CORPORATE COST CONTROL

Tax Credit Update

Coronavirus Aid, Relief, and Economic Security (CARES) Act Tax Credits and Business Provisions

Employee Retention Credit for Employers

The Coronavirus Aid, Relief, and Economic Security (CARES) Act, provides employers with the Employee Retention Credit provision. A refundable payroll tax credit for 50 percent of wages paid by employers to employees during the COVID-19 crisis. The credit is limited to the first $10,000 of compensation, including health benefits, paid to an eligible employee. Capping the credit at $5,000 per employee for all calendar quarters. It's available to employers whose (1) operations were fully or partially suspended, due to a COVID-19-related shutdown order, or (2) gross receipts declined by more than 50 percent when compared to the same quarter in the prior year. The credit is based on qualified wages paid to the employee. For employers with greater than 100 full-time employees, qualified wages are wages paid to employees when they are not providing services due to the COVID-19-related circumstances described above. For eligible employers with 100 or fewer full-time employees, all employee wages qualify for the credit, whether the employer is open for business or subject to a shut-down order. The credit is provided for wages paid or incurred from March 13, 2020 through December 31, 2020. Section 501(c) tax-exempt organizations are eligible for the credit, but governmental entities and companies receiving small business interruption loans under the CARES Act are not.

Delay of payment of employer payroll taxes.

The provision allows employers and self-employed individuals to defer payment of the employer share of the Social Security tax they otherwise are responsible for paying to the federal government with respect to their employees. Employers generally are responsible for paying a 6.2-percent Social Security tax on employee wages. The provision requires that the deferred employment tax be paid over the following two years, with half of the amount required to be paid by December 31, 2021 and the other half by December 31, 2022. The Social Security Trust Funds will be held harmless under this provision.

Paycheck Protection Program.

Small businesses with fewer than 500 employees (including sole proprietors and nonprofits) impacted by the pandemic and economic downturn to make payroll and cover other expenses from February 15 to June 30 may take out loans up to $10 million—limited to a formula tied to payroll costs—and can cover employees making up to $100,000 per year. Loans may be forgiven if a firm uses the loan for payroll, interest payments on mortgages, rent, and utilities and would be reduced proportionally by any reduction in employees retained compared to the prior year and a 25 percent or greater reduction in employee compensation.

Modifications for net operating losses.

The provision relaxes the limitations on a company's use of losses. Net operating losses (NOL) are currently subject to a taxable-income limitation, and they cannot be carried back to reduce income in a prior tax year. The provision provides that an NOL arising in a tax year beginning in 2018, 2019, or 2020 can be carried back five years. The provision also temporarily removes the taxable income limitation to allow an NOL to fully offset income. These changes will allow companies to utilize losses and amend prior year returns, which will provide critical cash flow and liquidity during the COVID-19 emergency.

Modification of limitation on losses for taxpayers other than corporations.

The provision modifies the loss limitation applicable to pass-through businesses and sole proprietors, so they can utilize excess business losses and access critical cash flow to maintain operations and payroll for their employees.

Modification of credit for prior year minimum tax liability of corporations.

The corporate alternative minimum tax (AMT) was repealed as part of the Tax Cuts and Jobs Act, but corporate AMT credits were made available as refundable credits over several years, ending in 2021. The provision accelerates the ability of companies to recover those AMT credits, permitting companies to claim a refund now and obtain additional cash flow during the COVID-19 emergency**.**

Modification of limitation on business interest.

The provision temporarily increases the amount of interest expense businesses are allowed to deduct on their tax returns, by increasing the 30-percent limitation to 50 percent of taxable income (with adjustments) for 2019 and 2020. As businesses look to weather the storm of the current crisis, this provision will allow them to increase liquidity with a reduced cost of capital, so that they are able to continue operations and keep employees on payroll.

Technical amendment regarding qualified improvement property.

The provision enables businesses, especially in the hospitality industry, to write off immediately costs associated with improving facilities instead of having to depreciate those improvements over the 39-year life of the building. The provision, which corrects an error in the Tax Cuts and Jobs Act, not only increases companies' access to cash flow by allowing them to amend a prior year return, but also incentivizes them to continue to invest in improvements as the country recovers from the COVID-19 emergency.

Questions? Contact your CCC Account Executive or contact CCC via telephone at (800) 207-6926 or via email.