KELLER OWENS

Certified Public Accountants

We hope that you are keeping safe and healthy during these times. We want to keep you updated regarding the tax-related provisions in the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Congress's gigantic economic stimulus package that the President signed into law on March 27, 2020.

Economic Impact Payments for eligible individuals. To help individuals stay afloat during this time of economic uncertainty, the government will send up to $1,200 payments to eligible taxpayers and $2,400 for married couples filing joints returns. An additional $500 payment will be sent to taxpayers for each qualifying child dependent under age 17 (using the qualification rules under the Child Tax Credit).

The economic impact payments are gradually phased out, at a rate of 5% of the individual's adjusted gross income over $75,000 (single or married filing separately), $122,500 (head of household), and $150,000 (joint). The payments are not available to nonresident aliens, to estates and trusts, or to individuals who themselves could be claimed as dependents.

The payments will be paid out in the form of checks or direct deposits. Most individuals won't have to take any action to receive an economic impact payment. The IRS will compute the payment based on a taxpayer's tax year 2019 return (or tax year 2018, if the 2019 return has not yet been filed). If you are a social security benefit recipient and are not required to file a return, your payment will be based on information from your social security benefit statement.

If you have not filed a 2018 or 2019 tax return because you are not required to file a return, you must prepare and file a simple return to receive the recovery rebate, even if you owe no tax. There is an ***exception*** for social security recipients without a filing requirement; they will **not** be required to file a return in order to receive their rebate check.

Be aware of scams and schemes. The IRS will **NOT** contact taxpayers for any kind of information to complete the economic impact payment. The IRS will **NOT** contact taxpayers by phone, mail, email, social media, or in person for any information. Scammers may use words such as "stimulus payment" or "rebate check", and they may promise to get your refund sooner. Do **NOT** give information to anyone who contacts you regarding the economic impact payment.

Waiver of 10% early distribution penalty. The additional 10% tax on early distributions from IRAs and defined contribution plans (such as 401(k) plans) is waived for distributions made between January 1 and December 31, 2020 by a person who (or whose family) is infected with the Coronavirus or who is economically harmed by the Coronavirus (a qualified individual). Penalty-free distributions are limited to $100,000, and may, subject to guidelines, be re-contributed to the plan or IRA. Income arising from the distributions is spread out over three years unless the employee elects to turn down the spread out.

Waiver of required distribution (RMD) rules. 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. The CARES Act makes four significant liberalizations to the rules related to 2020 (applies to 2020 only) charitable deductions:

(1) Individuals will be able to claim a $300 deduction for cash contributions made, even if the taxpayer does not itemize deductions (an above the line deduction). Contributions to donor-advised funds do not qualify for this deduction.

(2) The limitation on charitable deductions for individuals that is generally 60% of modified adjusted gross income (the contribution base) doesn't apply to cash contributions made, generally, to public charities in 2020 (qualifying contributions). Instead, an individual's qualifying contributions, reduced by other contributions, can be as much as 100% of the contribution base. No connection between the contributions and COVID-19 activities is required. Contributions to donor-advised funds do not qualify for this deduction.

(3) Similarly, the limitation on charitable deductions for corporations that is generally 10% of (modified) taxable income doesn't apply to qualifying contributions made in 2020. Instead, a corporation's qualifying contributions, reduced by other contributions, can be as much as 25% of (modified) taxable income. No connection between the contributions and COVID-19 activities is required. Contributions to donor-advised funds do not qualify for this deduction.

(4) For contributions of food inventory made in 2020, the deduction limitation increases from 15% to 25% of taxable income for C corporations and, for other taxpayers, from 15% to 25% of the net aggregate income from all businesses from which the contributions were made.

Exclusion for employer payments of student loans. An employee currently may exclude $5,250 from income for benefits from an employer-sponsored educational assistance program. The CARES Act expands the definition of expenses qualifying for the exclusion to include employer payments of student loan debt made before January 1, 2021.

Break for remote care services provided by high deductible health plans. For plan years beginning before 2021, the CARES Act allows high deductible health plans to pay for expenses for tele-health and other remote services without regard to the deductible amount for the plan.

Break for nonprescription medical products. For amounts paid after December 31, 2019, the CARES Act allows amounts paid from Health Savings Accounts and Archer Medical Savings Accounts to be treated as paid for medical care even if the taxpayer does not have a physician's prescription for the medical expense. For reimbursements after

December 31, 2019, the same rules apply to Flexible Spending Arrangements and Health Reimbursement Arrangements.

Business only provisions

Employee retention credit for employers. Eligible employers can qualify for a refundable credit against, generally, the employer's 6.2% portion of the Social Security (OASDI) payroll tax (or against the Railroad Retirement tax) for 50% of certain wages paid to employees during the COVID-19 crisis. This credit is not available to recipients of a Payroll Protection Program loan. This credit will be reported on your quarterly payroll tax return (Form 941). An advancement of the credit is available on Form 7200.

Delayed payment of employer payroll taxes. Taxpayers (including self-employed individuals) will be able 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, the other at the end of 2022. Taxes that can be deferred include the 6.2% employer portion of the Social Security (OASDI) payroll tax. The relief isn't available if the taxpayer has had debt forgiveness under the CARES Act for Payroll Protection Program loans. For self-employed taxpayers, the deferral applies to 50% of the Self-Employment Contributions Act tax liability (including any related estimated tax liability). This deferment of tax is available immediately and employers will report the information on the Form 941 (quarterly payroll tax return).

Net operating loss liberalizations. 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.

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).

Deferral of noncorporate 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.)

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.

Pension funding delay. 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.

Certain SBA loan debt forgiveness isn't taxable. Amounts of Small Business Administration Section 7(a)(36) guaranteed loans that are forgiven under the CARES Act aren't taxable as discharge of indebtedness income if the forgiven amounts are used for one of several permitted purposes. The loans (**Payroll Protection Program loans**) have to be made during the period beginning on February 15, 2020 and ending on June 30, 2020. We have links on our website (https://www.kellerowens.com) for loan applications and information.

Resources

We have posted new law information and links on our website (https://www.kellerowens.com/resources/coronavirus-resources).

The IRS has developed a new web page for the tax law changes (https://www.irs.gov/coronavirus), which is a great resource.

Our payroll department, Payroll Partners Plus, is available to help you navigate the tax benefits under the new law. Please visit their website at https://www.payrollpartnersplus.com or call them at 913-338-3500.

We are happy to take your call or email with any questions related to the new tax law. Your personal Keller & Owens representative can assist you, or you can contact us at ko@kellerowens.com or 913-338-3500.

It is our privilege to serve you. We wish you the best during these challenging times.

Keller & Owens, LLC
10955 Lowell Avenue, Suite 800
Overland Park, Kansas 66210
ko@kellerowens.com
913-338-3500