



Hello everyone, I hope you and your family are staying safe and doing well.

Today the Senate passed the CARES Act. Below are the tax relief provisions for business that are contained in the Act. **This letter does not address The Paycheck Protection Program portion of the act. We will address that in a separate email when we receive more guidance.**

In an effort to keep this letter focused for the small business owner there are some provisions that I am going to leave out that are more CPA related and not as urgent for the small business owner. Those provisions are NOL carrybacks, NOL limitations, and Bonus depreciation technical corrections. If you would like more details on those areas let me know and I can send you more information.

**Below are the items that I feel need your immediate attention.**

#### **Employee retention credit for employers**

New law. This provision provides a refundable payroll tax credit for 50% of wages paid by eligible employers to certain employees during the COVID-19 crisis.

*Eligible employers.* 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 credit is not available to employers receiving Small Business Interruption Loans under Sec. 1102 of the Act.

*Wages paid to which employees?* For employers who had an average number of full-time employees in 2019 of 100 or fewer, all employee wages are eligible, regardless of whether the employee is furloughed. For employers who had a larger average number of full-time employees in 2019, only the wages of employees who are furloughed or face reduced hours as a result of their employers' closure or reduced gross receipts are eligible for the credit.

No credit is available with respect to an employee for any period for which the employer is allowed a Work Opportunity Credit with respect to the employee.

*Wages.* 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 required 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.

*Other.* IRS is granted authority to advance payments to eligible employers and to waive applicable penalties for employers who do not deposit applicable payroll taxes in anticipation of receiving the credit.

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

### **Delay of payment of employer payroll taxes**

New law. 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.

The term "payroll tax deferral period" means 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 Act Sec. 2302(a) (employment taxes) and Act Sec. 2302(b) (self-employment tax), as the case may be, apply, and (B) Dec. 31, 2022, with respect to the remaining 50% of those amounts.

An employer will be treated as having timely made all deposits of applicable employment taxes required to be made during the payroll tax deferral period if all such deposits are made not later than the applicable date.

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.

Notwithstanding any other provision of law, the payment for 50% of the taxes imposed under Code Sec. 1401(a) (self-employment taxes) for the payroll tax deferral period won't be due before the applicable date.

For purposes of applying Code Sec. 6654 (requiring individuals to make estimated tax payments) to any tax year which includes any part of the payroll tax deferral period, 50% of the self-employment taxes imposed under Code Sec. 1401(a) for the payroll tax deferral period won't be treated as taxes to which Code Sec. 6654 applies.

For purposes of Code Sec. 3504 (imposing third party liability for withholding tax), in the case of any person designated under that section (and any regulations or other guidance issued by IRS with respect to that section) to perform acts otherwise required to be performed by an employer, if an employer directs that person to defer payment of any applicable employment taxes during the payroll tax deferral period under Act Sec. 2302, the employer will be solely liable for the payment of the applicable employment taxes before the applicable date for any wages paid by that that person on behalf of that employer during that period.

For purposes of Code Sec. 3511 (which requires certified professional employer

organizations (CPEOs) to be treated as employers for employment tax withholding purposes), in the case of a CPEO (as defined in Code Sec. 7705(a) ) that has entered into a service contract described in Code Sec. 7705(e)(2) with a customer, if that customer directs that CPEO to defer payment of any applicable employment taxes during the payroll tax deferral period under this section, the customer will, notwithstanding Code Sec. 3511(a) and Code Sec. 3511(c) , be solely liable for the payment of those applicable employment taxes before the applicable date for any wages paid by the CPEO to any worksite employee performing services for that customer during that period. (Act Sec. 2302(c)(2))

Effective date . The provisions of Act Sec. 2302 apply to the period beginning on the date of enactment of the Act. (Act Sec. 2302(d)(2))

I know this is a lot to take in. We are here for you to answer any questions you may have.

Thank you!

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