

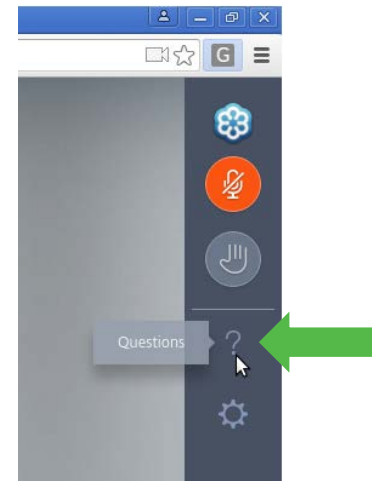
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FEDERAL TAX PROVISIONS – COVID-19
(4/14/20)

PRESENTED BY ROBERT NEIDES & ROBERT JACKSON

Welcome

- + All attendees are placed on listen-only mode
- + Submit a confidential question at any time
- + Questions will be reviewed by our team and followed up after the webinar
- + Contact information will be provided
- + Today's webinar recording will be sent via email within 2 hours



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List of Provisions – CARES Act & FFCRA

- + CARES (Coronavirus Aid, Relief, and Economic Security) Act Provisions:
 - + Income/Self-Employment Tax
 - + Economic Impact Payments for Individuals (Recovery Rebates)
 - + Hardship Withdrawals and Loans from Retirement Funds for 2020
 - + Waiver of the RMD Requirements for 2020
 - + \$300 Above-The-Line Deduction for Certain Cash Contributions (non-itemizers only)
 - + Elective Expanded AGI Limit for Certain Cash Contributions (itemizers only) – 2020 Only
 - + Elective Expanded Taxable Income Limit (25% instead of 10%) for Certain Cash Contributions of C Corporations – 2020 Only
 - + Increase in Food Contribution Limit for 2020 Only
 - + Payments on Student Loans by Employers – 2020 Only
 - + Removal of the 80% Taxable Income Limit for the Net Operating Loss Deduction – 2018, 2019 & 2020 Income Tax Returns

List of Provisions – CARES Act & FFCRA

- + CARES (Coronavirus Aid, Relief, and Economic Security) Act Provisions:
 - + Income/Self-Employment Tax – Cont'd
 - + Permitted NOL Carrybacks for Losses Arising in 2018, 2019 & 2020
 - + Excess Business Loss Allowance – Limitation removed for 2018, 2019 & 2020
 - + Minimum Tax Credit Carryforward for C Corporations can now be refunded in 2018 or 2019
 - + Excess Business Interest Deduction – increase in deduction percentage (30% to 50%) generally for 2019 and 2020
 - + Change in MACRS life for Qualified Improvement Property (QIP) placed in service after 12/31/17
 - + Single Employer Defined Benefit Plan Funding Extension for Payments due in 2020
 - + Exclusion from gross income on forgiveness from PPP loans
 - + Partial Self-Employment tax deferral – half due 12/31/21 and the remaining half due 12/31/22

List of Provisions – CARES Act & FFCRA

- + CARES (Coronavirus Aid, Relief, and Economic Security) Act Provisions:
 - + Payroll Tax
 - + Employee Retention Credit - elective for certain wages paid after 3/12/20 and before 12/31/20 for those employers who do not receive a PPP loan (**NO CREDIT FOR ENTIRE YEAR IF YOU RECEIVE A PPP LOAN**) ;
 - + Deferral of Post-March 26th Employer's share of social security tax through 12/31/20. **NOTE - All employers can defer their share of social security tax (before credits) until the day before the date the lender issues a decision that all or a part of a PPP loan (or an 1109 loan) will be forgiven.** Employer's share of social security tax paid or deposited on or after that date is subject to the normal due date rules.
- + FFCRA (Families First Coronavirus Response Act)
 - + FFCRA Credits - elective for leave taken from 4/1/20 through 12/31/20 under the Emergency Paid Sick Leave Act (EPSLA) or the Emergency Family Medical Leave Expansion Act (EFMLEA);
 - + Equivalent income tax credit under the FFCRA for self-employed individuals that would be entitled to EPSLA or EFMLEA payments.

List of Provisions – Existing Provisions

- + Existing Applicable Tax Provisions –
 - + Disaster Related Provisions
 - + Section 139 – payments by employers (other than compensation for services) to reimburse or pay reasonable and necessary personal, family, living or funeral expenses incurred as a result of COVID-19 are not taxable to employee but are deductible by the employer (and not subject to employment taxes). IRS has acknowledged its applicability – but no additional guidance as of yet.
 - + Section 165(i) – a taxpayer may elect to take losses as a result of COVID-19 on their 2019 tax returns as opposed to 2020.
 - + Existing Income Tax Credit under Section 45S – For 2020, there is an existing credit for paid family and medical leave under Section 45S of the Internal Revenue Code.

List of Provisions - IRS EXTENSION

- + Filing and Payment Extensions - UPDATED
 - + FAQs posted on the IRS website
 - + Applies to all taxpayers - even if not affected by COVID-19
 - + Updated by Notice 2020-23 on 4/9/20
 - + “Specified Filing and Payment Obligations” are those due (originally or pursuant to a valid extension) on or after 4/1/20 and before July 15, 2020 and listed below (not an all-inclusive list)
 - + 1040/1040-SR/1040-NR/1040-PR/1040-SS Series
 - + Calendar or Fiscal 1120/1120-C/1120-F/1120-FSC/1120-H/1120-L/1120-ND/1120-PC/1120-POL/1120-REIT/1120-RIC/1120-S/1120-SF Series
 - + Calendar or Fiscal 1065/1066
 - + 1041/1041-N/1041-QFT
 - + 706/706 (2017-34)/706-NA/706-A/706-QDT/706-GS(T)/706-GS(D)/706-GS(D-1)
 - + 8971

List of Provisions - IRS EXTENSION

- + Filing and Payment Extensions - UPDATED
 - + “Specified Filing and Payment Obligations” are those due (originally or pursuant to a valid extension) on or after 4/1/20 and before July 15, 2020) and listed below (not an all-inclusive list)
 - + 709 (due on the date an estate is required to file Form 706 or 706-NA)
 - + 990-T
 - + 990-PF
 - + 4720
 - + Estimates due on 990-W/1040-ES/1040-ES(NR)/1040-ES(PR)/1041-ES/1120-W
 - + Filing a claim or credit for refund of any tax due within the period above
 - + Extension extends to all forms, schedules and elections required to be filed with the forms above

List of Provisions - IRS EXTENSION

+ Filing and Payment Extensions - UPDATED

- + Specified Time-Sensitive Acts listed under Rev. Proc. 2018-58 are also extended if they fall within the dates above. These additions include, but are not limited to:
 - Form 990
 - Form 5227
 - Form 1041-A
 - Form 8752
 - Form 5500 (fiscal due dates falling in this time frame)
- + Note that there are MANY items listed in Rev. Proc. 2018-58 – if a return/election is not listed here – consult the list in Rev. Proc. 2018-58.

List of Provisions – IRS EXTENSIONS

- + Filing and Payment Extensions - UPDATED
 - + Notable additions via the Notice 2020-23 were obligations due after 4/15, including certain Form 990-Ts, 990s, 990-PFs, 5227s, 8752s and Second Quarter Estimates
 - + No form required to be filed to get extension, no interest due during the period
 - + Extension forms, if any, for the above (to receive an additional extension beyond July 15th) are currently due July 15, 2020
 - + Form 709 previously granted automatic extension (file and pay) to July 15th via Notice 2020-20.
 - + Other notable extensions – (1) Contributions to IRAs and (2) 10% additional tax on early distributions (3) Date to make your retirement plan contributions (and still receive a deduction for 2019).
 - + FATCA Form 8966 extended to July 15th – no form needed to get extension.

List of Provisions – NO EXTENSION BY IRS

- + Filing and Payment Extensions - UPDATED
 - + The following items are **NOT eligible** for the extension to July 15th, 2020 as of today (not an all-inclusive list):
 - + 1099s/W-2s
 - + Payroll Forms – such as 941 Series
 - + State and Local Returns – see the appropriate taxing agency for their specific extension rules. Many states and cities have extended their filing and payment deadlines through July 15th.



Q & A – SELECTED INCOME TAX HIGHLIGHTS OF THE CARES ACT



Q&A – Tax Provisions



- + One of the provisions passed in the CARES Act retroactively treats Qualified Improvement Property (QIP) as 15-year property beginning with 2018. What is the potential impact and what should be considered before filing an amended return in 2018?





+ One of the provisions passed in the CARES Act retroactively treats Qualified Improvement Property (QIP) as 15-year property beginning with 2018. What is the potential impact and what should be considered before filing an amended return in 2018?



- + **The potential is that QIP placed in service in 2018 will be eligible for bonus depreciation.**
- + Before amending 2018 – consider the following (not an all-inclusive list):
 - + **The IRS has just issued a Revenue Procedure last week (Rev. Proc. 2020-23) that permits certain BBA partnerships to amend their returns where previously they were ineligible, and we are expecting more guidance specifically as it relates to returns that have already been filed for 2018;**
 - + Accounting method change in 2019;
 - + AAR filed in 2020 with the corresponding adjustment in 2020;
 - + The effect on taking bonus on other deductions, such as business interest limits, excess business losses and net operating losses, to name a few;
 - + **Whether the entity will, under Rev. Proc. 2020-22, withdraw a real property trade or business election or make a late real property trade or business election;** and
 - + In addition, amending 2018 may not be practical, such as where the K-1 would go to another pass-through entity.

Q&A – Tax Provisions



+ What about filing 2019 returns or amending them for the QIP change?





+ What about filing 2019 returns or amending them for the QIP change?



- + Generally the same considerations on the previous slide should be considered.
- + In addition – If you already filed in 2019 but have a valid extension, and want to change your 2019 return after considering the previous slide, you may be able to file a superseding return before the extended due date.

Q&A – Tax Provisions



- + Net Operating Losses from 2018 or 2019 may now be carried back five years. When must I decide whether to carryback a net operating loss for 2018 or 2019? What should I be considering for most taxpayers?





+ Net Operating Losses from 2018 or 2019 may now be carried back five years. When must I decide whether to carryback a net operating loss for 2018 or 2019? What should I be considering for most taxpayers?



- + The carryback is mandatory unless you elect out by the due date (including extensions of time) for filing the tax return for the first taxable year ending after March 27, 2020 (this will generally be the due date for the 2020 tax return if on a calendar year). **Pursuant to Rev. Proc. 2020-24, the election is made by attaching a statement to your 2020 return for each year (2018 or 2019) you are electing to forgo the carryback.**
- + As discussed elsewhere in this presentation – there are numerous provisions to consider just from the CARES Act, namely the QIP provision previously mentioned, as well as changes in the NOL taxable income limitation, excess business losses and the excess business interest limitation. Also consider amounts coming from amended K-1s.
- + The tax rate in the year of carryback – you may be able to refund higher tax dollars (up to 35% for a C Corporation). But beware of the AMT limit for noncorporate taxpayers – and note that there is no guidance for a carryback of a post-AMT repeal NOL back to a pre-AMT repeal year for C Corporations.
- + **For NOLs arising in a tax year that began in 2018 and ended on or before June 30, 2019 – the IRS unilaterally extended the tentative carryback adjustment due date 6 months. Thus – for a 2018 Calendar Year NOL, the original due date of December 31, 2019 is NOW June 30, 2020. Note that if a C Corporation is also using form 1139 to claim a refund for the minimum tax credit and an NOL – the due date is the earlier of the new deadline or December 31, 2020.**

Q&A – Tax Provisions



+ The 80% taxable income limit for a net operating loss DEDUCTION that previously applied to 2018 and 2019 was removed. Will this also apply to any NOLs carried to 2018 or 2019?



Q&A – Tax Provisions



+ The 80% taxable income limit for a net operating loss DEDUCTION that previously applied to 2018 and 2019 was removed. Will this also apply to any NOLs carried to 2018 or 2019?



+ Yes – so even a 2019 or 2020 NOL carried back to 2018 will not be limited by the 80% rule. Note, however, that the 90% AMT limitation for noncorporate taxpayers was not changed.

Q&A – Tax Provisions



+ The CARES Act deferred the excess business loss limitation for noncorporate taxpayers the 2018 through 2020 tax years. How does the removal of the limitation affect Net Operating Losses?





+ The CARES Act deferred the excess business loss limitation for noncorporate taxpayers the 2018 through 2020 tax years. How does the removal of the limitation affect Net Operating Losses?



- + The limitation previously limited a net business loss in the tax year to 250,000 (500,000 for MFJ returns) for individuals, estates and nongrantor trusts, and carried forward the excess as net operating loss carryforward.
- + Removal of this limitation now allows for more business losses to be deducted, which may create or increase a net operating loss. In conjunction with the new ability to carry a net operating loss back five years – the benefit of this change will be more immediate.

Q&A – Tax Provisions



+ For years beginning after 12/31/20 – were there any significant changes to the excess business loss computation?





+ For years beginning after 12/31/20 – were there any significant changes to the excess business loss computation?

- + Yes – beginning with 2021 the business losses are computed without regard to –
 - + Any deduction for a net operating loss,
 - + Any QBI deduction,
 - + **Any income or deduction relating to being an employee, and**
 - + Business capital gains are included, but cannot exceed capital gain net income (or the excess of capital gains over capital losses for the taxable year).



Q&A – Tax Provisions



You mentioned that the increase in the charitable contributions limit for 2020 applies to certain CASH contributions made by individuals and C Corporations – what are the exceptions?





You mentioned that the increase in the charitable contributions limit for 2020 applies to certain CASH contributions made by individuals and C Corporations – what are the exceptions?



- + The most common exceptions are for contributions to donor advised funds, supporting organizations, or private non-operating foundations. You can check the tax status of a charitable organization before you donate by accessing the online IRS tool – Publication 78. The codes for supporting organizations begin with “SO” (SO, SONFI, SOUNK), while the code for private non-operating foundations is “PF”. There is no specific code for donor advised funds – but most individuals know when they are donating to their donor advised fund.
- + For individuals – they can use their “remaining AGI” for the eligible contributions. Remaining AGI is the AGI remaining after all other charitable contributions.

Q&A – Tax Provisions



+ Required Minimum Distributions have been waived for 2020 – what exactly does this mean?





+ Required Minimum Distributions have been waived for 2020 – what exactly does this mean?



- + Most RMDs for defined contribution plans (including 401(k)s and IRAs) for 2019 that were not paid in 2019 but were due by April 1, 2020 and RMDs for 2020 that are otherwise required to be made by April 1, 2021 are NOT REQUIRED TO BE MADE.
 - + Thus - RMDs from defined benefit plans are not eligible.
 - + Plan sponsors must permit the waiver.
- + For distributions already made in 2020 – you may be able to reverse it if the 60 day period has not yet expired and you did not previously do a roll-over (other than a trustee to trustee transfer) in the last 12 months preceding the distribution. **Note that if your 60 day period ends on or after April 1, 2020, Notice 2020-23 extends the rollover period to July 15th, 2020. More guidance is expected from the IRS on this point.**
- + You can also consider a Roth conversion if the 60 day period has not elapsed – but consider the pro-rata rule in determining the taxable portion.

Q&A – Tax Provisions



+ How does the waiver of the RMD rule affect my charitable donations that I've been sending directly from my IRA?





+ How does the waiver of the RMD rule affect my charitable donations that I've been sending directly from my IRA?



+ No effect – there was no requirement for the charitable donation to come out of your “RMD”.

Q&A – Tax Provisions



+ I heard that the early withdrawal penalty was waived up to \$100,000 – does this apply to everyone?





+ I heard that the early withdrawal penalty was waived up to \$100,000 – does this apply to everyone?

- + NO – It applies to only affected individuals:
- + (1) you, your spouse or a dependent must have been diagnosed with SARS-CoV2 or COVID-19, OR
- + (2) You experienced 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.
- + Plan sponsors must allow for the distribution.



Q&A – Tax Provisions



+ Is there anything else from a Retirement Plan Perspective that applies to these affected individuals?





+ Is there anything else from a Retirement Plan Perspective that applies to these affected individuals?



- + YES –
- + (1) These same individuals can choose to pay the tax on distributions up to \$100,000 in 2020 or spread equally for 2020, 2021 and 2022. So even if you do not benefit from the early withdrawal penalty waiver – you can still defer the tax if you wish.
- + (2) These same individuals can also repay the distributions over the 3-year period beginning with the date the distribution was received, and the repayment will be treated as a rollover for 2020. No word yet on what will happen to your 2020 return if the repayment occurs after you file your 2020 return.
- + (3) Retirement plan loan limits are also doubled for 180 days after March 27th.
- + (4) Any payments due on your plan loans between March 27th and December 31st receive a 1-year delay in the due date.
- + Note that plan sponsors must allow for the items above.

Q&A – Tax Provisions



+ I read that the business interest limitation increased from 30% to 50% for 2019 and 2020...but we already filed our partnership return. What should we do?



Q&A – Tax Provisions



- + I read that the business interest limitation increased from 30% to 50% for 2019 and 2020...but we already filed our partnership return. What should we do?
- + NOTHING - For partnerships ONLY (those entities filing Form 1065) – they CANNOT use the 50% limitation in 2019 – they are stuck with the normal 30% calculation. Of course – this impacts only partnerships subject to the limit for 2019 in the first place.



Q&A – Tax Provisions



+ There is also an option for taxpayers to use their 2019 adjusted taxable income instead of the adjusted taxable income in 2020. Does this apply to partnerships?



Q&A – Tax Provisions



- + There is also an option for taxpayers to use their 2019 adjusted taxable income instead of the adjusted taxable income in 2020. Does this apply to partnerships?
- + This election applies to everyone, including partnerships. Note that if 2019 was a short taxable year – it must be annualized.



Q&A – Tax Provisions



+ Single Employer Defined Benefit Plan Funding Due Dates during 2020 have been extended until 1/1/2021. Does this apply to my cash balance plan?





- + Single Employer Defined Benefit Plan Funding Due Dates during 2020 have been extended until 1/1/2021. Does this apply to my cash balance plan?
- + Yes. But before deferring any payments, consider –
 - + Your cash flow and the impact on your loan forgiveness if you received a PPP loan.
 - + Interest must accrue during the deferral period.
 - + The deduction timing rules for federal income tax purposes did not change.



Q&A – Tax Provisions



+ Minimum Tax Credit Carryforwards for C Corporations can now be refunded. What are the mechanics?





+ Minimum Tax Credit Carryforwards for C Corporations can now be refunded. What are the mechanics?

- + C Corporations have until December 31, 2020 to file a tentative carryback adjustment on Form 1139 for the amount carried forward to 2018, even if an NOL is also included in the carryback. Alternatively, the C Corporation may take the entire carryforward to 2019 on the 2019 return.



Q&A – Tax Provisions



+ Self-Employment Tax Deferral – Does this apply if the self-employed business owner has a portion of his PPP loan forgiven?





+ Self-Employment Tax Deferral – Does this apply if the self-employed business owner has a portion of his PPP loan forgiven?



+ While the self-employed persons share of the employer's social security tax on its employees would not be eligible for deferral if the self-employed individual had a part of his/her PPP loan forgiven, this rule does not apply to the individual's self-employment tax. Thus, 6.2% of the individual's self-employment tax is eligible for deferral regardless.

Q&A – Tax Provisions



+ Economic Impact Payment (Advance Recovery Rebate) – what is used to determine my payment?





+ Economic Impact Payment (Advance Recovery Rebate) – what is used to determine my payment?

- + The maximum credit is \$1,200 per individual (\$2,400 if you file a joint return in 2020), plus \$500 for each qualifying child.
- + The rebate is reduced based on your adjusted gross income for the period the IRS has available to use at the time the rebate is calculated.
- + The IRS will use your 2019 return if filed before they calculate your rebate (if any). If you have not yet filed your 2019 return, they will use your 2018 return. For those that did not file a return in 2018 or 2019 – the IRS will automatically use your SSA-1099 or RRB-1099. If we have not mentioned your situation – you are likely not required to file a return and should enter your information at <https://www.freefilefillableforms.com/#/fd/EconomicImpactPayment>.
- + Consider your personal situation (such as the level of your adjusted gross income) for 2018 and 2019 before determining when to file your 2019 tax return. In doing so – also note that those who can be claimed as dependents are not eligible for a rebate.



Q&A – Tax Provisions



+ You mentioned that dependents are not eligible for an Economic Impact Payment. Are there any other exclusions?



Q&A – Tax Provisions



+ You mentioned that dependents are not eligible for an Economic Impact Payment. Are there any other exclusions?

+ Nonresident aliens, estates and trusts are not eligible to receive rebates.



Q&A – Tax Provisions



+ Am I required to return my Economic Impact Payment? If I am not entitled to an advance payment – can I still receive a payment in 2020?





+ Am I required to return my Economic Impact Payment? If I am not entitled to an advance payment – can I still receive a payment in 2020?

- + The rebate will be calculated on your 2020 return, based on your 2020 income. Any credit determined on your 2020 return will be reduced, BUT NOT BELOW ZERO, by the advance rebate payment you received.
- + Thus, you are not required to return your rebate – and you may receive a greater rebate in 2020 if your income is lower than the income the IRS used to compute your advance rebate.



Q&A – Tax Provisions



+ Is there anything we can do to ensure the Economic Impact Payment gets deposited into the correct account or the check gets mailed to the correct address?





+ Is there anything we can do to ensure the Economic Impact Payment gets deposited into the correct account or the check gets mailed to the correct address?



+ Yes –

- + Coming mid-April (at <https://www.irs.gov/coronavirus/economic-impact-payments>), those who file tax returns, will be able to confirm whether they want direct deposit or check, as well as enter direct deposit information. This will apply only if the IRS didn't already send out your rebate. The IRS has already started sending out checks.
- + If you need to change your address – act quickly. This can only be done by mail (you can use form 8822/8822-B) or by filing your 2019 return.
- + For non-filers – use the same link above to enter your information.

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Thank You

Part 7 - Cash Flow Management and Optimizing the PPP Loan

Wednesday, April 15 | 1:00 - 2:00 PM

Register at applegrowth.com/COVID19