

Federal and State Tax Actions in Response to COVID-19

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Neal, Gerber & Eisenberg LLP believes the following tax developments are of particular interest to our clients.

Tax Return Filing Extensions

- The 2019 federal income tax return filing deadline is extended to July 15, 2020, for individuals, trusts and estates, calendar year-end C corporations, and unincorporated entities with a filing deadline of April 15, 2020.
- The filing deadline for federal gift and GST tax returns is extended to July 15, 2020.
- Unless an extension is requested, partnership and S corporation tax returns that were due on March 16, 2020, federal information returns due on April 15, 2020, and tax or information returns that are not due on April 15, 2020, retain their original due dates.
- The deadline for requesting an automatic extension of the due date for 2019 federal income and gift and GST tax returns to October 15, 2020, is extended to July 15, 2020.
- The filing deadlines for federal estate, payroll, and excise tax returns have **not** been extended.
- The 2019 Illinois income tax return filing deadline is extended to July 15, 2020, for taxpayers with a filing deadline of April 15, 2020.

Tax Payment Extensions

- The 2019 federal income tax payment deadline is extended to July 15, 2020, for individuals, trusts and estates, calendar year-end C corporations, other entities with a payment deadline of April 15, 2020, and gift and GST tax payments due on April 15, 2020.
- The deadline for the first federal 2020 quarterly estimated tax payment for any taxpayer with an estimated payment date of April 15, 2020, is extended to July 15, 2020. Illinois has **not** followed suit (yet) and, thus, the first quarterly 2020 Illinois estimated tax payment continues to be due on April 15, 2020. The second quarterly 2020 federal and Illinois estimated tax payments continue to be due on June 15, 2020, and, thus, have not been extended (yet) to July 15, 2020.
- The deadline for 2019 contributions to IRAs, MSAs, and HSAs is extended to July 15, 2020.
- Remittance of the employer portion of Social Security payroll taxes, and 50% of such payroll taxes incurred by certain self-employed persons, for payroll periods between March 27, 2020, and December 31, 2020, may be deferred until December 31, 2021 (for up to half of the deferred taxes), with the remainder of the tax liability being due on December 31, 2022. Employers receiving certain small business interruption loans may be ineligible for deferral.

Support for Businesses

- **NOL Carrybacks.** Businesses (including owners of pass-through entities and sole proprietorships) may carry back net operating losses (NOLs) arising in 2018, 2019, or 2020 for a 5-year period preceding the year of loss and are not subject to the normal limitation of the NOL deduction to 80% of taxable income during these tax years.
- **Paycheck Protection Program.** Under the new Paycheck Protection Program, certain small businesses can borrow money for purposes such as wage payments and rent. The loan may be cancelled under certain circumstances, and the cancellation of the loan is not taxable to the business or its owners.
- **Temporary and Retroactive Repeal of the Limitation on Excess Business Loss Deductions.** Non-corporate taxpayers' limitation on deductions of more than \$500,000 (\$250,000 if filing as a single person) of "excess business losses" against non-business income such as investment income is temporarily repealed for 2018 through 2020. As a result, taxpayers whose losses were limited by Section 461(l) may file amended returns for 2018 (and for 2019, if their return has been filed already) to claim a refund.
- **Increased Business Interest Expense Limitation.** For 2019 and 2020, the limitation on deductible business interest expense is increased from 30% of adjusted taxable income to 50%. In calculating the 2020 limitation, taxpayers may use 2019 adjusted taxable income.

Support for Employees

- **Employee Retention Credit.** Certain employers paying qualified wages (including qualified health expenses related to a group health plan) between March 12, 2020, and January 1, 2021, to qualified employees who are not working due to the employer's complete or partial close of business, or due to significant declines in the employer's revenue, may be entitled to a refundable quarterly tax credit against the employer portion of Social Security payroll taxes equal to 50% of qualified wage payments (limited to \$10,000 of total wages per employee). Employers receiving certain small business interruption loans are ineligible for the credit.
- **Tax Credit for Paid Sick Days.** Employers with fewer than 500 employees that pay qualified sick leave wages (including allocable qualified health expenses related to a group health plan) to qualified employees for periods between April 1, 2020, and January 1, 2021, may be eligible for refundable quarterly tax credits of up to \$511 per employee per day (for a maximum of 10 days) against the employer portion of Social Security payroll taxes. Certain self-employed individuals may be entitled to claim a qualified sick leave "equivalent amount."
- **Tax Credit for Paid Family Leave Wages.** Employers with fewer than 500 employees that pay qualified family leave wages (including allocable qualified health expenses related to a group health plan) to employees for periods between April 1, 2020, and January 1, 2020, may be eligible for refundable quarterly tax credits of up to \$200 per employee per day (up to a maximum of \$10,000 per individual) against the employer portion of Social Security payroll taxes. Certain self-employed individuals may be entitled to claim a qualified family leave "equivalent amount."

Technical Corrections to Tax Cut and Jobs Act of 2017

- **Retail Glitch.** The Tax Cut and Jobs Act of 2017 provided 100% bonus depreciation for modified accelerated cost recovery system property with a recovery period of 20 years or less. However, Congress failed to treat certain categories of property commonly used by small businesses, restaurants, and retailers as qualifying property and, consequently, left such “qualified improvement property” as ineligible for bonus depreciation. By defining qualified improvement property as 15-year or 20-year property retroactively, Congress made 100% bonus depreciation available for additional categories of property, and thus refunds for the 2017 or 2018 tax years may be available.

Support for Individuals and Charities

- **Enhanced Charitable Donations.** Individuals may be able to claim a deduction for cash contributions up to 100% of their adjusted gross income to certain charities in 2020. Corporations may take a deduction up to 25% of taxable income for cash contributions to certain charities in 2020. Donors may deduct contributions of food inventory up to 25% of adjusted gross income. Any such charitable contributions exceeding the increased limitations may be carried forward for 5 years. Taxpayers who do not itemize deductions may be eligible for an additional above-the-line \$300 charitable deduction.
- **Recovery Rebates.** Individuals who are U.S. citizens or resident aliens may be entitled to a \$1,200 recovery rebate (\$2,400 for married individuals filing jointly) and an additional \$500 credit for each dependent child. The recovery rebate is completely phased out for single individuals with an AGI over \$99,000, heads of household with an AGI over \$146,500, and joint filers with an AGI over \$198,000. The credit is a refundable advance tax credit that may be claimed for 2020 based on a taxpayer’s AGI for 2020. However, the IRS will make payments in advance of the filing of a 2020 tax return based on an individual’s 2018 and 2019 federal income tax returns, and information that is reported to the Social Security Administration for individuals who do not file federal income tax returns.

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If you have any questions regarding taxpayer relief in light of COVID-19 or any other tax-related matter, please do not hesitate to contact your [Neal Gerber Eisenberg](#) attorney or the authors.

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