The CARES Act Impact on Corporate and Business Taxes

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The CARES Act has several key provisions that are meant to give corporations and business (including sole proprietorships, partnerships and S-corporations) credits, payment delays, loss carrybacks, and interest deductions to help businesses to generate cash flow and liquidity to keep business open and maintain payroll. Below please find a summary of these tax benefits to help business keep their doors open through this crisis.

Payroll Tax Credit for Employers

Section 2301 of the CARES Act provides that employers who hold onto employees during the COVID-19 crisis will be eligible for a refundable payroll tax credit for 50% of wages paid by employers to employees. The credit is available to employers whose business operations are fully or partially suspended due to a COVID-19 related shut down order or gross receipts declined by more than 50% when compared to the same quarter in the prior year.

The credit is based on qualified wages paid the employees. The 50% credit would offset the employer's share of Social Security taxes up to $10,000 of qualified wages per employee. For employers with more than 100 full-time employees, qualified wages are wages paid when they are not providing services due to the COVID-19 crisis. For eligible employers with fewer than 100 full-time employees, all employee wages qualify for the credit, whether the employer is open for business or subject to a shut-down order. The credit is to provide for wages paid or incurred from March 13, 2020 through December 31, 2020.

Payroll Tax Payments Delays

Section 2302 of the Act delays the time to submit payroll taxes, and allows both employers and self-employed individuals to defer payment of the employer share of the Social Security tax they are otherwise responsible for paying with respect to their employees. The provision requires that the tax be paid over the next two years, with half of the amount due by December 31, 2021, and the remainder due by December 31, 2022.

Modifications for Net Operating Losses

Section 2303 modifies the limitations on a company's use of Net operating losses (NOL). Congress had eliminated loss carrybacks in the 2017 tax act to help pay for the reduced corporate tax rate. Under Section 2203 provides that a NOL arising in a tax year beginning in 2018, 2019, or 2020 can be used to offset profits from five prior years. The provision temporarily removes the taxable income limitation to allow a NOL to fully offset income.

Those companies expecting 2020 losses would know that they had some relief after the end of the year. Because most companies reported profits during the past few years, every dollar of losses generated in 2020 can generate refunds in 2021. These losses would get claimed at the old 35% corporate tax rate.

Example – a company that incurs a $10 million loss in 2020 could use that to lower 2017 taxable income by $10 million and get a $3.5 million refund.

Companies can utilize losses and amend prior year returns, which will provide cash flow and liquidity. Companies can also take advantage of Section 2204 of the Act which increases the limitation on qualifying charitable contributions a corporation gives from 10% of taxable income to 25% of taxable income. A corporation can make charitable contributions to generate losses to offset income.

Section 2304 of the Act modifies the loss limitations applicable to businesses and sole proprietors that are taxed as pass-through entities (including S-corps, partnerships, and disregarded entities), so that these business can utilize excess business losses and access cash flow to maintain operations and payroll.

AMT

Section 2305 provides that companies with tax credit carryforwards and previous alternative minimum tax liability (AMT) can claim larger refundable tax credits. As a reminder, the corporate AMT was repealed as part of the Tax Cuts and Jobs Act (TCJA) in 2017. Under the CARES Act, corporate AMT credits are made available as refundable credits over several years, ending in 2021. The provision accelerates the ability of companies to recover those AMT credits, permitting companies to claim a refund now and increase cash flow.

Increased Interest for Business

Section 2306 temporarily increases the amount of interest expense businesses can deduct by increasing the 30% limitation to 50% of taxable income (with adjustments) for 2019 and 2020.

Qualified Improvement Property

Section 2307 will fix an error in the 2017 TCJA. In the 2017 TCJA, lawmakers were trying to let companies deduct certain building renovation costs immediately, instead of following the 15 year depreciation schedule, instead, they mistakenly made the depreciation period 39 years. Section 2307 of the CARES Act would make the change back to the 15 year depreciation schedule going forward and retroactive for 2018 and 2019. Companies can amend their tax returns for both years, claim those one-time deductions and get refunds.

Alcohol excise tax

You may have seen in the news that many breweries are switching up production in order to produce hand sanitizers for hospitals and the public. Section 2307 waives the federal excise tax on any distilled spirits used for, or contained in, hand sanitizer that is produced and distributed in a manner consistent with guidance issued by the FDA and is effective for calendar year 2020.