Key Tax Provisions in New Coronavirus Relief Bill

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Reimbursed PPP Expenses Deductible

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Employee Retention Credit Extended and Expanded

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Business Meals to be Fully Deductible

On December 27, 2020, a year-end legislative package containing $900 billion in coronavirus pandemic relief was signed into law. Among other things, the relief bill allows businesses to deduct expenses paid for with Paycheck Protection Program ("PPP") loans, extends and expands the employee retention credit, extends the payroll tax credits for paid and sick leave included in the Families First Coronavirus Response Act ("FFCRA"), and makes business meals fully deductible for 2021 and 2022. The coronavirus relief bill extends and modifies several provisions first enacted in the CARES Act, that was passed in March. The package extends relief through mid-March of 2021.

This alert summarizes the major tax provisions in the coronavirus relief bill, which may benefit businesses and business owners.

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Key Tax Provisions in New Coronavirus Relief Bill

Expenses Paid with PPP Loan Proceeds are Deductible

The coronavirus relief bill clarifies that recipients of PPP loans can deduct eligible expenses paid with forgiven PPP loans. This clarification applies to both original PPP and subsequent PPP loans. In Notice 2020-32, which is now legislatively overruled, the IRS stated that expenses paid for with PPP loan proceeds were not deductible. This clarification results in a two-part subsidy to businesses comprised of deductions and tax-free loan forgiveness. This same tax treatment also applies to Economic Injury Disaster Loan ("EIDL") grants and certain loans and loan repayment assistance.

Employee Retention Credit

The CARES Act granted eligible employers a refundable employment tax credit equal to 50% of qualified wages (up to $10,000 per employee) paid after March 12, 2020, and prior to January 1, 2021, to eligible employees during a calendar quarter. To be eligible, businesses must either (i) be subject to a coronavirus government order partially or fully suspending their operations, or (ii) suffer a 50% decline in gross receipts from the same quarter in 2019. Under the CARES Act, the employee retention credit was scheduled to expire on December 31, 2020.

The coronavirus relief bill extends the availability of the employee retention credit through June 30, 2021 and expands the program. Changes to the program include:

- Increasing the employee retention credit from 50 percent of qualified wages to 70 percent of qualified wages for wages paid from January 1, 2021 to June 30, 2021;
- Increasing the employee retention credit qualified wages cap from $10,000 per employee per year to $10,000 per employee per quarter for 2021;
- Allowing employers with 500 or fewer employees to treat all wages paid to employees regardless of whether or not they are performing services as eligible wages from January 1, 2021 to June 30, 2021 (employers with more than 100 employees may only receive employee retention credits for wages paid to employees while they are not providing services due to business suspension or a significant decline in gross receipts for the period of March 12, 2020 to December 31, 2020); and
- Expanding eligibility, for the January 1, 2021 to June 30, 2021 period, to receive employee retention credits to include employers who experience a 20% reduction (instead of 50% reduction) of quarterly gross receipts compared to the prior year quarter or prior quarter.

The coronavirus relief bill clarifies that businesses will now be eligible to participate in both the employee retention credit and PPP loan programs. Under the CARES Act, employers who had PPP loans forgiven were ineligible for the employee retention credit program. The coronavirus relief bill also allows new employers that weren't in existence for all or part of 2019 to claim the credit and permits public colleges, universities, and medical and hospital facilities to claim the credit.

Tax Credits for Paid Coronavirus Leave

The FFCRA, which went into effect April 1, 2020, provides up to 80 hours of emergency paid sick leave, and up to 12 weeks of partially paid emergency family leave, to employees of certain employers who are unable to work due to COVID-19-related reasons. The FFCRA expires by its own terms on December 31, 2020, but the coronavirus relief bill extends the payroll tax credit for paid sick leave and paid family leave through and until March 31, 2021.

Deduction for Business Meals

The coronavirus relief bill includes a 100 percent deduction for business meal expenses for 2021 and 2022. Previously, business meals were subject to a 50 percent deduction limitation.

Charitable Contribution Deduction

The CARES Act provided an above-the-line charitable deduction in 2020 of up to $600 for married joint filers and $300 for other filers who made cash contributions to certain public charitable organizations. This above-the-line charitable contribution deduction is extended through 2021.

The CARES Act also increased the percentage limitations on certain charitable contributions made by individuals and corporations in 2020. The coronavirus relief bill extends those increased limits to contributions made in 2021. In light of this, individual taxpayers may claim an unlimited itemized deduction for charitable contributions to public charities (other than donor-advised funds) for 2020 and 2021; the limit was previously 50% of AGI. In the case of corporations, the usual 10% of AGI limitation is increased to 25% for the 2020 and 2021 tax years.

Qualified Disaster Relief Payments

The percentage limitations for charitable contributions of qualified disaster relief payments made by a corporation are suspended for contributions paid during the period beginning on January 1, 2020, and ending 60 days after the date of a qualified disaster declaration. To qualify, contributions must be paid in cash; must be made to qualified charitable organizations; must be made for relief efforts in one or more qualified disaster areas; and the taxpayer must receive contemporaneous written acknowledgment that such contribution was used (or is to be used) for such relief efforts.

Koley Jessen continues to monitor the situation and stay current on the federal and state tax issues facing businesses and individuals. If you have additional questions or concerns as the situation develops, please contact a member of the Koley Jessen Tax Practice Group.