MAHER & CO.
CERTIFIED PUBLIC ACCOUNTANTS

URGENT TAX UPDATE - COVID-19

On March 27, 2020, the President signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act, H.R. 748, into law. The bill includes various income tax provisions applicable to individuals and businesses and other programs designed to inject needed stimulus into the economy. The bill is in addition to the already extended tax filing and payment deadlines as well as the Family First Coronavirus Response Act (FFCRA). The below summarizes various key provisions of each. ***If you would like to discuss in further detail, please do not hesitate to reach out to our office at Maher & Company PC 314-726-0626.***

Extended Tax Deadline – 7/15/20

Federal – The income tax filing and payment due date is automatically extended from April 15, 2020, to **July 15, 2020**. This deferment applies to all taxpayers, including individuals, trusts and estates, corporations and other non-corporate tax filers as well as those who pay self-employment tax. The 2020 first quarter federal estimated tax payment is due July 15, 2020 as well. However, the second quarter federal estimated tax payment due date remains **June 15, 2020**.

The federal due date of July 15, 2020 also automatically extends the payment due date for 2019 contributions to Individual Retirement Accounts and Health Savings Accounts.

Illinois – The filing and payment date is extended from April 15, 2020 to **July 15, 2020.** This relief applies to all individual returns, trusts, and corporations. This relief **DOES NOT** impact your 1st and 2nd quarter estimate payments which are **STILL** due April 15, 2020 and June 15, 2020.

Missouri – The filing and payment date is extended from April 15, 2020 to **July 15, 2020.** This relief applies to all individual returns, trusts, and corporations. This relief also applies to your 1st quarter estimate payment which is now due July 15, 2020. Your 2nd quarter estimate payment is **STILL** due June 15, 2020.

Other states - While most states are aligning themselves with the federal extended payment and filing dates, some states still impose different deadlines which will need to be evaluated on a case-by-case basis.

Time Sensitive - Paycheck Protection Program – Potentially Forgivable SBA Loan

The Paycheck Protection Program is a part of the (CARES) Act designed to inject nearly $350-billion of economic stimulus by providing American small businesses with eight weeks of cash-flow assistance through 100 percent federally guaranteed loans. This program ***is limited to the first $350-billion in approved applicants***. Therefore, time is of the essence should you intend to file an application.

The following links provide more insight into the program:

https://eig.org/news/understanding-the-paycheck-protection-program

https://www.rubio.senate.gov/public/_cache/files/ac3081f6-14ae-4e6f-9197-172ede28badd/71AB6CB05A08E369E0D488A80B3874A5.faqs---paycheck-protection-program-faqs-for-small-businesses.pdf

Emergency Paid Sick Leave and Emergency Family and Medical Leave Expansion

The FFCRA, which was enacted into law on March 18, 2020, and takes effect April 1, 2020. The law covers all private employers with fewer than 500 employees.

Two Categories of Leave

1. Paid Sick Leave (up to 10 days) – employees are eligible for up to two weeks, or 10 days, of paid sick leave, subject to an 80-hour cap for full-time employees.

2. Expanded Family and Medical Leave (up to 10 weeks) – After taking two weeks paid sick leave, employees who have been employed for at least 30 days may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.

Effective Date

Employers must comply with the FFCRA from April 1, 2020, until it expires on December 31, 2020. Paid leave prior to April 1 will not count.

Paid Sick Leave Eligibility

All employees of private employers with 500 employees or less, regardless of how long they've been employed, are eligible for up to 10 days of emergency paid sick leave. Employees will be eligible if they are unable to work (or telework) because:

1. The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.

2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.

3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.

4. The employee is caring for an individual who is subject to paragraphs (1) or (2).

5. The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the childcare provider of such son or daughter is unavailable, due to COVID-19 precautions.

6. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

If a business makes a decision to close or cancel work shifts for business reasons (i.e., lack of work), neither emergency paid sick leave nor expanded family leave will apply as they are available only to employees who are not working due to the specified reasons listed above, not including their employer's decision to cease or reduce operations.

Pay Rate

If an employee is out for reasons 1-3 listed above, sick leave must be paid at the employee's required compensation, but is capped at $511/day and $5,110 in the aggregate per employee. If an employee is out for reasons 4-6 listed above, sick leave must be paid at 2/3 the employee's required compensation, and is capped at $200/day and $2,000 in the aggregate per employee.

Overlapping Leave Laws and Employer PTO

The FFCRA prohibits employers from requiring an employee to exhaust accrued paid-time-off (PTO) or state/local paid sick leave. Employees are entitled to utilize federal emergency paid sick leave before using state or local paid sick leave or accrued employer-offered PTO.

Employee Notice

All businesses covered by the law (i.e., private sector employers with fewer than 500 employees) are required to post this notice, even if you are a small business owner.

Employers may satisfy the notice requirements of the law by emailing or direct mailing the notice to employees, or posting the notice on an employee information internal or external website. Since the law only applies to current employees, the notice does not have to be shared with laid-off individuals.

Prompt Reimbursement Payment for the Cost of Providing Leave

When employers pay their employees, they are required to withhold from their employees' paychecks federal income taxes and the employees' share of Social Security and Medicare taxes. The employers then are required to periodically deposit these federal taxes, along with their share of Social Security and Medicare taxes, with the IRS and file quarterly payroll tax returns (Form 941 series) with the IRS.

Eligible employers who pay qualifying sick or child-care leave will be able to retain an amount of the payroll taxes equal to the amount of qualifying sick and child-care leave that they paid, rather than deposit them with the IRS.

The payroll taxes that are available for retention include withheld federal income taxes, the employee share of Social Security and Medicare taxes and the employer share of Social Security and Medicare taxes with respect to all employees.

If there are not sufficient payroll taxes to cover the cost of qualified sick and child-care leave paid, employers will be able to file a request for an accelerated payment from the IRS. The IRS expects to process these requests in two weeks or less. The details of this new, expedited procedure will be announced next week.

Examples

> If an eligible employer paid $5,000 in sick leave and is otherwise required to deposit $8,000 in payroll taxes, including taxes withheld from all its employees, the employer could use up to $5,000 of the $8,000 of taxes it was going to deposit for making qualified leave payments. The employer would only be required under the law to deposit the remaining $3,000 on its next regular deposit date.
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> If an eligible employer paid $10,000 in sick leave and was required to deposit $8,000 in taxes, the employer could use the entire $8,000 of taxes in order to make qualified leave payments and file a request for an accelerated credit for the remaining $2,000.
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> Equivalent child-care leave and sick leave credit amounts are available to self-employed individuals under similar circumstances. These credits will be claimed on their income tax return and will reduce estimated tax payments.

Small Business Exemption

Small businesses with fewer than 50 employees will be eligible for an exemption from the leave requirements relating to school closings or child-care unavailability where the requirements would jeopardize the ability of the business to continue. The Federal government has indicated, the exemption will be available based upon simple and clear criteria that make it available in circumstances involving jeopardy to the viability of an employer's business as a going concern. The Department of Labor is to provide emergency guidance and rulemaking to clearly articulate this standard.

For more clarification on the sick and medical leave, please refer to the frequently ask questions section of the Department of Labor website: https://www.dol.gov/agencies/whd/pandemic/ffcra-questions.

CARES Act – Individual Provisions

Individual recovery rebate/credit. An eligible individual is allowed an income tax credit for 2020 equal to the sum of: (1) $1,200 ($2,400 for eligible individuals filing a joint return) plus (2) $500 for each qualifying child of the taxpayer. The amount of the credit is reduced (but not below zero) by 5% of the taxpayer's adjusted gross income (AGI) in excess of: (1) $150,000 for a joint return, (2) $112,500 for a head of household, and (3) $75,000 for all other taxpayers. Under these rules, the credit is completely phased-out for a single filer with AGI exceeding $99,000 and for joint filers with no children with AGI exceeding $198,000. For a head of household with one child, the credit is completely phased out when AGI exceeds $146,500. The IRS will be sending out advance refunds in the coming weeks based on 2019 or 2018 tax return information. Taxpayers will reduce the amount of the credit available on their 2020 tax return by the amount of the advance refund payment they receive.

No 10% additional tax for coronavirus-related retirement plan distributions. The 10% additional tax does not apply to any coronavirus-related distribution, up to $100,000. A coronavirus-related distribution is any distribution, made on or after January 1, 2020, and before December 31, 2020, from an eligible retirement plan made to a qualified individual **with virus related challenges**. Eligible retirement accounts include individual retirement accounts (IRAs), 401Ks and other qualified trusts, certain deferred compensation plans, and qualified annuities.

In the case of any coronavirus-related distribution, unless the taxpayer elects not to, any amount distributed will be included in gross income ratably over the 3-tax year period beginning with 2020. However, distributions from the plan can be contributed back to the plan at any time during the 3-year period beginning on the day after the date on which such distribution was received and will be treated as having transferred the amount to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

RMD requirement waived for 2020. The bill suspends temporarily the required minimum distribution rules for 2020.

$300 above-the-line charitable deduction. The bill adds a deduction to the calculation of gross income, in the case of tax years beginning in 2020, for the amount (not to exceed $300) of qualified charitable contributions made by an eligible individual during the tax year. For this purpose, the term "eligible individual" means any individual who does not elect to itemize deductions.

Modification of limitations on charitable contributions during 2020. The bill modifies the adjusted gross income (AGI) limitations on charitable contributions for 2020, to 100% of adjusted gross income for individuals and 25% of taxable income for corporations. The bill also increases the food contribution limits to 25%.

Tax-excluded education payments by an employer temporarily include student loan repayments. Certain employer payments of student loans on behalf of employees are excluded from taxable income. Employers may contribute up to $5,250 annually toward student loans, and the payments would be excluded from an employee's income.

CARES Act – Business Provisions in addition to the Paycheck Protection Program

Employee retention credit for employers. This provision provides a refundable payroll tax credit for 50% of wages paid by eligible employers to certain employees during the COVID-19 crisis. The credit is available to employers, including non-profits, whose operations have been fully or partially suspended as a result of a government order limiting commerce, travel, or group meetings. The credit is also provided to employers who have experienced a greater than 50% reduction in quarterly receipts, measured on a year-over-year basis**. The credit is not available to employers receiving Small Business Interruption Loans including the Paycheck Protection Program.**

Wages do not include amounts taken into account for purposes of the payroll credits, for required paid sick leave or required paid family leave in the FFCRA, nor for wages taken into account for the Code Sec. 45S employer credit for paid family and medical leave. The credit applies to wages paid after March 12, 2020 and before January 1, 2021.

Delay of payment of employer payroll taxes. The bill delays payment of 50% of 2020 employer payroll taxes beginning on the date of the enactment of the bill until December 31, 2020. The other 50% will be due December 31, 2022. For self-employment taxes, 50% will not be due until those same dates.

Temporary repeal of taxable income limitation for net operating losses (NOLs). The bill temporarily repeals the 80% income limitation for net operating loss deductions for years beginning before 2021. Also, for losses arising in 2018, 2019, and 2020, a five-year carryback is allowed (taxpayers can elect to forgo the carryback).

Modification of limitation on losses for noncorporate taxpayers. The CARES Act temporarily modifies the loss limitation for noncorporate taxpayers so they can deduct excess business losses arising in 2018, 2019, and 2020.

Corporate minimum tax credit (MTC) is accelerated. The CARES Act allows corporations to claim 100% of alternative minimum credits in 2019. Previously, credits were not fully refundable until 2021.

Deductibility of interest expense temporarily increased. The Tax Cuts and Jobs Act of 2017 generally limited the amount of business interest allowed as a deduction to 30% of adjusted taxable income. For tax years beginning in 2019 and 2020, Sec. 163(j) is amended to increase the adjusted taxable income percentage from 30% to 50%. Also, taxpayers can elect to use 2019 income in place of 2020 for the computation.

Bonus depreciation technical correction for qualified improvement property. The bill includes a long overdue technical correction to the Tax Cuts and Jobs Act, thus specifically designating qualified improvement (QI) property as 15-year property for depreciation purposes. This makes QI Property a category eligible for 100% Bonus Depreciation. Prior to the change, QI Property was 39-year property with possible application of Section 179 expensing. The amendments made by Act are effective for property placed in service after Dec. 31, 2017.