The President signed into law the Coronavirus Aid, Relief, and Economic Security (CARES) Act. Regulatory guidance from federal agencies such as the Department of Labor, Department of Treasury, Department of Health and Human Services, and the Internal Revenue Service is still necessary to fully explain the value and impact of these provisions.

The CARES Act endeavors to address the short-term economic needs of individuals and small business owners. While additional legislative narrative will clarify elements of this law, below is a summary of the known provisions.

Individual Tax Relief

Stimulus Rebates – The most well-publicized provision is the *$1,200 recovery rebate for individual taxpayers*. The rebate amounts are advance refunds of credits against 2020 taxes, and equal to $1,200 for individuals, or $2,400 for joint filers, with a $500 credit for each qualifying child. The amount of each rebate is phased out by $5 for every $100 in excess of the threshold amount. This threshold amount is based upon 2018 adjusted gross income (unless a 2019 return has already been filed), and the phase-out begins at $75,000 for single filers, $112,500 for heads of households, and $150,000 for joint filers. Thus, the rebates are completely phased out for single filers with adjusted gross income over 99,000, heads of householder with 136,500, and joint filers with 198,000 (or higher, depending upon the number of children claimed). The Secretary of the Treasury is directed to provide the rebate as rapidly as possible. It is expected the rebate will be deposited in individuals' bank accounts or mailed to households, dependent on whether direct deposit information has historically been provided on income tax returns.

Retirement Plans – The Act also waives the 10% penalty on early withdrawals up to $100,000 from qualified retirement plans for coronavirus-related distributions. For purposes of the penalty waiver, a coronavirus-related distribution is one made during the 2020 calendar year, to an individual diagnosed with COVID-19 with a CDC-approved test, or to an individual who experiences adverse financial consequences as a result of quarantine, business closure, layoff, or reduced hours due to the virus. Any income attributable to an early withdrawal is subject to tax over a three-year period, and taxpayers may recontribute the withdrawn amounts to a qualified retirement plan without regard to annual caps on contributions if made within three years. The Act also waives all required minimum distributions for 2020, regardless of whether the taxpayer has been impacted by the pandemic.

Charitable Contributions – The Act enhances tax incentives for making charitable contributions for the 2020 tax year. First, it allows an *above-the-line deduction of up to $300* for charitable contributions made by individuals. This allows an individual to claim a deduction for a charitable contribution, even if the individual does not itemize deductions. Second, charitable deduction limitations for the 2020 year have been substantially reduced. *Taxpayers can now claim an unlimited itemized deduction* for a charitable contribution, which is normally limited to 50% of adjusted gross income. Limitations apply to the type of contribution.

Student Loans Paid by Employers – The Act provides for *an exclusion of up to $5,250 from income* for payments of an employee's education loans. In order for the exclusion to apply, the loan must have been incurred by the employee for the education of the employee. The payment can be made to the employee or directly to the lender. The exclusion only applies for payments made by an employer after the date of enactment and before January 1, 2021. The $5,250 cap applies to both the new student loan repayment benefits as well as other educational assistance (tuition, fees, books, etc.).

Business Tax Relief

Employee Retention Credit – The CARES Act grants eligible employers *a credit against employment taxes equal to 50 percent of qualified wages paid* to employees who are not working due to the employer's full or partial cessation of the business or a significant decline in gross receipts. The credit is available to be claimed on a quarterly basis, but the amount of the wages, including health benefits, or which the credit can be claimed is limited to $10,000 in aggregate per employee for all quarters. The provision contains several requirements defining qualified wages, qualified employees, and qualified employers. The credit applies to wages paid after March 12, 2020, and before January 1, 2021. In practice, this is very similar to the paid leave credits granted to employers under the Families First Coronavirus Response Act signed into law on March 18, 2020 with some changes to the requirements. Most significantly, neither the employee nor the employer have to be directly impacted by the infection.

Payroll Tax Deferral – The CARES Act *defers the payment of payroll taxes*. Payroll taxes due from the period beginning on the date the CARES Act is signed into law and ending on December 31, 2020, are deferred. The 6.2 percent OASID portion of payroll taxes incurred by employers, and 50% of the equivalent payroll taxes incurred by self-employed persons qualify for the deferral. Half of the deferred payroll taxes are due on December 31, 2021, with the remainder due on December 31, 2022.

Net Operating Losses – The Act allows for a *five-year carryback of the net operating losses (NOLs)* arising in the 2018, 2019, or 2020 by a business. Businesses will be able to amend or modify tax returns for tax years dating back to 2013 in order to take advantage of the carryback. The Act also eliminates the loss limitation rules applicable to sole proprietors and pass-through entities to allow them to take advantage of the NOL carryback. Additionally, the Act *allows for NOLs arising before January 1, 2021 to fully offset income*. Under current law, NOLs are limited to 80 percent of taxable income.

Qualified Improvement Property – The CARES Act *defines qualified improvement property as 15-year property*, thus allowing 100 percent of improvements to be deducted in the year incurred. The change is made as if included in the original TCJA tax bill. As such, the change has been made retroactively effective on all property placed in service after September 27, 2017.

Other Miscellaneous Tax Provision

The act provides for…

- The exclusion from tax of any forgiven small business loans, mortgage obligations, or other loan obligations forgiven by the lender during the application period.
- A safe harbor from the definition of a high deductible health plan permitting telehealth services to be included, even though such services do not carry a deductible.
- The inclusion of over-the-counter menstrual products as qualified medical expenses for purposes of distributions from health savings accounts and health flexible spending arrangements.

- The acceleration of minimum tax credits currently unused.
- The increase of business interest expense limitations from 30% to 50%

Economic Injury Disaster Loans (EIDL) and Paycheck Protection Loans (PPP)

Since passage of the Act, many business owners have sought guidance on if, how, when, and where to seek federal loans and grants. The Coronavirus bills passed have allocated funds to the Small Business Administration for loans and grants to qualifying businesses that, if spent accordingly, *do not have to be repaid*. Presently, our advisement to business owners is as follows:

- Review the provisions of these loans as outlined by www.sba.gov, our blog post (https://www.coopernorman.com/coronavirus-aid-relief-and-economic-security-act-cares-act/), and other reputable sources.
- Make contact with your trusted banker and seek feedback.
- Prepare the documentation generally required for a SBA Loan. This documentation includes:
  - Your EIN
  - Your current employee count
  - Your most recent IRS Form 941 – Employer's Quarterly Federal Income Tax Return
  - A brief narrative how the COVID-19 disaster has adversely impacted your business
  - Copies of your Articles of Organization and any related Amendments
  - Ownership information
  - A prepared Form 4506-T (https://www.irs.gov/pub/irs-pdf/f4506t.pdf)
  - Updated financial records (income statements and balance sheets) for 2019, along with a breakdown of your January 2019 through February 2020 payroll expenses.
  - A monthly average, based upon the last 12 months or however long you have been in business (whichever is less), for the following expenditures:
    - Payroll
    - Business Rent
    - Business Real Estate Mortgages
    - Other Business Debt Payments prior to March 1, 2020
    - Utilities
- When sufficiently advised to do so, apply for aid.

Cooper Norman is here to help. Please contact us with any questions. If our recent correspondence has been helpful, please consider leaving us positive feedback HERE.