TAX ALERT

PERIODIC REPORT ON NEW TAX DEVELOPMENTS

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The *Tax Alert* is a periodic publication from the firm for clients, friends and business associates. We will bring to your attention new developments in taxation, focusing on individual, estate and gift taxes.

A Note to Our Friends and Clients

2020 was a year of uncertainty and change, and there are still many challenges ahead of us all. We want you to know that we are here to assist you, and that we hope you and your loved ones are healthy and safe.

Throughout 2020, substantial tax legislation was passed bringing relief to many individual and business taxpayers. Here are the major acts:

- CARES Act - Coronavirus Aid, Relief and Economic Security Act
- Families First Coronavirus Response Act
- SECURE Act - Setting Every Community Up for Retirement Enhancement Act

In addition, the Consolidated Appropriations Act, 2021, was signed into law on December 27, 2020. It contains funding for government operations, and it also contains $900 billion in COVID relief through numerous tax provisions including:

- COVID-19-Related Tax Relief Act
- Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act
- No-Surprises Act
- Taxpayer Certainty and Disaster Tax Relief Act of 2020

It includes changes to and extensions of some provisions of the tax acts passed earlier in the year.

The changes are numerous and some are complex. We have briefly summarized some of the provisions which may be of interest to you. If you need additional information, please contact us.

Economic Impact Payments

Early in 2020, millions of Americans received an Economic Income Payment. The payment was based upon their 2018 or 2019 personal income tax return, and amounted to a maximum of $1,200 per taxpayer plus $500 per qualifying child.

The payments were subject to income limitations. If your adjusted gross income (AGI) exceeded $75,000 ($150,000 if married filing jointly), then the payments were reduced by $5 for each $100 above those limits. The payments were completely phased out once AGI reached $99,000 ($198,000 if married filing jointly).

A second round of payments was made at the end of December 2020 and continuing into early 2021. The second payments were $600 per taxpayer plus $600 per qualifying child.

Recovery Rebate Credit

Eligible taxpayers who did not receive both Economic Impact Payments or received reduced payment amounts may be able to claim a Recovery Rebate Credit on their 2020 income tax return. Eligibility will be based upon their 2020 income.

For those who did receive an Economic Impact Payment, you will be happy to know that this is not subject to income tax in 2020. Also, if you received a payment but would not have been eligible based on your 2020 income, you will not have to repay it.

Nonresident aliens and taxpayers who could be claimed as a dependent on another person's tax return are not eligible for a rebate check. Those who received a check for a decedent will need to return it.

Teacher Expenses

The cost of personal protective equipment, disinfectant, and other supplies used for the prevention of the spread of coronavirus will qualify for the above-the-line educator expense deduction. The total deduction is still limited to $250 per taxpayer.

Paycheck Protection Program (PPP)

There is now a Second Draw loan program. This provides a maximum loan of $2 million for businesses with up to 300 employees.

In addition, business expenses paid for with funds from a forgiven PPP loan will still be allowed as a business deduction.

Changes to the original PPP program include:

- Expansion of non-payroll costs that the loan proceeds can be used for.
- Clarification that payroll costs include group life, disability, vision and dental insurance.
- Borrowers can select any covered period between 8 and 24 weeks after loan origination.
- There is a new Simplified Forgiveness Application for loans up to $150,000.
- $10,000 EIDL advances will no longer reduce PPP forgiveness.

Employee Retention Credit (ERTC)

There were a number of changes to the Employee Retention Credit. Here are just a few of the changes:

- Employers who received PPP loans can now claim the ERTC for wages that were not paid with the PPP proceeds.
- The recapture provision for those who claimed the ERTC and subsequently received a PPP loan has been eliminated.
- The period during which the ERTC was available has been extended.
- The percentage of wages and total amount of wage that qualify have been increased.
- The ERTC is now available to any nonprofit organization exempt under 501(c)(1), as well as colleges, universities or entities whose primary function is providing medical or hospital care.
- The ERTC is extended to include the first 2 quarters of 2021.

EIDL Grant

Forgiveness of grants to small business under the Economic Injury Disaster Loans act are excluded from taxable income.

Business Meals

Temporarily, for business meals after December 31, 2020 and before January 1, 2023, the 50 percent limitation will not apply to food or beverages provided by a restaurant.

Unemployment

Federal Unemployment payments of $300 per week is continued for 11 weeks through March 14, 2021.

Unemployment payments are taxable. If you received payments in 2020, you will need to log-in to your online account at the NYS Department of Labor in order to obtain your tax document (Form 1099-G).

Medical Expense Deduction

The act permanently reduces the AGI limitation from 10% to 7.5%.

Child Tax Credit and Earned Income Credit

If your 2020 earned income is less than it was in 2019, you can elect to use your 2019 earned income to calculate these 2020 credits. This is important for those who were out of work in 2020 or worked fewer hours due to COVID.

Extenders

- The exclusion from gross income for the discharge of qualified principal residence debt is extended through 2025. However, the amount eligible for the exclusion is reduced to $750,000 ($375,000 if Married Filing Separately).
- The amount of mortgage insurance premiums that can be treated as qualified residence interest is extended through the end of 2021.
- Certain energy credits that were set to expire have also been extended.

Charitable Contributions

For taxpayers who use the standard deduction, this provision encourages Americans to make contributions to churches and charitable organizations by providing a $300 above-the-line deduction for 2020. For 2021, the amount is increased to $600 for those filing Married Filing Jointly.

For those who itemize, the 50% AGI limitation for charitable deductions is suspended for individuals for 2021.

A Late Start to Tax Season

The IRS has announced that they will begin processing and accepting tax returns on February 12, 2021. This is more than 2 weeks later than the prior year. The additional time is needed for the IRS to update their programs for the tax changes passed late in December.

Retirement Plans

- Beginning in 2020, the new age at which required minimum distributions (RMD's) must start is 72. It was previously 70 ½. These rules apply to anyone turning 70 on or after July 1, 2019.
- Also beginning in 2020, the age limit for Traditional IRA contributions has been removed. You will still need to have earned income in order to make contributions.
- For 2020, the required minimum distribution (RMD) was suspended for IRA's and certain defined contribution plans. For 2021, RMD's resume.

- For 2020, the CARES Act allowed taxpayers under age 59½ to take up to $100,000 from their IRA or other eligible retirement plan without being subject to the 10% early withdrawal penalty. To be eligible for this relief, the taxpayer or spouse had to be diagnosed with COVID-19, or have had adverse financial consequences due to COVID-19.

- In addition, Coronavirus-related distributions taken in 2020 can be included ratably in gross income over a 3 year period. (You can also elect to include the entire amount in your 2020 income.)

- Eligible taxpayers may be able to recontribute Coronavirus-related distributions to an eligible retirement plan within three years and without regard to that year's cap on contributions. If not repaid, the income will be included in your taxable income ratably over a 3-year period unless you elect to report it entirely in 2020.

Treatment of Net Operating Losses

The Tax Cuts and Jobs Act (TCJA) limited the utilization of net operating business losses. The CARES Act temporarily changes the rules by lifting the 80% rule and allowing losses arising in 2018, 2019 or 2020 to be carried back five years. New York State has decoupled from these changes.

New York State

Please note that New York State has decoupled from some of the changes above.

Please stay tuned—there will certainly be more to follow.