Tax Benefits for Businesses

Employee Retention Tax Credits

This provision provides a refundable payroll tax credit for 50% of wages paid by eligible employers to certain employees. An eligible employer is one whose operations have been either (1) fully or partially suspended because of a government order in response to COVID-19 or (2) has experienced a greater than 50% reduction in quarterly receipts, measured on a year-over-year basis. The credit is not allowed to employers receiving Paycheck Protection Program loans. The term wages includes health benefits and is capped at $10,000 per eligible employee for wags paid after March 12, 2020 and before January 1, 2021. Eligible employees differ based on if you had an average of 100 or less full-time employees in 2019. Finally, wages does not include amounts taken into account for required paid sick leave or required paid family leave.

Delay of Payment of Employer Payroll Taxes

Employers and self-employed individuals will be able to defer payments of the employer share of Social Security payroll taxes that would have otherwise been owed from the date of enactment through December 31, 2020. The deferred taxes need to be paid over a two-year period, with half due by December 31, 2021 and the other half due by December 31, 2022. Self-employed individuals can reduce their required estimated tax payments during 2020 by the amount being deferred. This rule does not apply to payroll taxes forgiven under the Paycheck Protection Program.

Modifications for net operating losses (NOLs)

The use of NOLs for corporate and noncorporate businesses will be expanded with two primary amendments to section 172(a). Clients will be able to use NOLs to (1) offset income without the 80% taxable income limitation enacted as part of the TCJA and (2) carry back NOLs 5 years. These are temporary provisions that apply to NOLs incurred in the 2018, 2019, or 2020 tax years. For tax years after 2020, the 80% taxable income limitation is reinstated with modifications that increase taxable income by a taxpayer's deductions under sections 199A or 250. Clients that carryback NOLs to a year in which the transition tax (under section 965) applies will be treated as making an election under section 965(n) that allows clients to preserve their NOLs. Technical corrections to conform effective dates that were mismatched in the statutory language enacted by the TCJA are also included.

Modifications of limitation on losses for taxpayers other than corporations

The Cares Act suspends the loss limitation for owners of passthrough entities and self-employed individuals for business losses arising in 2018, 2019 and 2020 so they can take advantage of the net operating loss modifications discussed above.

Modifications of limitation on business interest

The 163(j) limitation for interest deductions based on 30% of adjusted taxable income (ATI) under the TCJA will be increased, temporarily for 2019 and 2020, to 50% of a taxpayers' ATI. In addition, anticipating businesses will likely have lower adjusted taxable income in 2020, taxpayers will be able to determine their 2020 interest expense limitation using their 2019 ATI.

Under a special rule for partnerships, the increase in the limitation is not available to partners in 2019, just for 2020. Rather, partners will be able to treat 50% of the excess business interest expense allocated to them in 2019 as a deduction in 2020 and the remaining 50% will be subject to the normal rules (suspended until the partnership allocates excess taxable income or excess interest income to the partner).

Technical amendments regarding qualified improvement property

Clients that make and have made improvements to their facilities will be able to deduct those costs immediately (instead of depreciating those costs over time) as a correction to the statutory language enacted by the TCJA. This technical correction is effective as of the enactment of the TCJA, allowing clients to amend returns to claim refunds for costs that were being depreciated.

Modification of credit for prior year minimum tax liability for corporations

Clients with AMT credits will be able to claim a refund for the entire amount of the credit instead of recovering the credit through refunds over a period of years, as originally enacted by the TCJA.

Modification of limitations on charitable contributions

For 2020, the 10% of taxable income limitation for corporations will be increased to 25% of taxable income.

Disclaimer - The above information was developed using guidance issued through March 27, 2020. As additional guidance is issued, we will continue to provide updates accordingly.