter by more than 50 percent when compared to the same quarter in 2019 (with the credit continuing until the employer has gross receipts greater than 80percent of the prior year's comparable calendar quarter).

# Tax Related Provisions to the COVID Stimulus Legislation

- BUSINESS TAX PROVISIONS

1. **Employee Retention Tax Credit for Employers Subject to Closure and/or Reduced Sales Due to COVID-19 (Section 2301 of the Act)**

- The credit is calculated with respect to each calendar quarter and is equal to 50 percent of the “qualified wages” for such quarter. The credit is allowed against the applicable employment taxes for a calendar quarter relating to all employees of the employer but may not exceed the total employment taxes of the employer for such quarter.
- For eligible employers having more than 100 full-time employees, qualified wages are wages paid to employees *when they are not providing services* during a COVID-19 related shutdown order or during the quarter in which the employer experienced a decline in gross receipts as described above. Therefore, wages paid to employees “working from home” would not be qualified wages. For eligible employers with 100 or fewer full-time employees, all employee wages paid qualify for the credit, whether the employer is open for business, the employees are working from home, or the business is subject to a shutdown order.



# Tax Related Provisions to the COVID Stimulus Legislation

- BUSINESS TAX PROVISIONS

1. **Employee Retention Tax Credit for Employers Subject to Closure and/or Reduced Sales Due to COVID-19 (Section 2301 of the Act)**

- The qualified wages to be taken into account may not exceed \$10,000 of compensation, including health benefits, paid to an eligible employee in a calendar quarter.
- In general, wages paid to persons who own 50 percent or more of the business are not taken into account for this credit. The credit is provided for wages paid or incurred from March 13, 2020 through December 31, 2020. Any employer taking a Small Business Interruption Loan is not eligible for this payroll tax credit.

# Tax Related Provisions to the COVID Stimulus Legislation

- BUSINESS TAX PROVISIONS

- 2. Free Delay in the Required Deposit of Employer Social Security taxes and Self-Employment taxes of Individuals (Section 2302 of the Act)

- Employers may defer payment of the employer share of the Social Security tax they otherwise are responsible for paying to the federal government with respect to their employees for the taxes relating to wages paid from the date of enactment through the end of 2020. Employers generally are responsible for paying a 6.2-percent Social Security tax on employee wages. The new law allows the deferral to extend for two years, requiring that the deferred tax be paid half by December 31, 2021 and the other half by December 31, 2022.
- With respect to self-employed individuals, the new law permits 50 percent of the self-employment tax due for the remainder of 2020 to be deferred for two years, with half to be paid by December 31, 2021 and the other half by December 31, 2022.

# Tax Related Provisions to the COVID Stimulus Legislation

- BUSINESS TAX PROVISIONS

### 3. Modification of the Treatment of Net Operating Losses (Section 2303 of the Act and Section 172 of the Code)

- The legislation relaxes the limitations on a company's use of losses that were enacted as part of the Tax Cuts and Jobs Act ("TCJA") in December, 2017.
- Currently, the ability of a taxpayer to use the taxpayer's net operating loss(NOL) carryforwards are subject to an annual limitation based on the taxpayer's taxable-income, and cannot be carried back to reduce income in a prior tax year and obtain a refund for taxes paid in the earlier period.
- The legislation amends the Code so that an NOL arising in a tax year beginning in 2018, 2019, or 2020 can be carried back 5 years and used to offset taxable income during that 5-year period, producing a refund that would be paid to the taxpayer.

# Tax Related Provisions to the COVID Stimulus Legislation

- BUSINESS TAX PROVISIONS

- 3. **Modification of the Treatment of Net Operating Losses (Section 2303 of the Act and Section 172 of the Code)**

- The legislation temporarily removes the percentage of taxable income limitation enacted as part of TCJA and allows an NOL to fully offset the taxpayer's taxable income.  
Although these changes will allow a more tax-efficient use of NOLs by taxpayers, they will also require that companies amend prior tax returns in order to capture the benefit of the NOL carryback.
- This legislation applies to business losses of corporations, unincorporated businesses, and sole proprietorships. It will likely act as encouragement for companies to harvest the maximum amount of their potential 2020 losses in order to capture the benefit of the no-percentage-limitation exemption and the 5-year carryback.
- The historical ability of a taxpayer to waive the carryback of NOLs is retained. IRS guidance will explain how taxpayers with NOLs in 2018 and 2019 can waive the carryback for previously filed returns.

# Tax Related Provisions to the COVID Stimulus Legislation

- BUSINESS TAX PROVISIONS

- 4. Retroactive Suspension of the Limitation on the Excess Business Losses of Noncorporate Taxpayers (Section 2304 of the Act and Section 461 of the Code)

- The TCJA temporarily limited the ability of noncorporate taxpayers to deduct business losses in excess of their business income against nonbusiness income. The TCJA restriction denied noncorporate taxpayers deductions for their “excess business losses” in taxable years beginning after December 31, 2017 and ending before January 1, 2026. Instead, the taxpayer was required to carry forward the amount of the excess business loss. The losses carried forward then become part of the taxpayer’s NOL carryforward in the succeeding taxable year.

# Tax Related Provisions to the COVID Stimulus Legislation

- BUSINESS TAX PROVISIONS

## 4. Retroactive Suspension of the Limitation on the Excess Business Losses of Noncorporate Taxpayers (Section 2304 of the Act and Section 461 of the Code)

The Act postpones the effective date of the excess business loss limitation in Code Sec. 461(j) to taxable years beginning after December 31, 2020. Therefore, taxpayers with otherwise disallowed excess business losses in 2018 and 2019 can amend their tax returns and claim their losses without regard to the excess business loss restriction. The 2020 taxable income of noncorporate taxpayers are free of that limitation as well. Because the excess business loss limitation was applied at the partner or S corporation shareholder level, partners and S corporation shareholders will need to file amended returns for their 2019 and 2019 taxable years in order to claim the benefits of the postponement.

- The postponement is not elective with the taxpayer so that taxpayers should file the amended returns and claim the benefit. Otherwise, it is “use it or lose it.”

# Tax Related Provisions to the COVID Stimulus Legislation

- BUSINESS TAX PROVISIONS

## 5. Modifications to the Limitation on Business Interest Deductions (Section 2306 of the Act and Section 163(j) of the Code)

- One of the most far-reaching changes in the TCJA was the enactment of a limitation on the deductibility of interest on debt of the taxpayer properly allocable to the taxpayer's trade or business. Subject to a number of exceptions and special rules, the TCJA amended the Code to limit a taxpayer's deduction for interest allocable to the taxpayer's trade or business in a taxable year to the sum of: (i) the business interest income of the taxpayer in the year; (ii) 30 percent of the taxpayer's "adjusted taxable income" for the year; plus (iii) in the case of automobile dealers, an add-back for their eligible floor plan financing interest expense.

# Tax Related Provisions to the COVID Stimulus Legislation

- BUSINESS TAX PROVISIONS

- 5. Modifications to the Limitation on Business Interest Deductions (Section 2306 of the Act and Section 163(j) of the Code)

- The Act temporarily increases the amount of interest expense businesses are allowed to deduct on their tax returns by increasing the 30-percent of adjusted taxable income limitation to 50 percent of taxable income (with adjustments) for 2019 and 2020.
    - The Act provides special relief for business entities classified as partnerships for their 2019 taxable years. Instead of requiring that the partnership file an Administrative Adjustment Request to claim the benefit (as would otherwise be required under the Code), 50 percent of the partner's excess business interest allocated from the partnership for its 2019 taxable year is deemed to have been paid or accrued by the partner in the partner's first taxable year beginning in 2020 and is not subject to the percentage of adjusted taxable income percentage limit and the remaining 50 percent is subject to the business interest limitations in the same manner as any other excess business interest allocated to the partner. An additional special rule allows the taxpayer to substitute its 2019 taxable income for its 2020 taxable income in computing the percentage limitations.



# Tax Related Provisions to the COVID Stimulus Legislation

- BUSINESS INCOME PROVISIONS

- 6. Correction to the TCJA Rules for Bonus Depreciation for Qualified Improvement Property (Section 2307 of the Act and Section 168 of the Code)

- In attempting to simplify the rules for bonus depreciation for qualified improvement property, e.g., improvements to the interior portion of a nonresidential building such as partitions and commercial kitchen installations, the TCJA actually removed qualified improvement property from the class of property eligible for bonus depreciation. The Act fixes this mistake, referred to as the “Retail Glitch,” retroactive to the date of enactment of the TCJA.

# Tax Related Provisions to the COVID Stimulus Legislation

- BUSINESS TAX PROVISIONS

## 7. Modification of the Credit for Prior Years' Minimum Tax Liability of Corporations (Section 2305 of the Act and Section 53 of the Code)

- The corporate alternative minimum tax (AMT) was repealed as part of the TCJA, but corporate AMT credits were made available as refundable credits over several years. The credit carryover was available to offset regular tax and was refundable for 50 percent of the uncredited balance for tax years 2018-2020, with 100 percent being refundable in 2021.
- The Act accelerates the ability of companies to recover those AMT credits, permitting companies to claim a refund now, by making to the change to full refundability applicable to the corporation's first taxable year beginning in 2018.

# **Tax Related Provisions to the COVID Stimulus Legislation**

- INDIVIDUAL INCOME TAX PROVISIONS

# Tax Related Provisions to the COVID Stimulus Legislation

- INDIVIDUAL INCOME TAX PROVISIONS

- 1. Rebate Checks for Individual Taxpayers (Section 2201 of the Act and Section 6428 of the Code)

- The legislation generally provides \$1,200 payments (referred to in the legislation as recovery rebates) to eligible individuals. Eligible individuals are generally any U.S. resident with adjusted gross income up to \$75,000 (\$150,000 for joint filers), who are not a dependent of another taxpayer. The rebate is \$2,400 for joint return filers. Additionally, eligible individuals can receive \$500 for each child that qualifies as a dependent. Individuals are eligible for the rebate even if they earned no taxable income.
    - The rebate phases out for individuals in higher tax brackets. The rebate amount is reduced by \$5 for each \$100 that a taxpayer's adjusted gross income exceeds specific phase-out thresholds. The rebate is completely phased-out for single filers with adjusted gross income exceeding \$99,000, \$146,500 for head of household filers with one child, and \$198,000 for joint filers with no children. No action is required on the part of an eligible individual in order to receive a rebate check. The legislation authorizes the IRS to use a taxpayer's 2019 tax return information if already filed, or in the alternative their 2018 return, in order to generate the rebate check. For individuals who provided direct deposit information to the IRS, rebates will be direct deposited. This rebate payment applies only to the 2020 tax year.

# Tax Related Provisions to the COVID Stimulus Legislation

- INDIVIDUAL INCOME TAX PROVISIONS

- 2. Special Rules Providing More Flexibility in the Use of Retirement Account Funds (Section 2202 of the Act and Section 72 of the Code)

- In order to facilitate the use of, and access to, cash in retirement funds, the legislation permits distributions up to \$100,000 from qualified retirement accounts for coronavirus-related purposes during calendar year 2020 without the distributions being subject to the otherwise applicable 10 percent penalty in premature distributions. The legislation provides further flexibility to the taxpayer by allowing a re-contribution of those distributed funds to another eligible retirement plan within three years without regard to that year's cap on contributions, and such amounts would be treated as a roll-over to such eligible retirement plan.
    - In addition, the taxable income attributable to any such distributions would be included ratably over three years rather than in the taxable year the distribution is received. The income deferral is not mandatory and a taxpayer may elect out of the three-year income deferral and include the income in the year of the distribution. Given the anticipated prevalence of losses by many taxpayers in 2020, a taxpayer may find it advantageous to elect to recognize the income in 2020 and offset the income with a current loss. The legislation is not clear how the income inclusion rules are to be coordinated with the re-contribution rules.

# Tax Related Provisions to the COVID Stimulus Legislation

- INDIVIDUAL INCOME TAX PROVISIONS

- 2. Special Rules Providing More Flexibility in the Use of Retirement Account Funds (Section 2202 of the Act and Section 72 of the Code)

- A coronavirus-related distribution is a distribution made to an individual: (1) who is diagnosed with COVID-19, (2) whose spouse or dependent is diagnosed with COVID-19, or (3) who experiences adverse financial consequences as a result of being quarantined, furloughed, laid off, having work hours reduced, being unable to work due to lack of child care due to COVID-19, closing or reducing hours of a business owned or operated by the individual due to COVID-19, or other factors as determined by the Treasury Secretary. The provision allows the plan trustee to rely on a qualification certification from the employee.
    - Further, the provision provides another mechanism to access cash from a retirement fund, by allowing for flexibility for loans from certain retirement plans for coronavirus-related relief. The legislation increases the allowable principal amount retirement plan loans from \$50,000 to \$100,000 and extends the time frame in which such loan must be repaid.

# Tax Related Provisions to the COVID Stimulus Legislation

- INDIVIDUAL INCOME TAX PROVISIONS

- 3. Temporary Waiver of Required Minimum Distribution Rules for Certain Retirement Plans and Accounts (Section 2203 of the Act and Section 401 of the Code)

- The Act waives the required minimum distribution (“RMD”) rules for certain defined contribution plans and IRAs for calendar year 2020. This waiver applies to both individuals who are in RMD status and those who enter RMD status in 2020. The required minimum distribution rules might otherwise require that the plan or plans liquidate assets in order to make distributions required to be made.
    - This provision provides relief to individuals who would otherwise be required to withdraw funds from such retirement accounts during the economic slowdown due to COVID-19.

# Tax Related Provisions to the COVID Stimulus Legislation

- INDIVIDUAL INCOME TAX PROVISIONS

- 4. Allowance of Partial Above the Line Deduction for Charitable Contributions (Section 2204 of the Act and Section 170 of the Code)

- The Act provides for an above-the-line deduction for cash contributions of individuals of amounts up to a \$300. This above-the-line deduction is available only to those taxpayers who do not itemize their deductions, but rather claim the standard deduction. As a result of this provision, even taxpayers who claim the standard deduction and do not itemize may claim a deduction up to \$300 for cash charitable contributions.
    - Contributions to private foundations and donor advised funds are not contributions that qualify for this above-the-line deduction.



# Tax Related Provisions to the COVID Stimulus Legislation

- INDIVIDUAL INCOME TAX PROVISIONS

- 5. Modifications to the Limitations on the Amount of the Allowable Deduction for Charitable Contributions during 2020 for Individuals and Corporations (Section 2205 of the Act and Section 170 of the Code)

- The Act further provides relief from the limitations on deductions for charitable contributions by individuals who itemize, as well as corporations. For individuals, the 60-percent of adjusted gross income limitation is suspended for 2020. For corporations, the 10-percent of taxable income limitation is increased to 25 percent of taxable income for 2020. This provision also increases the percentage limitation on deductions for contributions of food inventory from 15 percent to 25 percent.
    - Similar to the above-the-line relief for non-itemizers, this provision also does not eliminate the percentage limitation caps for contributions to private foundations and donor advised funds.

# Tax Related Provisions to the COVID Stimulus Legislation

- INDIVIDUAL INCOME TAX PROVISIONS

- 6. Educational assistance break (Section 2206 of the Act and Section 127 of the Code)

- An employer may pay up to \$5,250 annually toward an employee's student loans, and that payment may be excluded from the employee's income. The \$5,250 cap applies to both the new student loan repayment benefit as well as any other educational assistance (e.g., tuition, fees, books) provided by the employer (such other educational assistance is not taxable income to the employee under current law so long as the benefit does not exceed \$5,250).
    - This new student loan provision applies to any student loan payments made by an employer on behalf of an employee after date of enactment and before January 1, 2021. It is unclear at this point whether the student loan payment provisions can be adopted as part of a salary reduction plan or whether the student loan payments must be incremental.

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# QUESTIONS

Please type your questions into the question box on the control panel of your screen.



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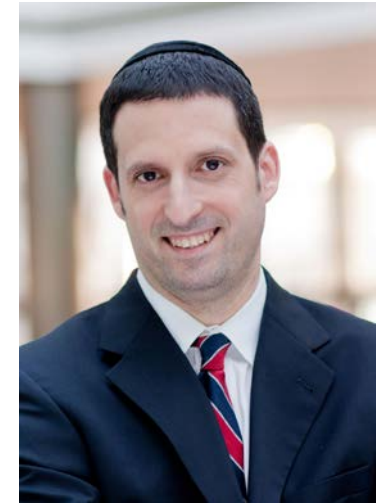
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