An Overview on the CARES Act & What It Means For Businesses

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The Coronavirus Aid, Relief and Economic Security (CARES) Act (the "Act"), a $2 trillion stimulus package, has officially been signed into law. The bipartisan deal allocates $2 trillion in an effort to mitigate the fallout from the COVID-19 crisis, including $1.5 trillion in spending and tax cuts and $500 billion in loans—$454 billion of which was allocated to the Federal Reserve as the basis for additional lending. This stimulus package can feel complex and is massive in scope. Mercadien's professionals are prepared to work with our clients to find ways to leverage the relief it is meant to provide.

The CARES Act contains additional tax provisions, including provisions on the non-taxability of certain loan forgiveness, advance refunding of certain credits and the suspension of certain aviation taxes. The major highlights of the CARES act as it relates to businesses are summarized below.

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 term "wages" includes health benefits and is capped at the first $10,000 in wages paid by the employer to an eligible employee. Wages do not include amounts taken into account for purposes of the payroll credits, for required paid sick leave or paid family leave in the Families First Coronavirus Act, nor for wages taken into account for the Code Sec. 45S employer credit for paid family and medical leave.

Eligibility varies for employers with less than 100 full-time employees in 2019 versus those with a larger average number of full-time employees.

Other Exceptions:

- The credit is not available to employers receiving Small Business Interruption Loans under Sec. 1102 of the Act.
- No credit is available for any period for which the employer is allowed a Work Opportunity Credit with respect to the employee.

The credit applies to wages paid after March 12, 2020 and before Jan. 1, 2021.

Delay of payment of employer payroll taxes

The CARES Act allows taxpayers to defer paying the employer portion of certain payroll taxes through the end of 2020. Thus, notwithstanding any other provision of law, the payment for applicable employment taxes for the payroll tax deferral period won't be due before the applicable date.

For purposes of the above rules, the term ''applicable employment taxes'' means social security taxes and Railroad Retirement Tax Act (RRTA) taxes. The term ''payroll tax deferral period'' refers to the period beginning on the date of enactment of the Act and ending before Jan. 1, 2021. The term ''applicable date'' means: (A) Dec. 31, 2021, with respect to 50% of the amounts to which employment taxes and self-employment tax, as the case may be, apply, and (B) Dec. 31, 2022, with respect to the remaining 50% of those amounts.

Estimated tax payments, self-employment tax, third-party liability for withholding tax, and certified professional employer organizations (CPEOs) are all affected.

Exception:

- The above rules won't apply to any taxpayer which has had indebtedness forgiven under Act Sec. 1106 with respect to a loan under Small Business Act Sec. 7(a)(36), as added by Act Sec. 1102, or indebtedness forgiven under Act Sec. 1109.

The effective date of these provisions applies to the period beginning on the date of enactment of the Act.

Additional Provisions to Note

The CARES Act includes provisions for net operating losses (NOLs) including:

- Allowing NOLs arising in a tax year beginning after Dec. 31, 2018 and before Jan. 1, 2021 to be carried back to each of the five tax years preceding the tax year of such loss. This amendment applies to tax years beginning after Dec. 31, 2017, and to tax years beginning on or before Dec. 31, 2017, to which NOLs arising in tax years beginning after Dec. 31, 2017 are carried.

The CARES Act temporarily modifies the loss limitation for noncorporate taxpayers so they can deduct excess business losses arising in 2018, 2019, and 2020. The amendment applies to tax years beginning after Dec. 31, 2017.

Corporate minimum tax credit (MTC) is accelerated and the CARES Act allows corporations to claim 100% of alternative minimum tax (AMT) credits in 2019.

Deductibility of interest expense is temporarily increased. The CARES Act temporarily and retroactively increases the limitation on the deductibility of interest expense from 30% to 50% for tax years beginning in 2019 and 2020. Under a special rule for partnerships, the increase in the limitation will not apply to partners in partnerships for 2019 (it applies only in 2020). For partners that don't elect out, guidelines are provided in the Act for any excess business interest of the partnership for any tax year beginning in 2019 that is allocated to the partner. The amendment applies to tax years beginning after Dec. 31, 2018.

The CARES Act provides a technical correction to the Tax Cuts and Jobs Act of 2017 (TCJA), and specifically designates qualified improvement property (QI Property) as 15-year property for depreciation purposes. This makes QI Property a category eligible for 100% Bonus Depreciation. QI Property also is specifically assigned a 20-year class life for the Alternative Depreciation System.

Mercadien practitioners are here to support you and your business as you navigate through the unchartered challenges ahead. We are available to offer sound financial advice, whether it relates to business or individual concerns so feel free to contact me at fpina@mercadien.com or 609-689-2319.