Individual tax provisions in Senate-passed third coronavirus relief package, Federal Tax Update (03/27/2020)

2020 COVID-19 News

Individual tax provisions in Senate-passed third coronavirus relief package

Senate-passed version of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act, H.R. 748)

Summary of CARES Act Unemployment Insurance and Tax Provisions

By a unanimous vote on March 25, the Senate passed a third coronavirus relief package, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act, H.R. 748, the Act). This article discusses the tax relief provisions for individuals that are contained in the Act.

For the tax relief provisions for businesses that are contained in the Act, see Business tax provisions in Senate-passed third coronavirus relief package.

The CARES Act contains a few additional tax provisions, including provisions on the non-taxability of certain loan forgiveness, advance refunding of certain credits and the suspension of certain aviation taxes. Checkpoint will provide additional information about these additional tax provisions in a future Federal Tax Update.

Individual recovery rebate/credit

New law. *Credit allowed for 2020.* Under the CARES Act, an eligible individual is allowed an income tax credit for 2020 equal to the sum of: (1) $1,200 ($2,400 for eligible individuals filing a joint return)plus (2) $500 for each qualifying child of the taxpayer (as defined under Code Sec. 24(c) for purposes of the child tax credit). (Code Sec. 6428(a), as added by Act Sec. 2201(a)) The credit is refundable. (Code Sec. 6428(b), as added by Act Sec. 2201(a))

Observation. For purposes of the child tax credit, the term "qualifying child" means a qualifying child of the taxpayer, as defined for purposes of the dependency exemption by Code Sec. 152(c), who hasn't attained age 17.

Observation. Individuals who have no income, as well as those whose income comes entirely from non-taxable means-tested benefit programs such as SSI benefits, are eligible for the

credit and the advance rebate. (CARES Section-by-Section Summary, p. 10).

Eligibility for credit. For purposes of the credit, an "eligible individual" is any individual other than a nonresident alien or an individual for whom a Code Sec. 151 dependency deduction is allowable to another taxpayer for the tax year. Estates and trusts aren't eligible for the credit. (Code Sec. 6428(d), as added by Act Sec. 2201(a))

Observation. Children who are (or can be) claimed as dependents by their parents aren't eligible individuals, even if they have enough income to have to file a return. It makes no difference if the parent chooses not to claim the child as a dependent, because the dependency deduction is still "allowable" to the parent.

Observation. An individual who wasn't an eligible individual for 2019 may become one for 2020, e.g., where the individual was a dependent for 2019 but not for 2020. IRS won't send an advance rebate to such an individual, because advance rebates are generally based on information on the 2019 return (see below). However, the individual will be able to claim the credit when filing the 2020 return.

Phaseout of credit. The amount of the credit is reduced (but not below zero) by 5% of the taxpayer's adjusted gross income (AGI) in excess of: (1) $150,000 for a joint return, (2) $112,500 for a head of household, and (3) $75,000 for all other taxpayers. (Code Sec. 6428(c), as added by Act Sec. 2201(a))

Observation. Under these rules, the credit is completely phased-out for a single filer with AGI exceeding $99,000 and for joint filers with no children with AGI exceeding $198,000. For a head of household with one child, the credit is completely phased out when AGI exceeds $146,500. (CARES Section-by-Section Summary, p. 10)

Advance rebate of credit during 2020. Each individual who was an eligible individual for 2019 is treated as having made an income tax payment for 2019 equal to the advance refund amount for 2019. The "advance refund amount" is the amount that would have been allowed as a credit for 2019 had the credit provision been in effect for 2019.

IRS will refund or credit any resulting overpayment as rapidly as possible. No interest will be paid on the overpayment.

If an individual hasn't yet filed a 2019 income tax return, IRS will determine the amount of the rebate using information from the taxpayer's 2018 return. If no 2018 return has been filed, IRS will use information from the individual's 2019 Form SSA-1099, Social Security Benefit Statement, or Form RRB-1099, Social Security Equivalent Benefit Statement.

Observation. In other words, even though the credit is technically for 2020, the law treats it as an overpayment for 2019 that IRS will rebate as soon as possible during 2020.

Observation. Most eligible individuals won't have to take any action to receive an advance rebate from IRS. This includes many low-income individuals who file a tax return to claim the refundable earned income credit and child tax credit. (CARES Section-by-Section Summary, p. 10)

IRS may make the rebate electronically to any account to which the payee authorized, on or after Jan. 1, 2018, the delivery of a refund of federal taxes or of a federal payment.

No later than 15 days after distributing a rebate payment, IRS must mail a notice to the taxpayer's last known address indicating how the payment was made, the amount of the payment, and a phone number for reporting any failure to receive the payment to IRS.

No advance rebate will be made or allowed after Dec. 31, 2020. (Code Sec. 6428(f), as added by Act Sec. 2201(a))

Advance rebate reduces credit allowed for 2020. The amount of credit that is allowable for 2020 must be reduced (but not below zero) by the aggregate advance rebates made or allowed to the taxpayer during 2020.

Observation. If the taxpayer received an advance rebate during 2020 that was less than the credit to which the taxpayer is entitled for 2020, the taxpayer will be able to claim the balance of the credit when filing the 2020 return. If, on the other hand, the advance rebate received was greater than the credit to which the taxpayer is entitled, the taxpayer won't have to pay back the excess. That is because the 2020 credit can't be reduced below zero.

If an advance rebate was made or allowed for a joint return, half of the rebate is treated as having been made or allowed to each spouse who filed the joint return.

Observation. Thus, if taxpayers filed a joint return for 2019 and received an advance rebate, but were divorced or filed separate returns for 2020, each individual will take into account half of the advance rebate when reducing the credit allowed for 2020.

Identification number requirement. No credit will be allowed to an eligible individual who doesn't include the individual's valid identification number on the tax return for the tax year.

On a joint return, the valid identification number of the individual's spouse must be included. But this requirement doesn't apply if at least one spouse was a member of the U.S. Armed Forces at anytime

during the tax year and at least one spouse's valid identification number is included on the joint return.

If a qualifying child is taken into account in figuring the credit, the child's valid identification number must also be included on the return.

A "valid identification number" means a social security number, as defined in Code Sec. 24(h)(7). For a qualifying child who is adopted or placed for adoption, the child's adoption taxpayer identification number is a valid identification number.

Observation. Under Code Sec. 24(h)(7), a "social security number" must be issued by the Social Security Administration to a U.S. citizen or to an alien who is eligible to be employed in the U.S. Also, the number must have been issued by the due date of the return.

An omission of a correct valid identification number is treated as a mathematical or clerical error that can be summarily assessed without using the deficiency procedures. (Code Sec. 6428(g), as added by Act Sec. 2201(a))

Regulations. IRS is to prescribe regs and other guidance as necessary to carry out the purposes of the credit provision, including appropriate measures to avoid allowing a taxpayer to receive multiple credits or rebates. (Code Sec. 6428(h), as added by Act Sec. 2201(a))

No 10% additional tax for coronavirus-related retirement plan distributions

Background. A distribution from a qualified retirement plan is subject to a 10% additional tax unless the distribution meets an exception under Code Sec. 72(t).

New law. The CARES Act provides that the Code Sec. 72(t) 10% additional tax does not apply to any coronavirus-related distribution, up to $100,000. (Act Sec. 2202(a)(1))

A coronavirus-related distribution is any distribution (subject to dollar limits discussed below), made on or after January 1, 2020, and before December 31, 2020, from an eligible retirement plan (defined in Code Sec. 402(c)(8)(B)), made to a qualified individual. (Act Sec. 2202(a)(4)(A))

A qualified individual is an individual (1) who is diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019 (COVID-19) by a test approved by the Centers for Disease Control and Prevention (CDC), (2) whose spouse or dependent (as defined in Code Sec. 152) is diagnosed with such virus or disease by such a test, or (3) who experiences adverse financial consequences as a result of being quarantined, being furloughed or laid off or having work hours reduced due to such virus or disease, being unable to work due to lack of child care due to such virus or disease, closing or reducing hours of a business owned or operated by the individual due to such virus or disease, or other factors as

determined by the Secretary of the Treasury. (Act Sec. 2202(a)(4)(A)(ii))

The administrator of an eligible retirement plan may rely on an employee's certification that the employee satisfies the conditions of (3) above in determining whether any distribution is a coronavirus-related distribution. (Act Sec. 2202(a)(4)(B))

Limit on distribution. The aggregate amount of distributions received by an individual which may be treated as coronavirus-related distributions for any tax year cannot not exceed $100,000. (Act Sec. 2202(a)(2)(A))

If a distribution to an individual would (without regard to the $100,000 limit in Act Sec. 2202(a)(2)(A)) be a coronavirus-related distribution, a plan is not treated as violating the Code merely because the plan treats such distribution as a coronavirus-related distribution, unless the aggregate amount of such distributions from all plans maintained by the employer (and any member of any controlled group which includes the employer) to such individual exceeds $100,000. (Act Sec. 2202(a)(2)(B))

For this purpose, the term ''controlled group'' means any group treated as a single employer under Code Sec. 414(b), Code Sec. 414(c), Code Sec. 414(m), or Code Sec. 414(o). (Act Sec. 2202(a)(2)(C))

Distribution can be contributed back to retirement plan. Any individual who receives a coronavirus-related distribution may, at any time during the 3-year period beginning on the day after the date on which such distribution was received, make one or more contributions in an aggregate amount not to exceed the amount of such distribution to an eligible retirement plan of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under Code Sec. 402(c), Code Sec. 403(a)(4), Code Sec. 403(b)(8), Code Sec. 408(d)(3), or Code Sec. 457(e)(16), as the case may be. (Act Sec. 2202(a)(3)(A))

If a contribution is made pursuant to Act Sec. 2202(a)(3)(A) with respect to a coronavirus-related distribution from an eligible retirement plan other than an individual retirement plan, then the taxpayer is, to the extent of the amount of the contribution, treated as having received the coronavirus-related distribution in an eligible rollover distribution (as defined in Code Sec. 402(c)(4)) and as having transferred the amount to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution. (Act Sec. 2202(a)(3)(B))

If a contribution is made pursuant to Act Sec. 2202(a)(3)(A) with respect to a coronavirus-related distribution from an individual retirement plan, then, to the extent of the amount of the contribution, the coronavirus-related distribution is treated as a distribution described in Code Sec. 408(d)(3) and as having been transferred to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution. (Act Sec. 2202(a)(3)(C))

Distribution can be included in income over three years. In the case of any coronavirus-related distribution, unless the taxpayer elects not to, any amount required to be included in gross income for such tax year will be so included ratably over the 3-taxyear period beginning with such tax year. (Act Sec. 2202(a)(5)(A)) For this purpose, rules similar to the rules of Code Sec. 408A(d)(3)(E) apply. (Act

Sec. 2202(a)(5)(B))

For purposes of Code Sec. 401(a)(31), Code Sec. 402(f), and Code Sec. 3405, coronavirus-related distributions are not treated as eligible rollover distributions. (Act Sec. 2202(a)(6)(A))

Also, a coronavirus-related distribution is treated as meeting the requirements of Code Sec. 401(k)(2)(B)(i), Code Sec. 403(b)(7)(A)(i), Code Sec. 403(b)(11), Code Sec. 457(d)(1)(A), and 5 USC 8433(h)(1). (Act Sec. 2202(a)(6)(B))

Loans from qualified plans. The CARES Act provides flexibility for loans from certain retirement plans for coronavirus-related relief. (Act Sec. 2202(b))

Effective date. Act Sec. 2202 applies to distributions made on or after January 1, 2020, and before December 31, 2020. (Act Sec. 2202(a)(4)(A))

RMD requirement waived for 2020

Background. In general, Code Sec. 401(a)(9) requires a retirement plan or IRA owner to take required minimum distributions (RMDs) annually once the owner reaches age 72.

New law. The CARES Act provides that the RMD requirements do not apply for calendar year 2020 to: (I) a defined contribution plan described in Code Sec. 403(a) or Code Sec. 403(b); (II) a defined contribution plan which is an eligible deferred compensation plan described in Code Sec. 457(b) but only if such plan is maintained by an employer described in Code Sec. 457(e)(1)(A); or (III) an individual retirement plan. (Code Sec. 401(a)(9)(I)(i), as amended by Act Sec. 2203(a))

The RMD requirements also do not apply to any distribution which is required to be made in calendar year 2020by reason of: (I) a required beginning date occurring in calendar year 2020, and (II) such distribution not having been made before January 1, 2020. (Code Sec. 401(a)(9)(I)(ii), as amended by Act Sec. 2203(a))

For purposes of the Code Sec. 401(a)(9) RMD rules: (I) the required beginning date with respect to any individual is determined without regard to the temporary RMD waiver rules of Code Sec. 401(a)(9)(I) for purposes of applying the RMD rules for calendar years after 2020; and (II) if the 5-year rule of Code Sec. 401(a)(9)(B)(ii) applies (in general requiring a retirement plan to distribute its assets within five years of the death of the employee), the 5-year period is determined without regard to calendar year 2020. (Code Sec. 401(a)(9)(I)(iii),as amended by Act Sec. 2203(a))

Eligible rollover distributions. If all or any portion of a distribution during 2020 is treated as an eligible rollover distribution but would not be so treated if the minimum distribution requirements under Code Sec. 401(a)(9) had applied during 2020, such distribution is not be treated as an eligible rollover distribution for purposes of Code Sec. 401(a)(31), Code Sec. 3405(c), or Code Sec. 402(f). (Code Sec. 402(c)(4), as amended by Act Sec. 2203(b))

Effective date. The amendments made by Act Sec. 2203 apply for calendar years beginning after December 31, 2019. (Act Sec. 2203(c)(1))

If Act Sec. 2203(c)(2) applies to any pension plan or contract amendment (see below), such pension plan or contract does not fail to be treated as being operated in accordance with the terms of the plan during the period beginning on the date of enactment of the Act and ending on December 31, 2020, solely because the plan operates in accordance with the temporary RMD suspension rules of Act Sec. 2203. In addition, except as provided by the Secretary of the Treasury, such plan or contract does not fail to meet the requirements of Code Sec. 411(d)(6) (Sec. 204(g) of the Employee Retirement Income Security Act of 1974) by reason of such amendment. (Act Sec. 2203(c)(2)(A))

Act Sec. 2203(c)(2) applies to any amendment to any pension plan or annuity contract which: (I) is made pursuant to the amendments made by Act Sec. 2203; and (II) is made on or before the last day of the first plan year beginning on or after January 1, 2022. (Act Sec. 2203(c)(2)(B)(i)) In the case of a governmental plan, clause (II) is applied by substituting"2024" for "2022". (Act Sec. 2203(c)(2)(B)(i))

Act Sec. 2203(c)(2) does not apply to any amendment unless during the period beginning on the date of enactment of the Act and ending on December 31, 2020, the plan or contract is operated as if such plan or contract amendment were in effect. (Act Sec. 2203(c)(2)(B)(ii))

$300 above-the-line charitable deduction

Background. Adjusted gross income is gross income less certain deductions. (Code Sec. 62(a))

New law. The CARES Act adds a deduction to the calculation of gross income, in the case of tax years beginning in 2020, for the amount (not to exceed $300) of qualified charitable contributions made by an eligible individual during the tax year. (Code Sec. 62(a)(22), as amended by Act Sec. 2204(a))

For this purpose, the term "eligible individual" means any individual who does not elect to itemize deductions. (Code Sec. 62(f)(1), as amended by Act Sec. 2204(b))

The term "qualified charitable contribution" means a charitable contribution (as defined in Code Sec. 170(c)): (A) which is made in cash; (B) for which a deduction is allowable under Code Sec. 170 (determined without regard Code Sec. 170(b)); (C) which is made to an organization described in Code Sec. 170(b)(1)(A), and not to an organization described in Code Sec. 509(a)(3); and (D) which is not for the establishment of anew, or maintenance of an existing, donor advised fund (as defined in Code Sec. 4966(d)(2)). In addition, a qualified charitable contribution does not include any amount which is treated as a charitable contribution made in such tax year by reason of Code Sec. 170(b)(1)(G)(ii) or Code Sec. 170(d)(1). (Code Sec. 62(f)(2), as amended by Act Sec. 2204(b))

Effective date. The amendments made by Act Sec. 2204 apply to tax years beginning after Dec. 31,

2019. (Act Sec. 2204(c))

Modification of limitations on individual cash charitable contributions during 2020

Background. Individuals are allowed a deduction for cash contributions to certain charitable organizations (such as churches, educational organizations, hospitals, and medical research organizations) up to 60% of their contribution base (generally, adjusted gross income (AGI)). (Code Sec. 170(b)(1)(G)(i)) If the aggregate amount of an individual's cash contributions to these charities for the year exceeds 60% of the individual's contribution base, then the excess is carried forward and is treated as a deductible charitable contribution in each of the five succeeding tax years. (Code Sec. 170(b)(1)(G)(ii))

New law. The CARES Act provides that (except as stated below) qualified contributions are disregarded in applying the 60% limit on cash contributions of individuals and the Code Sec. 170(d)(1) rules on carryovers of excess contributions. (Act Sec. 2205(a)(1))

Qualified contributions are allowed as a deduction only to the extent that the aggregate of those contributions does not exceed the excess of the individual's contribution base over the amount of all other charitable contributions allowed as deductions for the contribution year. (Act Sec. 2205(a)(2)(A)(i))

Qualified contributions are charitable contributions if---

1. They are paid in cash during calendar year 2020 to an organization described in Code Sec. 170(b)(1)(A) (i.e., 501(c)(3) and certain other charitable organizations); and

2. The taxpayer has elected to apply this provision with respect to the contribution. (Act Sec. 2205(a)(3)(A))

However, contributions to a Code Sec. 509(a)(3) supporting organization or a donor advised fund are not qualified contributions. (Act Sec. 2205(a)(3)(B))

In the case of a partnership or S corporation, the election in item (2) above is made separately by each partner or shareholder. (Act Sec. 2205(a)(3)(C))

If the aggregate amount of qualified contributions exceeds the limitation in Act Sec. 2205(a)(2)(A)(i), the excess is added to the individual's carryover amount described in Code Sec. 170(b)(1)(G)(ii).(Act Sec. 2205(a)(2)(A)(ii))

Effective date. The amendments made by Act Sec. 2205(a) apply to tax years beginning after Dec. 31, 2019. (Act Sec. 2205(c))

Modification of limitations on corporate cash charitable contributions during

2020

Background. A corporation's charitable deduction cannot exceed 10% of its taxable income, as computed with certain modifications. (Code Sec. 170(b)(2)(A)) If a corporation's charitable contributions for a year exceed the 10% limitation, the excess is carried over and deducted for each of the five succeeding years in order of time, to the extent the sum of carryovers and contributions for each of those years does not exceed 10% of taxable income. (Code Sec. 170(d)(2)(A))

New law. The CARES Act provides that (except as stated below) qualified contributions (see above) are disregarded in applying the 10% limit on charitable contributions of corporations and the Code Sec. 170(d)(1) rules on carryovers of excess contributions. (Act Sec. 2205(a)(1))

Qualified contributions are allowed as a deduction only to the extent that the aggregate of those contributions does not exceed the excess of 25% of the corporation's taxable income (as computed under Code Sec. 170(b)(2)) over the amount of all other charitable contributions allowed to the corporation as deductions for the contribution year. (Act Sec. 2205(a)(2)(B)(i))

If the aggregate amount of qualified contributions exceeds the limitation in the previous paragraph, the excess is taken into account under the Code Sec. 170(d)(2) carryover rule, subject to its limitations. (Act Sec. 2205(a)(2)(B)(ii))

Effective date. The amendments made by Act Sec. 2205(a) apply to tax years beginning after Dec. 31, 2019. (Act Sec. 2205(c))

Increase in limits on contributions of food inventory

Background. A donation of food inventory to a charitable organization that will use it for the care of the ill, the needy, or infants is deductible in an amount up to basis plus half the gain that would be realized on the sale of the food (not to exceed twice the basis). In the case of a C corporation, the deduction cannot exceed 15% of the corporation's income. In the case of a taxpayer other than a C corporation, the deduction cannot exceed 15% of aggregate net income of the taxpayer for that tax year from all trades or businesses from which those contributions were made, computed without regard to the taxpayer's charitable deductions for the year. (Code Sec. 170(e)(3)(C))

New Law. In the case of any charitable contribution of food during 2020 to which Code Sec. 170(e)(3)(C) applies, the taxable income limits are 25% rather than 15%. (Act Sec. 2205(b))

Effective date. The amendments made by Act Sec. 2205(b) apply to tax years beginning after Dec. 31, 2019. (Act Sec. 2205(c))

Tax-excluded education payments by an employer temporarily include

student loan repayments

Background. An employee's gross income doesn't include up to $5,250 per year of employer payments, in cash or kind, made under an educational assistance program for the employee's education (but not the education of spouses or dependents). (Code Sec. 127)

New law. The CARES Act adds to the types of educational payments that are excluded from employee gross income" eligible student loan repayments" (below) made before January 1, 2021. The payments are subject to the overall $5,250 per employee limit for all educational payments.

Eligible student loan repayments are payments by the employer, whether paid to the employee or a lender, of principle or interest on any qualified higher education loan as defined in Code Sec 221(d)(1) for the education of the employee (but not of a spouse or dependent).(Code Sec 127(c)(1)(B), as amended by Act Sec. 2206(a))

To prevent a double benefit, student loan repayments for which the exclusion is allowable can't be deducted under Code Sec 221 (which allows the deduction of student loan interest subject to a dollar limit and a phase-out above specified taxpayer income levels.) (Code Sec. 221(e)(1), as amended by Act Sec. 2206(b))

Effective date. The amendments made by Act Sec. 2206 apply to payments made after the date of enactment of the Act. (Act Sec. 2206(c))

Checkpoint subscribers can find the latest tax and accounting news and analysis related to the ongoing COVID-19 (coronavirus) pandemic by searching or navigating to our new COVID-19 Guidance folder. This folder can be accessed from the top of the Table of Contents or included in searches (be sure to select it). The folder will be available beginning at 3:00 PM ET on Friday, March 27.