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Coronavirus CARES Act & the IRS: What It Means for You and Your Company

The Senate has approved a $2 trillion dollar coronavirus stimulus bill, known as the CARES Act. The Act will move on to the House where it is expected to pass in the immediate future. The Act will then go to the President, who is expected to sign it into law. The stimulus package is the largest in U.S. history, and its purpose is to provide financial relief to businesses and individuals. The IRS will play a central role in implementing the stimulus package.

Key Provisions of the Stimulus Package

- $1,200 (plus $500/child) payments to many Americans (to be phased out based on income over $75,000 for single filers and $150,000 for joint filers as reported on the 2018 or 2019 Form 1040, if already filed).
- A $367 billion emergency loan program for small businesses.
- A $425 billion fund for industries, cities and states. There is a requirement that the industry funds cannot be used for stock buy-backs.
- $50 billion in aid to passenger airlines.
- $600 a week in unemployment insurance for four months. This benefit is in addition to state unemployment insurance payments.
- $150 billion for state and local stimulus.
- $130 billion for hospitals and nursing homes.
- Expansion of Net Operating Loss (NOL) Carrybacks and Carryforwards. The Tax Cuts and Jobs Act (TCJA) eliminated carrybacks. It is not yet clear how this will be administered by the IRS.
- Likely a significant increase in the funding of the IRS.
- Retirement plan and IRA withdrawals will not be subject to withdrawal penalties, provided the funds are redeposited over several years.
- Employee retention credit available against employer portion of payroll tax for businesses forced to suspend or close operations but continuing to pay

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- Delay the payment dates of certain employment taxes.
- Technical correction to the TCJA for "Qualified Improvement Property."
- Adds an above-the-line deduction for a cash contribution of up to $300 made to certain qualifying charities by individuals who do not itemize deductions.
- Temporarily suspends the Section 461(l) loss limitations.
- Changes the interest limitation rules under Section 163(j) to 50 percent of adjusted taxable income for 2019 and 2020.

IRS to Oversee Cash Stimulus Payments to Taxpayers

The CARES Act places the IRS in charge of overseeing the stimulus payments to Americans. The one-time stimulus payments are based on a taxpayer's 2019 income tax return, if already filed, or otherwise on 2018 returns. There are provisions to address individuals who do not earn enough to file a tax return. The payments are targeted at the lower to middle income individuals and begin to phase out at an adjusted gross income of $75,000 for a single taxpayer ($150,000 for married filing jointly) and completely phase out at $99,000 for a single taxpayer ($198,000 for married filing jointly).

The IRS's administration of these payments is unclear and raises several questions including:

- In the event a taxpayer's adjusted gross income qualifies in 2019, but the individual has not yet filed a return, is there a cut-off period for when the taxpayer may file the 2019 return to receive a payment?
- From a planning perspective, is it better for some individuals to delay filing 2019 returns to insure they will receive a payment?
- When will payments begin to be distributed?
- Will there be a mechanism for taxpayers who have not yet filed 2019 returns to correct or update their 2018 return information? There could be serious issues with taxpayers who have moved, divorced, had a child or changed bank accounts getting their payment or getting the appropriate amount.

The IRS has been at the center of economic stimulus payments before. In 2001, President George W. Bush authorized rebate checks as part of his tax cut plan, and it took the IRS six weeks to start issuing rebate checks. However, in recent years the IRS has faced substantial budget cuts. With less staff and a smaller budget, it is possible that the issuance of rebates will take longer. Further, with the rise of issues such as identity theft and fraudulent refund claims, the IRS will need to implement a secure verification process.

The expanded duties of the IRS due to the coronavirus pandemic could help the agency secure more funding.

Loss Carryback Rules

Under current law, an NOL can only be carried forward to offset income and gains in future years. NOLs generated after 2017 are limited to 80 percent of taxable income. In times of economic uncertainty, the government has provided relief by adjusting the carryback rules. Typically, this allows a taxpayer with a current loss to carry the loss back to profitable years and generate a tax refund. The hope is that this will stimulate the economy. Congress used this technique in the early 2000s and in 2008.

The CARES Act amends the carryback rules so that losses in tax years 2018, 2019 and 2020 can be carried back five years. The act also suspends the 80 percent limitation for losses carried to 2019 and 2020, allowing NOLs to offset 100 percent of taxable income. The carryback will be available to individuals and businesses. The act also includes a technical correction for the treatment of NOLs for tax years 2017 and 2018.

For non-corporate taxpayers, the Cares Act temporarily modifies the loss limitation rules under Section 461(l). The TCJA limited the amount of "net business loss" an individual could use in a year to $250,000 for a single taxpayer ($500,000 married filing jointly). Any excess loss is converted into a NOL, the use of which was restricted by the NOL rules. The CARES Act temporarily suspends these provision for 2020 and retroactively to January 1, 2018. Thus, taxpayers who had loss limitations in 2018 and 2019 may file refund claims.

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