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Coronavirus Aid, Relief, and Economic Security Act
Business Taxpayer Benefits
(Updated through March 27, 2020)

Late Wednesday, March 25, the U.S. Senate passed the Coronavirus Aid, Relief, and Economic Security Act. The U.S. House of Representatives passed the bill on Friday, March 27. The President has enthusiastically indicated he would sign the bill into law. Thomas, Judy & Tucker, P.A. has followed this proposed legislation closely and would like to point out to you several provisions that would assist businesses during this time of great distress. We will keep you updated on the legislation's progress.

Employee Retention Credit for Employers Subject to Closure Due to Covid-19

- For eligible employers, amounts paid in qualified wages would be eligible for a 50% credit against payroll taxes, subject to a limit of $10,000 per quarter, per eligible employee.
    - The payroll taxes eligible for credit are reduced by credits taken against those payroll taxes under the Paid Sick & Paid Family Leave provisions under the Families First Coronavirus Response Act.
        - Taxpayers would not be able to double-dip on credit.
    - If the amount of the credit exceeds the payroll taxes for any calendar quarter, the excess paid would be treated as an overpayment eligible for refund.
    - An eligible employer would be any employer who was carrying on a trade or business during calendar year 2020 and that trade or business was fully or partially suspended during the calendar quarter due to orders from an appropriate governmental authority limiting commerce, travel or group meetings due to the Coronavirus or;
        - Gross receipts for the calendar quarter are less than 50% of the gross receipts for the same calendar quarter in the prior year.
            - This provision ends in the calendar quarter following the first calendar quarter after gross receipts are greater than 80% of gross receipts for the same calendar quarter in the prior year.
    - Qualified wages for employers with greater than 100 employees, means wages paid by an eligible employer to an employee who is not providing services due to circumstances provided above.
    - Qualified wages for employers with fewer than 100 employees, means wages paid by an eligible employer to any employee during any period as described above.
        - Qualified wages paid would not be able to exceed the amount such employee would have been paid for working an equivalent duration during the 30 days immediately preceding such period.
        - Qualified wages would also include much of the eligible employer's qualified health plan expenses as are properly allocable to such wages.
- For eligible employers that receive a covered loan under Section 7(a) of the Small Business Act (SBA), such employer would not be eligible for the credit taken under this section.

Delay of Payment of Employer Payroll Taxes

- The payment for 50% of the taxes imposed under SSID and Medicare would be deferred until the applicable date as described below. Deferral would begin as of the date this legislation is enacted.
    - Applicable date means December 31, 2021 for employer payroll taxes and December, 31, 2022 for self-employment taxes.
    - For taxpayers that receive a covered loan under Section 7(a) of the Small Business Act (SBA), such deferral would not be eligible under this section.

Qualified Improvement Property Technical Correction

- Many capitalized asset types that fall into what is now known as "Qualified Improvement Property" (QIP) under the Tax Cuts and Jobs Act (TCJA), were historically (prior to TCJA) deemed to be 15 year depreciable property and as a result, were eligible for Bonus Depreciation (currently 100%) under IRC 168(k). The TCJA determined these assets to be 39 year depreciable property and as a result, ineligible for Bonus Depreciation. The legislation would allow QIP to be 15 year property and as a result, eligible for Bonus Depreciation.
    - QIP includes improvements to interior common areas, what you would typically think of as being leasehold improvements.
    - The building can be owner occupied and the improvement simply has to be made after the property was originally placed in service (no 3 year requirement).
    - QIP does not include any enlargement of the building, escalator/elevator or structural framework of building.

Amendments to Use of Net Operating Losses

- Business income tax returns would no longer be subject to the 80% of taxable income limitation when utilizing Net Operating Losses carried forward from prior years. This would benefit taxpayers who have prior year losses carrying forward into 2019 or 2020.
    - For tax years beginning after December 31, 2020, the 80% limitation would be applicable.
- For net operating losses endured in tax (calendar) years 2018, 2019 and 2020, such losses would be eligible to be carried back to the preceding 5 taxable years.

Modifications of Limitation on Business Interest

- As part of the TCJA, certain businesses have been subject to an interest business limitation whereby, interest expense deducted in the current tax year cannot exceed 30% of taxpayer's Adjusted Taxable Income (ATI). The 30% limitation would increase to 50% for tax (calendar) years 2019 and 2020, whereby increasing the amount of interest expense businesses can deduct currently.
    - Applicable businesses include those which have greater than $25 million in gross receipts (common ownership rules apply) and those businesses who are deemed to be a tax shelter.
    - If desired, taxpayers would be able to elect out of the increased business interest limitation.
    - If desired, for tax year 2020, taxpayers would be able to elect to substitute the 2019 adjusted taxable income for that in 2020.
        - This would further assist taxpayers who have endured economic hardship as a result of the Coronavirus in 2020.