Washington Trust Bank
Member FDIC

UPDATE ON THE IMPACT OF THE CORONAVIRUS AID, RELIEF AND ECONOMIC SECURITY ACT (CARES ACT)

Please note: The CARES Act is an extensive legislation that was passed quickly on March 27, with the intention to provide financial assistance to businesses impacted by COVID-19 as soon as possible. There are many ambiguous items in the law that will be subject to interpretation. This is our understanding of some of the terms of the legislation, as of April 6. This is not intended to be a comprehensive review of all of the provisions. Please discuss the legislation with your CPA or attorney to see how it may impact you or your business.

BUSINESS RELIEF

PAYCHECK PROTECTION PROGRAM (PPP):

This program is for businesses, non-profit organizations and sole proprietorships with less than 500 employees. The application process began on April 3.

Independent contractors and self-employed workers can start applying on April 10.

Loans are available to eligible recipients through June 30, 2020.

The loan size can be up to the lesser of $10,000,000 or 2.5 times the average monthly payroll costs, plus the value of any existing Economic Injury Disaster Loan (EIDL) received after January 31, 2020.

The business must have been in operation on February 15, 2020 and have employees for whom it paid salaries and taxes or that paid independent contractors.

Businesses must make good faith certifications that (a) current economic uncertainty makes the loan necessary and (b) the proceeds will be used for retaining workers, maintaining payroll or covering interest on mortgages, rent (both mortgages and leases must have agreements in place prior to February 15, 2020), and utilities.

Loans will be forgiven when used for payroll costs (which can include salaries, cash tips, leave benefits, retirement benefits, group health costs and insurance premiums, payments to independent contractors not exceeding $100,000 per contractor per year) and other overhead expenses as defined above, when at least three quarters of the amount forgiven is being used for payroll. Additionally, payroll costs cannot include compensation for individual employees in excess of $100,000, qualified sick or family leave pay for which credit is allowed under the Families First Coronavirus Response Act and compensation paid to employees residing outside of the US.

There are special provisions for seasonal business and businesses not in operation between February 15 and June 30, 2020.

Lenders will defer payments on PPP loans for 6 months.

No personal guarantees or collateral are required. The loan will be on a non-recourse basis unless the borrower misuses the loan proceeds. There is also no requirement that a loan is not available elsewhere.

The interest rate is 1% and there are no fees to the borrower. The loan is guaranteed by the federal government.

The loan is forgiven if used to cover payroll, mortgage interest, rent or utility costs from February 15 to June 30, 2020. The borrower will submit a loan forgiveness application through the lending bank with supporting documentation that the funds were used for eligible expenses. Within 15 days of the forgiveness application, the SBA will purchase the forgiven amount from the lending bank. Amounts forgiven cannot exceed the principal balance and interest accrued of the funding provided. The amount of loan forgiveness can be reduced if salaries and wages are reduced between February 15 and June 30, 2020.

Please note: Any amount forgiven does not have to be paid back and is excluded from gross income for tax purposes. Additionally, the related expenses covered are generally deductible.

EIDL GRANT:

A business with less than 500 employees can apply for a disaster loan and request an EIDL grant of up to $10,000 for similar expenses as mentioned above. These advances do not require repayment. Funds should be available within three days of a successful application and this grant does not need to be repaid.

EMPLOYEE RETENTION TAX CREDIT:

An employee retention tax credit is now available to employers impacted by the crisis and is applied to offset Social Security payroll taxes. The credit is equal to 50% of qualified wages up to $10,000 per employee paid by eligible employers who have been financially impacted by COVID-19. The maximum credit for an eligible employer for qualified wages paid to any employee is therefore $5,000. (For this calculation, wages are not only cash payments but also includes a portion of the cost of employer-provided health care.)

This credit is available to all employers regardless of size, including tax-exempt organizations. **This is not available for small businesses who take out a PPP loan.**

Qualifying employers must fall into one of two categories:

> The employers’ business is fully or partially suspended by government order during the calendar quarter.
>
> The employer’s gross receipts are below 50% of the comparable quarter in 2019. Once the employer’s receipts go above 80% of the comparable quarter in 2019, they no longer qualify after the end of the quarter.

Self-employed individuals are not eligible for this credit for their self-employment services or earnings.

Qualifying wages are based on the average number of a business employees in 2019 and are different depending upon whether the employer had less than or more than 100 employees.

Employers can be immediately reimbursed for the credit by reducing their required deposits of payroll taxes that have been withheld from employees' wages by the amount of the credit. This credit is allowed against the employer portion of social security taxes. The credits are fully refundable because the eligible employer may get a refund if the amount of the credit is more than the federal employment taxes the employer owes. That is, if for any calendar quarter the amount of the credit the employer is entitled to exceeds the employer portion of the Social Security tax on all wages paid to employees, the excess is treated as an overpayment and refunded to the employer.

DELAY IN DEPOSIT OF EMPLOYMENT TAXES:

Employers may defer paying the employers portion of Social Security payroll taxes for the period of March 13 through December 31, 2020. These taxes may be deferred and will need to be paid 50% by the end of 2021 and the balance by the end of 2022. This also applies to self-employed individuals.

This is not available for companies who receive a PPP loan and part of it is forgiven.

NET OPERATING LOSS (NOL) RULES:

Businesses that have net operating losses have had some of the tax limitations relaxed. If your business had an NOL for a tax year beginning in 2018, 2019 or 2020, that NOL can now be carried back five years rather than three. Pass through businesses and sole proprietors will also be able to take advantage of the relaxed NOL limitations.

DEDUCTIBILITY OF BUSINESS INTEREST:

Businesses will be able to increase their business interest expense deductions for 2019 and 2020 to 50% from 30% of adjusted taxable income.

BONUS DEPRECIATION:

Businesses will be able to immediately write off costs associated with improving facilities under a 100% bonus depreciation. This type of property would typically be depreciated under a 39 year life but now this is reduced to 15 years, which allows for the bonus depreciation. This applies to qualified improvement property which are improvements to the interior of a commercial building placed in service after the building itself had been placed in service. The improvements cannot be residential, exterior, expansion or structural.

RETIREMENT PLANS:

401 (k) plans:

If an employee is paid during a business closure, the employer should still withhold 401(k) deferrals and submit them timely. If an employee is NOT paid during a business closure, contributions and deferrals cease as there is no underlying compensation under the plan.

401(k) safe harbor contributions may only be suspended if:

> The employer is operating at an economic loss, or if supplemental safe harbor notice (30 day advance notice) is provided before suspension or reduction takes effect and provides the employee the chance to change contribution elections.

The CARES Act allows a plan participant to access their retirement savings in the following situations:

> An employee has been diagnosed or whose spouse or dependent has been diagnosed with COVID-19 using a test approved by the Centers for Disease Control and Prevention (CDC).
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> Any individual who experiences adverse financial consequences as a result of being quarantined, being furloughed or laid off, or having work hours reduced to due COVID-19.
>
> Being unable to work due to lack of child care because of COVID-19.
>
> Because of the closing or a reduction in hours of a business-owned or operated by the employer of the retirement account.

Employees can self-certify that they qualify so the burden is not on the employer to verify the qualification of the employee. Best practice is to ask for a self-certification from the participant in writing.

> Ways to access the funds by the employee:
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>> An employee under the age of 59 ½ can take a distribution up to $100,000 from the plan without the usual 10% premature distribution penalty. They will be taxed on the amount they withdraw, but this amount and related tax liability can be spread over a three year period.
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>> Eligible employees can take loans from their plans with a maximum loan amount of $100,000. The repayment terms can be relaxed and issued for 6 year repayment terms rather than 5 years.
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>> Normal participant loans will need to be repaid in the usual course, but the CARES Act permits a 1 year delay on repaying participant loans that are due in 2020.
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>> Participants with large enough account balances can take a distribution (of up to $100,000) and a loan and there is no requirement to take the loan before choosing to take a distribution.

The CARES Act allows for participants to elect to pay the distribution back into his or her qualified plan at any time during the 3 year period beginning on the day after the distribution was received. A participant can repay the distribution all at once or in a series of payments over time, within the three year period. Repayments of these distribution will not count toward the applicable years contribution so will not count toward the applicable plan years contribution limits.

The CARES Act also allows plan sponsors to delay required minimum distributions for the 2020 plan year.

Plan sponsors have a choice about the items as it relates to plans they administer. They have a choice about whether or not to adopt the above provisions. Sponsors need to be mindful of their fiduciary duties to the plan and the participants under the Employee Retirement Income Security Act of 1974 (ERISA) when electing to or not electing to allow these provisions.

Other retirement plans:

If a retirement plan contribution is entirely discretionary by the employer, the payments may be suspended.

INDIVIDUAL RELIEF:

IRA Required Minimum Distributions:

If you were over 70 ½ on December 31, 2019, you won't have to take a required minimum distributions (RMDs) in 2020 from your IRA if your retirement assets have been hurt this year. Not having to take a RMD may allow those assets to recover some value before you liquidate them.

Tax filing and payment deadlines:

The filing date for personal income tax returns for 2019 has been extended to July 15, 2020.

This is also applicable to residents filing state returns in Oregon.

Idaho has a filing and payment date of June 15, 2020**.**

No extension request needs to be prepared, although filing an extension request extends the federal filing date to October 15. (This does NOT extend the time for payment.)

There is no need to pay any 2019 tax liability until July 15, 2020.

Right now, your estimated payment for 2020 is still due June 15, 2020.

IRA and HSA contributions for 2019 are also extended to July 15, 2020.

2019 Employer retirement contributions are also not due until July 15, 2020.

C Corporations and Trust and Estates with December 31, 2019 year ends also have July 15 federal due dates for 2019 tax returns.

If a refund is anticipated for 2019, there is a benefit to filing as soon as possible. (Refunds are generally paid within 21 days.)

Also, if an Economic Impact Payment is expected (see below), file the 2019 return as soon as possible to get into the payment queue. (Depending upon your 2018 and 2019 income amounts, you may not want to file your 2019 tax return yet if your income was greater in 2019 than 2018.)

Economic Impact Payments:

The Act authorized Economic Impact Payments to taxpayers starting in April 2020. Payments via direct deposit will begin the week of April 13 and paper checks will start after May 4.

To receive full credit of $1,200 or $2,400 in the case of married filing joint taxpayers and $500 per each qualifying child, adjusted gross income must not exceed:

Married filing jointly:	$150,000	(phase out range $150,000 - $198,000)
Filing as single:	$75,000	(phase out range $75,000 - $99,000)
Head of household:	$112,500	(phase out range $112,500 - $136,500)
Plus per dependent child:	$ 500	

During the phase out range, the credit is reduced by 5 cents for every dollar the taxpayer's adjusted gross income exceeds the threshold amount.

A dependent of another person or a non-resident alien are not entitled to this credit.

The credit is based on adjusted gross income from 2019 if a 1040 form has already been filed or the 2018 return if 2019 has not been filed.

Social security recipients who are not typically required to file a tax return do not need to take action. They will receive their payments directly to their bank account. The IRS will use the information provided on the SSA-1099 form to generate the payments to social security recipients who did not file returns in 2018 or 2019.

If a taxpayer receives a payment, yet they are not entitled to receive it, the taxpayer is responsible to repay, however right now there is no current mechanism for payback.

Charitable contributions:

For individuals who do not itemize their deductions for 2020 there will an above the line deduction of up to $300 for charitable deductions.

The limit on charitable contributions in 2020 is increased to 100% - this is an increase from the usual rate of 60% of adjusted gross income. These gifts cannot be to a donor advised fund or a section 509(a) (3) supporting organization.

Student loans:

A 6 month automatic payment suspension for any student loan held by the federal government has been taken into effect and ends September 30, 2020. Please note: This does not apply to private student loans.

The Internal Revenue Code allows up to $5,250 of payments made by an employer toward qualified education expenses tax free to the employee. Employers can now also make payments toward the employees qualified education loan, including principal and interest. This limit remains at $5,250 and is applicable for any payments made between the enactment of the CARES Act and December 31, 2020.

Conversion of Traditional IRA into Roth IRA:

While not a provision of the CARES Act, recent economic events might have made the conversion of a Traditional IRA into a Roth IRA more compelling for taxpayers. Depending upon the income tax bracket you might find yourself in this year, the opportunity to convert your traditional IRA into a Roth IRA might be compelling. Additionally, if your traditional IRA has lost some value recently and you are optimistic about future appreciation within your tax deferred investment, that can make this time to convert to a Roth all the more appealing.

Gifting:

There was also no change to gifting opportunities in the Act, but if you are interested in helping individuals with gifts, this might be a good time. The annual exemption for gifting is $15,000 per donor per done, and $30,000 for a split gift between husband and wife. Additionally, the basic federal exemption for estate and gifts is $11,580,000 per donor and also the State of Washington does not recognize gifts for the purpose of the estate tax return.

Also, with stock values recently declining, gifting of these securities may be more appealing.

Intra-family loans may be more compelling now, where rates are very low. For example, rates for loans in excess of 9 years presently bear a rate of 1.44%.