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Immediate Relief for Business:

- **SBA Paycheck Protection Program** – First and foremost, you should be talking with your banker about the SBA Paycheck Protection Program (PPP). Loan amounts forgiven are not taxable income. This is the best option out there right now, but they are also in high demand, however, the Senate is working to make additional funds available for the program.

- **SBA Economic Injury Disaster Loan (EIDL)** – Next you might want to consider the SBA Economic Injury Disaster Loan (EIDL). This is a separate loan and is applied for with the SBA directly. This loan is not forgivable, however, they have a low interest rate and the first payment is deferred for 12 months. Additionally, you could be eligible for an emergency grant of up to $10,000. The application process for this is more arduous.

Intermediate Relief for Business:

- **Emergency Paid Sick Leave** – There is a tax credit available related to the new 10-day sick leave act that went into effect April 1, 2020. That is based on the employee's circumstances, would pay the employee at their regular rate, or a reduced rate of two-thirds of their regular rate. Those benefits will be excluded from the SBA PPP forgiveness program. Please see the attached sample sick leave policy that can be used to document this benefit. *This credit is funded as part of your payroll tax returns and is a refundable credit.*

- **Expanded Family and Medical Leave** – There is a two-thirds tax credit available related to the new 10-week EFMLA benefit that went into effect April 1, 2020. The eligibility for this benefit is stricter than the 10-day sick leave. Please see the attached sample emergency family and medical leave policy that can be used to document this benefit. *This credit is funded as part of your payroll tax returns and is a refundable credit.*

- **Employee Retention Credit for employers** – To be eligible for this credit there first must be a greater than 50% reduction in quarterly receipts, measured on a year-over-year basis, or fully or partially suspend operation during any calendar quarter in 2020 due to orders from an appropriate governmental authority. This is only available for employers with 100 or less employees. The maximum payroll for the period of 3/12/20 and 12/31/20 is $10,000 per employee, so that the maximum credit for an Eligible Employer for qualified wages paid to any employee is $5,000. *This credit is funded as part of your payroll tax returns and is a refundable credit.* **The credit is not available to employers receiving the Paycheck Protection Program referenced above.**

- **Delayed Payment of Employer Payroll Taxes** – This allows the employer to defer paying the employer portion of certain payroll taxes through the end of 2020, with all 2020 deferred amounts due in two equal installments, one at the end of 2021 and the other at the end of 2022. This also applies to self-employed persons but is only 50% of the self-employment tax liability (including related estimated tax liability). **The credit is not available to employers which have had indebtedness forgiven under the Paycheck Protection Program referenced above.**

Other Helpful provisions (Business):

- **Retailers Glitch (fast write-off of interior building improvements) was corrected** – The CARES Act makes a technical correction to the 2017 Tax Law that retroactively treats (1) a wide variety of interior, non-load-bearing building improvements (qualified improvement property (QIP)) as eligible for bonus deprecation (and hence a 100% write-off) or for treatment as 15-year MACRS property or (2) if required to be treated as alternative depreciation system property, as eligible for a write-off over 20 years. The correction of the error in the 2017 Tax Law restores the eligibility of QIP for bonus depreciation, and in giving QIP 15-year MACRS status, restores 15-year MACRS write-offs for many leasehold, restaurant and retail improvements.

- **Net Operating Loss has been temporarily restored** – The 2017 Tax Cuts and Jobs Act (the 2017 Tax Law) limited NOLs arising after 2017 to 80% of taxable income and eliminated the ability to carry NOLs back to prior tax years. For NOLs arising in tax years beginning before 2021, the CARES Act allows taxpayers to carryback 100% of NOLs to the prior five tax years, effectively delaying for carrybacks the 80% taxable income limitation and carryback prohibition until 2021.

  The Act also temporarily liberalizes the treatment of NOL carryforwards. For tax years beginning before 2021, taxpayers can take an NOL deduction equal to 100% of taxable income (rather than the present 80% limit). For tax years beginning after 2021, taxpayers will be eligible for: (1) a 100% deduction of NOLs arising in tax years before 2018, and (2) a deduction limited to 80% of taxable income for NOLs arising in tax years after 2017.

- **Deferral of non-corporate taxpayer loss limits** – The CARES Act retroactively turns off the excess active business loss limitation rule of the TCJA in Code Sec. 461(l) by deferring its effective date to tax years beginning after December 31, 2020 (rather than December 31, 2017). (Under the rule, active net business losses in excess of $250,000 ($500,000 for joint filers) are disallowed by the 2017 Tax Law and were treated as NOL carryforwards in the following tax year.)

  The CARES Act clarifies, in a technical amendment that is retroactive, that an excess loss is treated as part of any net operating loss for the year but isn't automatically carried forward to the next year. Another technical amendment clarifies that excess business losses do not include any deduction under Code Sec. 172 (NOL deduction) or Code Sec. 199A (qualified business income deduction).

  Still another technical amendment clarifies that business deductions and income don't include any deductions, gross income or gain attributable to performing services as an employee. And because capital losses of non-corporations cannot offset ordinary income under the NOL rules, capital loss deductions are not taken into account in computing the Code Sec. 461(l) loss and the amount of capital gain taken into account cannot exceed the lesser of capital gain net income from a trade or business or capital gain net income.

- **Pension Funding delays –** The CARES Act gives single employer pension plan companies more time to meet their funding obligations by delaying the due date for any contribution otherwise due during 2020 until January 1, 2021. At that time, contributions due earlier will be due with interest. Also, a plan can treat its status for benefit restrictions as of December 31, 2019 as applying throughout 2020.

- **Relaxation of business interest deduction limit** - The 2017 Tax Law generally limited the amount of business interest allowed as a deduction to 30% of adjusted taxable income (ATI). The CARES Act generally allows businesses, unless they elect otherwise, to increase the interest limitation to 50% of ATI for 2019 and 2020, and to elect to use 2019 ATI in calculating their 2020 limitation. For partnerships, the 30% of ATI limit remains in place for 2019 but is 50% for 2020. However, unless a partner elects otherwise, 50% of any business interest allocated to a partner in 2019 is deductible in 2020 and not subject to the 50% (formerly 30%) ATI limitation. The remaining 50% of excess business interest from 2019 allocated to the partner is subject to the ATI limitations. Partnerships, like other businesses, may elect to use 2019 partnership ATI in calculating their 2020 limitation.

<u>Other Helpful provisions (Individuals):</u>

- **Individual rebates** – Advance payment of a 2020 recovery rebate. The rebates are $1,200 payments to eligible taxpayers and $2,400 for married couples filing a joint return. There is also an additional $500 payment that will be sent to taxpayers for each qualifying child under age 17. There are income limitations here. The <u>general rule</u> is that if you are single and your AGI is less than $75,000 or married filing jointly and your AGI is less than $150,000, then your advanced recovery rebate will not be limited.

- **The tax filing deadline has been extended to July 15, 2020** for most jurisdictions and most tax payments. Please note that the 2nd quarter estimated tax payments are still due on June 15, 2020 and have not been delayed.

- **Waiver of the 10% early distribution penalty** – for early distributions from IRAs and 401(k)s (and other qualified retirement accounts) made in 2020 and limited to $100,000 will avoid the 10% excise penalty. However, the withdrawal is still subject to normal income taxes.

- **Waiver of required distribution rules (RMD)** – Required minimum distributions that otherwise would have to be made in 2020 from defined contribution plans (such as 401(k) plans) and IRAs are waived. This includes distributions that would have been required by April 1, 2020, due to the account owner's having turned age 70 1/2 in 2019.

- **Charitable deduction liberalizations** – Individuals will be able to claim a $300 <u>above-the-line</u> deduction for cash contributions made, generally, to public charities in 2020. This rule effectively allows a limited charitable deduction to taxpayers claiming the standard deduction.

- **Charitable deduction liberalizations** – For those who still are able to itemize on their tax return, the 60% of adjusted gross income limitation that normally applies to charitable contributions has been removed for 2020, so 100% of charitable contributions are deductible for 2020. No connection between the contributions and COVID-19 activities is required.

4.9.2020 – Many of the laws pertaining to the information provided are being updated and clarified by government changes and regulations. The information provided may be changed multiple times.