Current Federal Tax Developments

Week of April 6, 2020
THIS WEEK - CARES ACT HIGHLIGHTS

- Don’t have a lot of standard developments
- Rather, have had a lot of issues related to the CARES Act this week
- Will look at key issues - not a complete review of the Act’s tax provisions
- Things continue to develop quickly-so things have likely changed by the time you listen to this

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Recovery Rebate for Individuals (Act §2201)

• Basic credit
  – $1,200 for individuals not filing a joint return
  – $2,400 for individuals filing a joint return
• Add $500 for each qualifying child
• Phases out by 5% for each dollar AGI is in excess of
  – $150,000 for taxpayers filing a joint return
  – $112,500 for taxpayers filing as head of household
  – $75,000 for all other taxpayers
RECOVERY REBATE FOR INDIVIDUALS (ACT §2201)

• Individuals not eligible for credit
  – Nonresident aliens;
  – Dependents of another
  – Estate or trust

• Must provide valid ID number for
  – Taxpayer
  – Spouse
  – Child (could be adoption taxpayer ID number – special rule for Armed Services member on this issue)
**Recovery Rebate for Individuals (Act §2201)**

- **Advanced Credit**
  - 2020 credit reduced (but not below zero) by advance credit
  - IRS bases advance credit on
    - 2019 return if processed or
    - 2018 return if 2019 not processed and taxpayer filed a 2018 return;
    - If neither, IRS can use 1099SSA or RRB-1099
  - Note - taxpayer may be better off (or not) by having 2019 return filed
  - IRS will mail notice when payment made to taxpayer
TEMPORARY WAIVER OF RMD FOR 2020 (§2203)

• No RMD for 2020 required
• Also applies to those with April 1, 2020 RBD who did not take their distribution in 2019
SBA LOAN PROGRAM
SBA Interim Final Rules – Act §§ 1102 and 1106

- Released late Thursday (RIN 3245-AH34)
- Key changes from prior reports:
  - Interest rate raised to 1% from 0.5%
  - Sort of clarified independent contractor
  - Also time period for testing for loan amount – some confusion
  - Removal of federal withholdings from payroll costs clarified to run only from 2/15/20 to 6/30/20
- Major banks were slow to begin accepting applications
PAYCHECK PROTECTION PROGRAM LOANS (§1102)

• New category of SBA 7(a) loans
• Can convert SBA 7(b) disaster loans taken out on or after January 31, 2020 to a PPP 7(b) loan
• If not forgiven, get preferable repayment terms and 1% interest rate with 2 year term
• Must make certification
• Max loan – 2.5 times average payroll costs for prior year + refinanced disaster loan – no more than $10,000,000
PAYCHECK PROTECTION PROGRAM LOANS (§1102)

- Payroll costs
  - Includes long list of costs but
  - Excludes
    - Compensation in excess of $100,000
    - From 2/15/20 to 6/30/20 Payroll taxes under
      - Chapter 21 (FICA)
      - Chapter 22 (RRTA)
      - Chapter 24 (Collection of Income Tax at the Source)
    - Employee with principal place of residence outside the United States
    - Qualified sick leave that gets a credit under FFCRA
PPP Loan Forgiveness (§1106)

• 8-week test – can have principal forgiven if spend funds within 8 weeks on
  ― Payroll costs
  ― Qualified mortgage interest
  ― Qualified rent
  ― Qualified utilities

• No more than 25% from other than payroll costs

• Forgiveness reduced if
  ― Reduce number of employees
  ― Reduce employee’s salary by more than 25%

• Any forgiveness is not taxable income – no attribute reduction like exclusions under §108
EMERGENCY EIDL GRANTS AND LOANS (§1110)

- Expands EIDL program and adds special $10,000 effective grants
- Eligible entities – generally capped at those with no more than 500 employees
- Waives rules on personal guarantees, 1 year in business rule (though had to be in business on 1/1/20) and being unable to obtain credit elsewhere
- Simplified approval process and 3-day funding request for $10,000 amount
- What can be used for – similar to PPP loan forgiveness
- $10,000 does not have to be repaid but reduces PPP forgiveness
BUSINESS PROVISIONS
EMPLOYEE RETENTION CREDIT (§2301)

- Cannot claim if obtain PPP SBA loan
- Eligible employer is one
  - Carrying on trade or business in 2020 and
  - Either had
    ✧ Full or partial business suspension due to COVID-19 or
    ✧ Substantial decline in gross receipts for a quarter
- Credit is 50% of qualified wages paid (expanded definition, less wages for >100 employees)
- Cannot count related employees for credit
- Lose option to claim jobs credit on wages and must reduce deduction by amount of credit
Delay of Deposit of Employer FICA Tax (§2302)

• Cannot defer if make use of SBA PPP loan forgiveness

• Delays date of deposit for OASDI taxes from March 27, 2020 to December 31, 2020
  – First half of tax due December 31, 2021
  – Second half of tax due December 31, 2022

• Similar rules apply to ½ of OASDI self-employment taxes
CPE for 2020: Start Planning
Current Federal Tax Developments
Kaplan Financial Education

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