

Brief 2020 Stimulus Law Updates

The materials presented in this brief update is not intended to be used in the Course Material or Final Exam for this course. Though this information is up to date and accurate at the time published, it is only added for your additional knowledge.

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Cares Act HR 748

Introduction

These sections are for informational purposes only and not required for the completion of the course. The Coronavirus Aid, Relief, and Economic Security Act (CARES Act), enacted on March 27, 2020, provides economic assistance for American workers, families, and small businesses, and preserve jobs for our American industries. It is also designed to encourage eligible employers to keep employees on their payroll, despite experiencing economic hardship related to COVID-19, with an Employee Retention Tax Credit. The following sections are taken from the CARE Act HR 748.

Individual Rebates

For the 2020 year, Section 2201 allows individual taxpayers a refundable income tax credit of \$1,200 (\$2,400 for married couples filing a joint return). A \$500 credit is allowed for each qualifying child of the taxpayer. The credit is eliminated for taxpayers with adjusted gross incomes exceeding \$75,000 for all filers except head of household, 112,500 for head of household and \$150,000 for joint returns. To be eligible for the credit, taxpayers must include valid identification numbers (e.g., Social Security numbers) on their tax returns. To check on the status of a payment go to [Get My Payment](#). These payments are not taxable income at the federal level.

Payroll Protection Plans (PPP)

Section 1102 authorizes the Small Business Administration (SBA) to guarantee paycheck protection loans during the period beginning on February 15, 2020, and ending on June 30, 2020. During this period, in addition to a small business, any business, nonprofit organization, veterans organization, or tribal business is eligible to receive a paycheck protection loan if it employs fewer than 500 employees or the applicable SBA size standard for the relevant industry. In addition, individuals who operate as sole proprietors or as independent contractors, as well as certain self-employed individuals, are eligible to receive a paycheck protection loan. Allowable uses for such loans include (1) payroll costs, (2) continuation of group health care benefits, (3) employee salaries, and (4) rent payments. An employer can go to SBA's [Lender Match Tool](#) to find an eligible SBA lender.

Section 1106 makes recipients of paycheck protection loans eligible for forgiveness of amounts expended for payroll costs and payments of interest on mortgage obligations, rent, or utilities during the eight-week period such loans are provided. The Small Business Administration (SBA) does not lend the money, they "back" the loan that the lender provides. The CARES Act provides that forgiveness of a PPP loan is not considered taxable income at the federal level.

Pandemic Unemployment Insurance

Section 2102 requires the Department of Labor to provide pandemic unemployment assistance for up to 39 weeks to workers who (1) are not eligible for other federal or state unemployment insurance or pandemic emergency unemployment compensation; (2) meet certain conditions related to being unemployed, partially unemployed, or unable to work due to COVID-19; (3) are not able to telework; and (4) are not receiving other paid leave. The provision of such assistance may be extended beyond 39 weeks under specified circumstances. Pandemic unemployment assistance payments are available retroactively for the period beginning January 27, 2020, and ending on or before December 31, 2020. Section 2104 provides appropriations to fund federal-state agreements under which the amount of an individual's weekly unemployment compensation includes an additional \$600 in federal pandemic unemployment compensation. Such payments shall apply to weeks of unemployment beginning after the date of the agreement and ending on or before July 31, 2020. Such an agreement shall not apply with respect to a state that reduces the maximum duration or average weekly benefit amount of its regular unemployment compensation as in effect on January 1, 2020.

Section 2107 provides funding for 13 additional weeks of pandemic emergency unemployment compensation through December 31, 2020, for individuals who have exhausted their rights to regular unemployment compensation and meet other specified requirements.

Platinum Professional Services want you to know although unemployment insurance benefits are taxed federally, California does not tax unemployment insurance benefits.

Charitable Contributions

For the 2020 tax year, Section 2204 allows a tax deduction for charitable cash contributions of up to \$300 for taxpayers who do not itemize their tax deductions (above the line for non-itemizers).

For the 2020 tax year, Section 2205 suspends the Adjusted Gross Income (AGI) limitation (currently 60% AGI) on cash contributions for purposes of the qualified charitable contribution tax deduction (Section 170 (c) organizations).

Retirement Plan Distributions & Loans

For the 2020 year, Section 2202 permits penalty-free coronavirus-related distributions from tax-exempt retirement plans up to \$100,000 in a taxable year and allows the distribution to be included in income ratably over 3 years, and provides that the distribution will be treated as though it were paid in a direct rollover to an eligible retirement plan if the distribution is eligible for tax-free rollover treatment and is recontributed to an eligible retirement plan within the 3-year period beginning on the day after the date on which the distribution was received. A coronavirus-related distribution is defined as any distributions from an eligible retirement plan made on or after January 1, 2020, and before December 31, 2020, to an individual who is (1) diagnosed with the virus SARS-CoV-2, (2) whose spouse or dependent is diagnosed with such virus or disease, or (3) who experienced adverse financial consequences from being quarantined, furloughed, or laid off from work due to such virus or disease. For the 2020 year, Section 2203 allows a temporary waiver of required minimum distributions from retirement plans and accounts in 2020. For a participant whose required beginning date occurs in 2020 for example, someone who reached age 70½ in 2019 but with respect to whom no RMD was made prior to December 31, 2019, both the initial RMD due April 1, 2020, as well as the RMD for the calendar year 2020 due Dec. 31, 2020, are waived. The CARES Act does not impact the provision under the recently enacted SECURE Act that increased the age at which RMDs must begin to 72 for individuals who had not attained age 70½ by the end of 2019. Taxpayers who receive certain distributions may now roll them into an eligible retirement plan. Generally, the following distributions (from a retirement plan other than a defined benefit plan) may be rolled over: Distributions paid in 2020 (or paid in 2021 for the 2020 calendar year in the case of an employee who has a required beginning date of April 1, 2021), which would have been RMDs but for the CARES Act (including substantially equal periodic payments that include payments that would have been 2020 RMDs) Distributions paid in 2021 for plan participants with a required beginning date of April 1, 2020, which would have been RMDs but for the CARES Act Further, the IRS has extended the 60-day period during which plan participants may roll over the distributions described above. Now, the rollover deadline is Aug. 31, 2020, at the earliest.

Employee Retention Credit

Section 2301 allows employers a payroll tax credit for 50% of the wages paid to employees, up to \$10,000 per employee, during any period in which such employers were required to close due to COVID-19. Since this is a considered a credit it is not taxable.

Net Operating Loss (NOL)

Section 2303 modifies rules relating to net operating losses to allow taxpayers to carry back net operating losses in 2018, 2019, and 2020 for up to five years, and to offset 100% of their income with losses in taxable years beginning before 2021. IRS Notice 2020-26 states that The CARES Act did not provide additional time to file tentative carryback adjustment applications with respect to NOLs arising in a taxable year beginning on or after January 1, 2018, and ending before March 27, 2019, even though

the time to file those applications had expired as of the date of enactment. Taxpayers whose losses in these taxable years may now be carried back to an earlier taxable year due to application of Section 2303 of the CARES Act will generally be able to file amended returns to claim refunds or credits resulting from the change in the law. These taxpayers, however, would not be able to take advantage of the expedited § 6411 tentative carryback adjustment procedure without an extension of time to file [IRS Form 1139 Corporation Application for Tentative Refund](#) or [IRS Form 1045 Application for Tentative Refund](#). The Department of the Treasury and the IRS grant a six-month extension of time to file IRS Form 1045 or IRS Form 1139, as applicable, to taxpayers that have an NOL that arose in a taxable year that began during calendar year 2018 and that ended on or before June 30, 2019. This extension of time is limited to requesting a tentative refund to carry back an NOL and does not extend the time to carry back any other item.

Platinum wants you to know California does not conform to federal NOL changes

Other Miscellaneous Provisions

Section 2206 allows an exclusion from employee income, for income tax purposes, of employer payments of student loans whether to the employee or to the a lender, of principal or interest on any qualified loan made before January 1, 2021.

Section 2304 repeals in 2018 and 2019 the \$250,000 limitation on the net business losses of individuals other than corporations.

Section 2306 increases for taxable years beginning in 2019 and 2020 the limitation on the deductibility of business interest retroactivity resided to 2018 through 2020.

Section 2307 classifies qualified improvement property (certain improvements to the interior of nonresidential real property) as 15-year property for depreciation purposes retroactive rescinded to 2018 through 2020.

Section 3701 allows individuals who have high deductible health plans (HDHPs) for purposes of health savings accounts (HSAs) to also have supplemental coverage for tele-health services. Additionally, a health plan may not fail to qualify as an HDHP solely because the plan does not have a deductible for tele-health services. The section's changes apply to plan years beginning on or before December 31, 2021.

Section 3702 includes menstrual products as qualifying purchases under HSAs, Archer Medical Savings Accounts (MSAs), health flexible spending arrangements (FSAs), and health reimbursement arrangements (HRAs). The section also repeals current restrictions that require drugs to be purchased with a prescription in order to qualify under HSAs, Archer MSAs, FSAs, and HRAs. The section's changes apply to purchases made after December 31, 2019.

Families First Coronavirus Response Act HR 6201

Introduction

The Families First Coronavirus Response Act (FFCRA) which was enacted on March 18, 2020, provides small and midsize employers two refundable tax credits to reimburse employers dollar-for-dollar the costs of providing paid sickleave and paid family and medical leave to employees unable to work because of the coronavirus (COVID-19). These credits are refundable. That means if the amount of the credit exceeds the amount of tax owed, the remainder is refunded to the business or organization. The law is intended to allow employers to keep employees on their payrolls, while at the same time making sure employees aren't forced to choose between their paychecks and public health measures needed to combat COVID-19. These credits are available to eligible employers beginning April 1, 2020, for qualifying leave they provide between April 1, 2020, and December 31, 2020. The section below was taken from the Families First Coronavirus Response Act HR 6201.

Tax Credits for Paid Sick and Paid Family and Medical Leave

Section 7001 is the first credit which allows a credit against payroll taxes for 100% of the employer-paid qualified sickleave wages paid each calendar quarter, subject to specified limitation. The credit is designed to compensate employers for the cost of providing two weeks paid sick leave under the Fair Labor Standards Act (FLSA) to employees is differentiated based on the reason for the sick leave. Qualified sick leave wages are wages (as defined in section 3121(a) of the Internal Revenue Code for social security and Medicare tax purposes) that Eligible Employers must pay eligible employees for periods of leave during which they are unable to work or telework because the employee:

- Is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
- Has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- Is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
- Is caring for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19, or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- Is caring for a child of such employee if the school or place of care of the child has been closed, or the child care provider of such child is unavailable due to COVID-19 precautions; or
- Is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

The amount of sick leave wages taken into account for purposes of the credit may not exceed \$200 for any employee (\$511 per day employees as defined under the Emergency Paid Sick Leave Act) and the aggregate number of days (up to two weeks) taken into account is limited to 10 (80 hours), over the number of days taken into account for preceding calendar quarters. The credit is claimed against the employer portion of payroll taxes. The credit can be claimed via an employer's quarterly Form 941 filing, beginning with the second quarter filing due in July 2020. If employers do not have enough federal employment taxes to cover the amount of the credits, after they have deferred deposits of employer Social Security taxes under the CARES Act, they may request an advance payment of the credits from the IRS by submitting [IRS Form 7200, Advance Payment of Employer Credits Due to COVID-19](#). They may fax their completed forms to 855-248-0552.

Section 7002 allows a refundable income tax credit for 100% of sick leave amounts of self-employed individuals under the Emergency Paid Sick Leave Act. For other employees, the credit percentage is 67%. Self-employed individuals must maintain documentation prescribed by the Internal Revenue Service to establish eligibility for the credit.

Section 7003 is the second credit which allows an employer a 100% payroll tax credit for qualified family leave wages paid by such employer for each calendar quarter. The credit is designed to compensate employers for the cost of providing paid family leave to employees under the Family

Medical Leave Act (FMLA) for the ten weeks following the two weeks of sick leave applies more narrowly than the credit for sick leave. It is applicable only to wages paid for family leave to employees who are caring for a child whose school or place of care has been closed. The amount of qualified family leave wages that may be taken into account for each employee is limited to \$200 per day and \$10,000 for all calendar quarters. As with Section 7001 credit, the credit can be claimed via an employer's quarterly Form 941 filing, beginning with the second quarter filing due in July 2020. If employers do not have enough federal employment taxes to cover the amount of the credits, after they have deferred deposits of employer Social Security taxes under the CARES Act, they may request an advance payment of the credits from the IRS by submitting [*IRS Form 7200, Advance Payment of Employer Credits Due to COVID-19*](#). They may fax their completed forms to 855-248-0552.

Section 7004 allows a refundable income tax credit for 100% of the qualified family leave amounts of self-employed individuals, subject to a specified formula for determining the leave amounts. Self-employed individuals must maintain documentation prescribed by the Internal Revenue Service to establish eligibility for the credit.

Section 7007 provides that wages required to be paid to employees under the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act shall not be considered wages for purposes of the Federal Insurance Contributions Act (FICA).

IRS People First Initiative - IR-2020-59

Introduction

On March 25, 2020, the IRS announced The People First Initiative to provide compliance relief to taxpayers experiencing COVID-19 related hardships. This relief includes issues ranging from postponing certain payments related to Installment Agreements and Offers in Compromise to collection and limiting certain enforcement actions. This section was taken from the IRS People First Initiative - IR - 2020-59.

Existing Installment agreements

For taxpayers with an existing installment agreement, the IRS is suspending installment agreement payments during the suspension period; however, interest will continue to accrue on any unpaid balances. Furthermore, the IRS will not default any installment agreements during the suspension period. The suspension period is from April 1st to July 15th, 2020.

New Installment Agreements

Taxpayers unable to fully pay their federal taxes can resolve outstanding liabilities by entering into a monthly payment agreement with the IRS.

Offers in Compromise (OIC)

The IRS is taking several steps to assist taxpayers in various stages of the OIC process:

Pending OIC Applications The IRS will allow taxpayers until July 15 to provide additional information the IRS requested to support a pending OIC. In addition, the IRS will not close any pending OIC request before July 15, 2020 without the taxpayer's consent.

OIC Payments The IRS is giving taxpayers the option of suspending all payments on accepted OICs until July 15, 2020, although by law interest will continue to accrue on any unpaid balances

Delinquent Return Filing The IRS will not default an OIC for those taxpayers who are delinquent in filing their tax return for tax year 2018. However, taxpayers should file any delinquent 2018 return (and their 2019 return) on or before July 15, 2020.

New OIC applications Taxpayers facing a tax liability that exceeds their net worth may be able to resolve that liability using the OIC process, which is designed to resolve outstanding tax liabilities by providing a "Fresh Start."

Field Collection Activities

Field revenue officers will not initiate liens and levies (including any seizures of a personal residence) during the suspension period. However, "field revenue officers will continue to pursue high-income non-filers."

Automated Liens and Levies

The IRS will not be issuing new automatic, systemic liens and levies during the suspension period.

Passport Certifications to the State Department

The IRS will not send new certifications to the State Department for taxpayers who are "seriously delinquent" (i.e. owe more than \$52,000 in taxes) during the suspension period. These "seriously delinquent" taxpayers are encouraged to request an installment agreement or, if applicable, an OIC to resolve their outstanding tax liability.

Private Debt Collection

The IRS will not send new delinquent accounts to private collection agencies to work during the suspension period.

New Field, Office and Correspondence Audits

During the suspension period, the IRS generally will not start new field, office and correspondence audits. However, the IRS may start new audits when necessary to protect the government's interest in preserving the applicable statute of limitations. Also, in instances where it's in the best interest of both the IRS and the taxpayer, the IRS may move forward with a new audit during the suspension period on the understanding that COVID-19 developments could later reduce audit activities for an agreed period. Existing field, office and correspondence audits. The IRS has suspended in-person meetings for current field, office and correspondence audits. However, where possible, IRS examiners will continue their audits remotely. The IRS asks taxpayers with open audits to respond to any requests for information from examiners that they have already received, and any that they may receive, if they are able to do so.

Earned Income Tax Credit and Wage Verification Reviews

Taxpayers have until July 15, 2020, to submit verification to the IRS that they qualify for the Earned Income Tax Credit or verification of their income. These taxpayers should exercise their best efforts to obtain and submit all requested information, and if unable to do so, to reach out to the IRS indicating the reason such information is not available. Until July 15, 2020, the IRS will not deny these credits for a failure to provide requested information.

Independent Office of Appeals (IOA)

Appeals employees will continue to work their cases during the suspension period. Although Appeals is not currently holding in-person conferences with taxpayers, conferences may be held over the telephone or by video conference. The IRS asks taxpayers with cases in IOA to promptly respond to any IOA requests for information.

Statute of Limitations

The IRS will continue to take steps where necessary to protect all applicable statutes of limitations. In instances where a statute might expire during the suspension period, the IRS asks taxpayers to cooperate in extending such statutes. Otherwise, the IRS will issue Notices of Deficiency and pursue other similar actions to protect the government's interests in preserving such statutes. Where a statutory period is not set to expire during 2020, the IRS is unlikely to pursue an extension or issue a deficiency notice until at least July 15, 2020.

Other SBA/Treasury & IRS Pronouncements

Small Business Administration (SBA)

In response to the Coronavirus (COVID-19) pandemic, the SBA states that small business owners in all U.S. states, Washington D.C., and territories are able to apply for an Economic Injury Disaster Loan advance of up to \$10,000. This advance is designed to provide economic relief to businesses that are currently experiencing a temporary loss of revenue. This loan advance will not have to be repaid. Recipients do not have to be approved for a loan in order to receive the advance, but the amount of the loan advance will be deducted from total loan eligibility. SBA will begin accepting new Economic Injury Disaster Loan (EIDL) and EIDL Advance applications on June 15 to qualified small businesses and U.S. agricultural businesses.

IRS Notices

IR-2020-15 High-deductible health plans (HDHPs) will not lose that status because they cover the cost of testing for or treatment of COVID-19 before plan deductibles have been met. The notice applies only to HSA-eligible HDHPs.

IR-2020-23 automatically postpones due dates for “Affected Taxpayers” (as defined by this notice), with respect to an expanded list of federal tax returns, tax payments, forms, and schedules due on a date during the period beginning April 1, 2020, and ending July 15, 2020. The postponed due date is July 15, 2020. Notice 2020-23 also provides relief with respect to “Specified Time-Sensitive Actions” that are due to be performed on or after April 1, 2020, and before July 15, 2020, such as filing all petitions with the Tax Court, seeking review of a decision rendered by the Tax Court, filing a claim for credit or refund of any tax, and bringing suit upon a claim for credit or refund of any tax. For purposes of the IRS notice, the term Specified Time-Sensitive Action also includes an investment at the election of a taxpayer due to be made during the 180-day period described in section 1400Z-2(a)(1)(A) of the Code. Affected taxpayers have until July 15, 2020, to perform the Specified Time-Sensitive Actions. The Notice postpones for 30 days the due dates with respect to certain “Time-Sensitive Government Acts”—such as examinations, cases in Appeals, and filing certain amended returns or submitting payments for which the time for assessment would otherwise expire if the last day for performing such acts is on or after April 6, 2020, and before July 15, 2020. Finally, Notice 2020-23 postpones the time for tax return preparers to apply to participate in the calendar year 2020 annual filing season program until July 15, 2020.

Revenue Procedures

The Treasury Department and the Internal Revenue Service issued guidance that provides relief to individuals and businesses affected by travel disruptions arising from the COVID-19 emergency. The guidance includes the following: Revenue Procedure 2020-20, which provides that, under certain circumstances, up to 60 consecutive calendar days of U.S. presence that are presumed to arise from travel disruptions caused by the COVID-19 emergency will not be counted for purposes of determining U.S. tax residency and for purposes of determining whether an individual qualifies for tax treaty benefits for income from personal services performed in the United States; Revenue Procedure 2020-27 (PDF), which provides that qualification for exclusions from gross income under I.R.C. section 911 will not be impacted as a result of days spent away from a foreign country due to the COVID-19 emergency based on certain departure dates; and which provides that certain U.S. business activities conducted by a nonresident alien or foreign corporation will not be counted for up to 60 consecutive calendar days in determining whether the individual or entity is engaged in a U.S. trade or business or has a U.S. permanent establishment, but only if those activities would not have been conducted in the United States but for travel disruptions arising from the COVID-19 emergency.