

Tax Notes

Senate Version of CARES Act Passes Unanimously, Awaits House and President's Approval

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This is part of a continuing series updating our clients regarding the effects on tax filings due to COVID-19. Please find our prior articles as part of PKF O'Connor Davies' [COVID-19 Resource Center](#).

Late Wednesday night the Senate unanimously passed [H.R. 748](#), the Coronavirus Aid, Relief, and Economic Security Act (CARES Act or Act). It is expected that the House will vote on this 880-page, \$2 trillion relief bill on Friday, March 27, and the President is expected to sign immediately if the bill is unchanged. Included in the Senate version are provisions for both tax relief for tax payments and current filings, as well as economic stimulus, by allowing for tax refunds on amended returns for the last several years.

This article is a brief summary of the Senate version of the CARES Act. More analysis, with PKFOD observations and action items, will follow as the bill moves through the House and ultimately to the President for signature; our team of experts will guide you through these difficult times. Our COVID-19 Resource Center includes articles covering other information as well related to the pandemic which may be of interest to our clients, e.g. direct aid to affected businesses, the availability of loans for small businesses, etc.

Current Relief for Tax Filings and Payments

The Act follows up on initial announcements by Treasury regarding delays in tax filings and payments of tax.

- IRS Notice 2020-18 has provided that all persons with a U.S. federal income tax return AND payment due April 15, 2020 for the 2019 tax year now have a due date of July 15, 2020. **There is no cap on the amount of payments that can be postponed.** In addition, there is no requirement to file an extension and taxpayers do not have to be sick or quarantined to qualify for the relief. This applies to 2020 first quarter estimated payments as well.
- Payment of Social Security taxes due through January 1, 2021 is delayed for employers and self-employed individuals; taxes for this period will be due in equal installments on December 31, 2021 and December 31, 2022.
- Employers whose business is closed because of COVID-19 or who experience a significant decline in gross receipts are allowed a credit of 50% of quarterly employment taxes per quarter for each employee during the quarters the business is affected. The maximum amount of qualified wages is \$10,000 per employee over the year (a total of a \$5,000 credit). For businesses with more than 100 employees, the credit is only allowed for employees not providing services.

Economic Stimulus through Tax Refunds

- Net operating losses (NOLs) incurred in 2018, 2019, and 2020 can be carried back five years and fully offset taxable income. [The Tax Cuts and Jobs Act (TCJA) passed in 2017 limited NOL usage to 80% of taxable income and prevented carrybacks.] The Act also provides elections to avoid the NOL applying to Section 965 amounts, thus increasing the likelihood of the carryback leading to a refund.
- The excess business loss limitation would be suspended for 2018, 2019, and 2020 and may now be used in full to reduce a taxpayer's current or prior year (2018 only) income tax liability. Previously, the TCJA changed the amount of business losses a noncorporate taxpayer may deduct, limiting that amount to \$250,000 (\$500,000 in the case of a joint return). Losses above those amounts had to be carried forward.
- Any unused corporate AMT credits remaining are fully refundable (either on a 2019 tax return or a 2018 amended return).
- A fix to the bonus depreciation rules, retroactive to the beginning of 2018, allows a 100% write-off for qualified improvement property (correcting an error in the TCJA).
- The Section 163(j) business interest expense deduction limitation is 50% of adjusted taxable income for 2019 and 2020, up from 30% as outlined by the TCJA. Taxpayers may also elect to use 2019 adjusted taxable income to calculate the 2020 limitation.

Other Provisions for Individuals in 2020

The Act provides:

- For individuals affected directly by COVID-19, the 10% early withdrawal penalty is eliminated for IRA and workplace-based retirement plan distributions up to \$100,000 in 2020. In addition, tax on the distribution is due over the next 3 years. The withdrawn funds can be recontributed over the next 3 years without regard to yearly caps. This relief applies for anyone diagnosed with COVID-19, who has a spouse or dependent diagnosed, or who experiences financial hardship as a result of being quarantined, laid off or having reduced work. There is also an increase to the amount that may be taken as a loan from an IRA and workplace-based retirement plan up to \$100,000 (previously \$50,000) and a delay in repaying loans from such plans.
- There will be no limitation on cash charitable contribution deductions for individuals in 2020. For corporations, the 10% limit is increased to 25% for 2020. These changes do not apply to donations to donor advised funds. Individuals who do not itemize can deduct up to \$300 of charitable deductions, in addition to their standard deduction.
- Individuals are eligible to receive rebate checks of \$1,200 (\$2,400 for joint filers). Each dependent claimed would increase the amount by \$500. Eligibility is based on 2018 adjusted gross income; the amount begins to phase down at \$75,000 of income (\$150,000 for joint filers, \$112,500 for heads of households), down to zero at \$99,000 of income (\$198,000 for joint filers) for those with no dependents.
- The Act temporarily suspends the required minimum distribution rules for 2020.

- Employer payments of employee student loans will not be included in income for 2020.

IRS FAQs

The IRS has been providing [FAQs relating to COVID-19](#). These have confirmed, for example, that the deadline for contributions to IRAs and health savings accounts for 2019 has also been extended to July 15.

State and Local Updates

We are actively monitoring state and municipal deadlines and announced procedures as well. Please see our [recent newsletter](#). Further updates will be provided as states and municipalities announce their policies.

Contact Us

PKF O'Connor Davies is monitoring the situation in Washington and as it changes we will keep you informed.

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