



CARES and SECURE Acts: Tax and Financial Planning Ramifications

**2020 Duquesne University Accounting CPE
Conference – November 19, 2020**



Speakers



Dustin Stamper
Managing Director
Washington National Tax Office



Keith Mong
Managing Director
Washington National Tax Office

Tax relief in the CARES Act

- \$600 billion in tax cuts for businesses and individuals
- Lawmakers designed the bill to provide immediate benefits and cash flow flexibility
- Many provisions have multiple options for claiming the benefit
- Planning can affect when you get the benefit and how much it ultimately offers

Individual changes

- Helping individuals:
 - Rebates based on \$1,200 per filer \$500 per child credit
 - Estimated based on 2018 or 2019 return
- Charitable incentives
 - \$300 above-the-line deduction for non-itemizers
 - Remove AGI limit for itemizers
 - Increase income limit for corps from 10% to 25%
 - Increase income limit for food inventory from 15% to 25%

Qualified improvement property

- Makes QIP eligible for bonus depreciation going back to the date of TCJA enactment
 - Retail and hospitality benefit big, but so do others
 - Definition very broad: Almost any improvement to building interior owned or leased
 - Opportunity to amend returns or take benefit with accounting method change on 2020 return – Could increase NOL for 5-year carryback
 - Accounting method changes could increase benefit

NOL carrybacks

- NOLs arising in years beginning after 2017 and before 2021 eligible for 5-year carryback
 - Allows 2-year carryback for year ending in 2018
- 80% taxable income limit suspended until 2021
 - Unfavorable technical change for stacking pre- and post- TCJA NOLS beginning in 2021
- Available for individuals!

NOL carrybacks

- NOLs offer significant planning options:
 - Accounting methods changes can boost losses in NOL year
 - No rate haircut: Convert deductions at 21% rate into NOLs carried back against 35% rate
 - Multi-year modeling needed to balance immediate cash flow needs with potential for rate arbitrage
 - Income hit in 2019 at 21% rate for NOL at 35% rate in 2020?
 - Accelerate deductions into 2020 from 2021?
 - Need to model effect on other limitations and provisions

Excess business losses

- Suspends the \$500k limit in §461(l) for deducting individual business losses until 2021
 - Change retroactive to TCJA enactment in 2018
 - May require amended return for 2018
 - Will turn losses into NOLs eligible for carryback
 - Technical fixes: NOLs, wages, and capital losses not in calculation

Section 163(j) interest deduction limit

- CARES Act provides elective benefits:
 - Increases threshold for §163(j) limit from 30% of adjusted taxable income to 50% for tax years beginning in 2019 and 2020
 - Can use 2019 income for 2020 calculation
- Planning considerations
 - Special rules for partnerships and partners
 - Impact on other attributes
 - Significant guidance related to 163(j) on the verge of release

AMT credit refund

- Corporate AMT credits under TCJA were refundable over 2018, 2019, 2020 and 2021
- Legislation makes them refundable in either 2018 or over 2018-19
- Three options for filing to claim remaining balance:
 - Amend 2018
 - Claim the balance in 2019
 - File for a tentative refund

Payroll tax deferral

- Defers payment of the 6.2% employer portion of Social Security taxes
 - After reduction for applicable credits
- Applies to the tax payable from March 27, 2020 through December 31, 2020
- Due dates:
 - 50% due by December 31, 2021
 - 50% due by December 31, 2022
- Similar deferral for 50% of self-employment tax

Payroll tax deferral

- Applies to payments due to the government from March 27, 2020 through December 31, 2020
 - Applies even if the compensation was earned prior to March 27
 - No deferral of the deposit date for federal income, Social Security and Medicare taxes withheld from an employee's wages and the employer's share of Medicare tax (1.45% and 0.9%)
- \$137,700 Social Security tax wage base still applies
- Originally ineligible for deferral: Businesses with certain Paycheck Protection Program (PPP) loan forgiveness
 - PPP Flexibility Act removed this limitation

Employee retention credit

- New refundable employee retention credit of up to \$5,000 per employee for paying qualifying wages while
 - Business operations are fully or partially suspended, or
 - If gross receipts for a business drop by more than 50% in a quarter when compared to the same quarter in 2019.
- Credit is against the employer's share of Social Security tax
- Amount: 50% of qualifying wages paid up to \$10,000 of wages
- Ineligible for the credit: Businesses that take an SBA small business interruption loan under section 7(a)(36) (PPP)

Employee retention credit

- 100 full time equivalent employee threshold (Affordable Care Act rules)
 - 100 FTEs or fewer: qualifying wages include all wages paid to all employees (even employees who continue to work)
 - Greater than 100 FTEs: qualifying wages include only wages paid to employees who are not providing services due to full or partial suspension of operations or more than 50% drop in gross receipts
- Qualifying wages include health care costs allocable to the wages
- No tax deduction is allowed for the amount of the credit
- Other tax credits may be affected

Employee benefits

- Allow reimbursement of over-the-counter drugs from HSAs, FSAs and HRAs
- High deductible health plans can provide telehealth and remote care service without a deductible in 2020 and 2021 – affects HSAs
- Waive required minimum distributions (RMDs) for 2020
 - Including RMDs due by April 1, 2020
- Exclude from income up to \$5,250 of employer-paid student loan debt in 2020.

CARES Act - Retirement plans

- **Coronavirus-Related Distributions (CRDs):** Waives 10% early withdrawal penalties for up to \$100,000 of CRDs taken by qualified participants from January 1, 2020 and before December 31, 2020
 - Can repay all or a portion of the CRDs within three years following the date of distribution
 - If not repaid, recognize income ratably over three calendar years beginning with the calendar year of distribution
 - Generally a plan design decision to the extent distributions not currently offered under the plan

CARES Act - Retirement plans

CRDs - continued

- Applies to qualified defined contribution plans, 403(a) and (b) plans, governmental 457(b) plans, and IRAs
- Plan administrators can rely on a participants certification that they satisfy the conditions to be a qualifying participant (next slide)
- Plan amendments generally not required until end of 2022 plan year

CARES Act - Retirement plans

CRDs – Qualified Participant – only a participant :

- Who is diagnosed with the coronavirus by a test approved by the CDC;
- Whose spouse or dependent is so diagnosed; or
- Who experiences adverse financial consequences from:
 - being quarantined, furloughed or laid off or having work hours reduced due to the virus,
 - being unable to work due to lack of child care due to the virus,
 - closing or reducing hours of a business owned or operated by the participant due to the virus, or
 - other factors designated by the IRS

CARES Act - Retirement plans

- **Coronavirus-Related Loans:** Increases the current loan limits to the lesser of (i) \$100,000 (from \$50,000), or (ii) 100% (from 50%) of a qualified participant's vested account balance for loans taken on or after March 27, 2020 and before September 24, 2020
 - Applies to qualified plans, 403(a) and (b) plans, and government plans
 - Only available to qualified participants (defined the same as for CRDs)
 - A plan design decision – plans do not have to offer loans
 - Plan amendments generally not required until end of 2022 plan year

CARES Act - Retirement plans

Deferral of Loan Repayments: Delays for 1 year the payment date for any loan repayments due from March 27, 2020 through December 31, 2020, including any loans made before CARES was enacted

- One year delay does not count towards the length of a loan's term for purposes of the general 5-year loan repayment rule
- Subsequent repayments are required to be appropriately adjusted to reflect the 1-year delay, including interest accruing during the delay
- Applies to qualified plans, 403(a) and (b) plans, and government plans
- Only available to qualified participants (defined the same as for CRDs)
- Plan amendments generally not required until end of 2022 plan year

CARES Act - Retirement plans

Deferral of defined benefit pension plan contributions

- Suspends 2020 funding obligations for single-employer defined benefit pension plans until Jan. 1, 2021 (with interest due)
- Allows pensions to use the prior year's funded status for certain benefit restrictions
- Questions: What impact does this have on tax deductions? Would any of these contributions normally be deducted in 2019?

CARES Act – Retirement plans

Required Minimum Distribution (RMD) Changes

- Suspends RMDs for 2020
- Applies to qualified defined contribution plans, 403(a) and (b) plans, governmental 457(b) plans, and IRAs
- Waives RMDs for participants with an:
 - RBD of April 1, 2020
 - RBD before 2020
 - RBD of April 1, 2021 (but may require IRS confirmation)

SECURE Act Changes

RMD Changes

- Increases the required beginning date (RBD) age threshold from age 70-1/2 to age 72
 - Effective for participants attaining age 70-1/2 after 2019
- Replaces the 5-year rule for participants who die before their RBD, with a new 10-year rule that applies for all post-death distributions except for certain eligible designated beneficiaries (e.g., surviving spouses)
 - Effective for deaths occurring after 2019

SECURE Act Changes

Other Changes

- Beginning after December 20, 2019, plan loans may no longer be distributed through credit cards or similar arrangements
- Beginning in 2020, employers can adopt a qualified retirement plan after the close of a tax year, but before the due date (including extensions) of the tax return
 - But 401(k) elective deferrals still cannot be adopted retroactively

SECURE Act Changes

Other Changes – continued

- Fiduciary Safe Harbor for Selection of Annuity Providers
- New Annual Disclosures for Estimated Lifetime Income Streams
- Expansion of Portability of Lifetime Income Options
- Increase in the Auto-Enrollment Safe Harbor Cap
- Relaxation of Requirements for Nonelective Contribution 401(k) Safe Harbor
- Nondiscrimination Testing Relief for Closed Defined Benefit (DB) Pension Plans
- New Small Employer Automatic Plan Enrollment Credit
- Increased Credit for Small Employer Pension Plan Start-Up Costs
- Increased Penalties for Failure-to-File Retirement Plan Returns

SECURE Act Changes

2021 changes

- New multiple employer plan (MEP) rules, which reduce the barriers to creating and maintaining MEPs for two or more unrelated employers
- Requiring certain long-term part-time employees to participate in 401(k) plans
 - Employers can currently exclude part-time employees who work less than 1,000 hours per year
 - New rules will require most employers to have a dual eligibility rule under which an employee must complete either (i) a one-year-of-service requirement under the current 1,000-hour rule, or (ii) three consecutive years of service where the employee completes at least 500 hours of service per year

Possible Future Legislation

- Government funding bill – currently scheduled to expire December 11, 2020
- New Stimulus Bill
- Securing a Strong Retirement Act (bipartisan support)

Any final questions?



Disclaimer

- This Grant Thornton LLP presentation is not a comprehensive analysis of the subject matters covered and may include proposed guidance that is subject to change before it is issued in final form. All relevant facts and circumstances, including the pertinent authoritative literature, need to be considered to arrive at conclusions that comply with matters addressed in this presentation. The views and interpretations expressed in the presentation are those of the presenters and the presentation is not intended to provide accounting or other advice or guidance with respect to the matters covered

For additional information on matters covered in this presentation, contact your Grant Thornton LLP adviser

Disclaimer

IRS Circular 230 disclosure: To ensure compliance with requirements imposed by the U.S. Internal Revenue Service, we inform you that any U.S. federal tax advice contained in this PowerPoint is not intended or written to be used, and cannot be used, for the purpose of (a) avoiding penalties under the U.S. Internal Revenue Code or (b) promoting, marketing or recommending to another party any transaction or matter addressed herein.

The foregoing slides and any materials accompanying them are educational materials prepared by Grant Thornton LLP and are not intended as advice directed at any particular party or to a client-specific fact pattern. The information contained in this presentation provides background information about certain legal and accounting issues and should not be regarded as rendering legal or accounting advice to any person or entity. As such, the information is not privileged and does not create an attorney-client relationship or accountant-client relationship with you. You should not act, or refrain from acting, based upon any information so provided. In addition, the information contained in this presentation is not specific to any particular case or situation and may not reflect the most current legal developments, verdicts or settlements.

You may contact us or an independent tax advisor to discuss the potential application of these issues to your particular situation. In the event that you have questions about and want to seek legal or professional advice concerning your particular situation in light of the matters discussed in the presentation, please contact us so that we can discuss the necessary steps to form a professional-client relationship if that is warranted. Nothing herein shall be construed as imposing a limitation on any person from disclosing the tax treatment or tax structure of any matter addressed herein.

© 2018 Grant Thornton LLP, the U.S. member firm of Grant Thornton International Ltd. All rights reserved. Printed in the U.S. This material is the work of Grant Thornton LLP, the U.S. member firm of Grant Thornton International Ltd.

Thank you for attending



www.grantthornton.com



twitter.com/GrantThorntonUS



linkd.in/GrantThorntonUS

Visit us online.
For questions regarding your CPE certificate, contact
CPEEvents@us.gt.com