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Updates for Businesses Regarding COVID-19 – The CARES Act

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The following changes or updates to current tax laws were part of the 3/27/2020 CARES Act as tax relief provisions:

Delay of estimated tax payments

- Corporations and individuals will be allowed to postpone paying federal estimated tax payments due after 3/27/2020 until July 15, 2020, with no limits on the amount of tax payments postponed.
- **What does this mean for you?**
    - If your business is a corporation with federal estimated tax payments due for 2020 taxes, you can delay paying them until July 15th with no penalties for late estimate payments on next year's tax return.

Changes to charitable deductions

- The limitations on deductible qualified charitable contributions for the 2020 tax year will increase to 25% of adjusted gross income for corporations, where previously it was limited to 10% of the corporation's taxable income.
- Any amount over the limitation will be carried over up to five years.
- For partnerships and S corporations, the election to treat charitable contributions as "qualified" is made separately by each partner or shareholder, as the business' contributions flow through on their K-1s.
- **What does this mean for you?**
    - This is meant to encourage charitable contributions in 2020 by allowing businesses, and individuals to have a better tax benefit from making qualified contributions. Making more contributions than you usually do in your partnership or S corporation could benefit the shareholders, depending on how close they normally are to itemizing.

Temporary repeal of taxable income limitation for net operating losses (NOLs)

- Previously, the NOL deduction was limited to the lesser of total NOL carryovers and NOL carrybacks to a year, or 80% of taxable income before NOL deduction. Now, the taxable income limitation has been temporarily removed to allow an NOL to fully offset income.
- **Effective date**: Applies to tax years beginning after 12/31/17, and to years beginning before 12/31/17 when NOLs from tax years after 12/31/17 are carried back.
- **What does this mean for you?**
    - For 2019 business returns that have not been filed, prior NOLs carried forward will be able to completely reduce income.
    - There is a possibility to amend 2018 and 2019 tax returns if there was a NOL in your business.
    - Analysis must be done on a case-by-case basis, further discussion may be needed with your tax preparer.

Modification of rules relating to net operating loss (NOL) carrybacks

- Previously, an NOL must be carried forward to following tax years, with the exception of farming losses and losses of property and casualty insurance companies. Now, NOLs arising in certain tax years may be carried back to each of the five years preceding the tax year of the loss.
    - Ex: Your business has a net operating loss in tax year ending 2019. This loss can be carried forward, or carried back to tax years 2018, 2017, 2016, 2015, and 2014.
        - Carried back one year at a time until NOL is used starting with the fifth year. If you have an NOL of $20,000 and 2014 had a taxable income of $22,000, can only carryback one year.
- **Limitations:** Only NOLs from tax years beginning after 12/31/18 and before 1/1/2021 can be carried back. For most taxpayers, this means tax years 2019 and 2020.
- **What does this mean for you?**
    - 2019 and 2020 net operating losses can be carried back to offset prior years, rather than waiting and being carried forward to be applied in future years. When losses are carried back, it means you could get a refund of taxes paid in prior years. This is especially important if you know you had income in prior years, but you are concerned that future years will continue to have net operating losses.

Modification of limitation on losses for noncorporate taxpayers

- Previously, noncorporate taxpayers were not allowed a deduction for excess business losses for tax years 2018-2025. The new law temporarily modifies this loss limitation, allowing noncorporate taxpayers to deduct excess business losses in 2018, 2019, and 2020.
- **What does this mean for you?**
    - This is only a change for *noncorporate taxpayers*. Who are they?
        - Partnerships, LLCs, estates, trusts, and S Corporations are all noncorporate taxpayers.
    - If you are a noncorporate taxpayer, you may be able to amend 2018 and already filed 2019 returns to deduct excess business losses.
    - 2019 returns that have not been filed yet will be able to deduct excess business losses and reduce tax liability for partners and shareholders.

Corporate minimum tax credit (MTC) is accelerated

- Previously, if a corporation was previously subjected to the alternative minimum tax (AMT) and had outstanding minimum tax credits, they were able to claim them for tax years before 2021. In 2021, the remaining MTC may be claimed as fully refundable. For 2018, 2019, or 2020, the MTC is refundable, and the refundable amount is calculated as 50% of the excess MTC for the tax year, over the amount of the credit allowable against regular tax liability for the tax year. This calculation was supposed to change to 100% in 2021 and afterwards.
- Now, the calculation is 50% for 2018 and changes to 100% for tax years beginning in 2019. The CARES Act also provides an election to take the entire refundable credit amount in 2018.
    - The application for this election must be treated as a tentative carryback refund claim, and the application must be filed *before December 31, 2020.*
- **What does this mean for you?**
    - Further discussion with your tax provider may be needed to determine whether this will have any implications for you.

Deductibility of interest expense temporarily increased

- The Tax Cuts and Jobs Act previously limited the amount of business interest allowed as a deduction up to 30% of adjusted taxable income.
- The CARES Act temporarily increased the deduction from 30% to 50% for tax years beginning in 2019 and 2020.
- *Special rules for partnerships*:
    - The increase in the deduction limitation only applies for 2020
- *Elections:*
    - Taxpayers may elect out of the increase for any tax year in the way the IRS will prescribe. However, once the election is made it can only be evoked with IRS consent.
    - Taxpayers can elect to calculate the interest limitation for their 2020 tax year using the adjusted taxable income for 2019 as the relevant base.
- **What does this mean for you?**
    - We don't foresee this law change having any effect on our clients, because taxpayer who qualify as small businesses are exempt from the initial Tax Cuts and Jobs Act interest limitation, and are therefore able to fully deduct interest expenses.
    - As a reminder, to qualify as a small business your business's average annual gross receipts over the last three years must be less than $25 million.

Bonus Depreciation correction for Qualified Improvement Property

- Under the TCJA, qualified improvement property was mistakenly written to have a 39-year recovery period for nonresidential rental property, this making it ineligible for 100% bonus depreciation.
- The CARES Act corrects the law and identifies qualified improvement property as 15-year property for depreciation, making it eligible for bonus depreciation.
- What is qualified improvement property?
    - It is an improvement to a building interior of "nonresidential real property" that is placed in service after the date the building was first placed in service.
- **Effective date**: This is effective for property placed in service after 12/31/2017.
- **What does this mean for you?**
    - There is a possibility to amend 2018 and already filed 2019 tax returns to add bonus depreciation for any qualified improvement property added in those years.

Waiver of Prepayment Penalty

- For loans made under the CARES Act, there will be no prepayment penalty for payments made on or before 12/31/2020.

Paycheck Protection Program

- Loans are available to small businesses, including non-profits, individuals, sole proprietorships, and independent contractors, as long as they have less than 500 employees.
- May be able to receive up to 2.5 times the average monthly payroll costs (as determined in a prior period)
- May be completely forgiven, depending on what loan was used for.
    - Payroll costs, utilities, rent, and interest on mortgage payments will all be forgiven.
- There are several requirements for the loan to be forgiven.
- If requirements aren't met, the loan will convert to a standard loan with a maximum of 4% interest, and maximum life of 10 years.
- **Please see our COVID Small Business Resources document for more information.**

Other business tax information:

Mercantile Business Privilege Taxes

- We are currently keeping watch for any news regarding the due dates for business privilege taxes. Currently, only three districts have pushed back their deadline to receive 2020 business privilege taxes. The following districts have moved the due date to 7/15/2020.
  - Dover Township
  - York Township
  - Spring Garden Township
  - West Manchester Township
- The remaining districts still have a due date of 4/15/2020, after which interest and penalties may be issued.

Miscellaneous Tax Deadline Changes

- Maryland Annual Reports and Personal Property Tax Returns – this deadline has changed to July 15, 2020
- Any trade names, name reservations, and entity forfeiture dates in Maryland will be extended to 30 days after the state of emergency is rescinded (yet to be determined).

We will continue to monitor the situation and update this list as further news comes out.