CFMA Day: 2020 Tax Developments

November 9, 2020
2020 – Who Would Have Expected This?

- CARES Act

- FFCRA – Families First Coronavirus Response Act

- Further Consolidated Appropriations Act, 2020
  - Signed into law 12/20/2019
  - SECURE Act
  - Taxpayer Certainty and Disaster Relief Act of 2019
CARES Act

- Paycheck Protection Program (PPP)
- Employee Retention Credit
- Employer-side Social Security Tax Deferral
- Qualified Improvement Property fix
- NOL temporary changes
- Business interest limitation temporary changes
CARES Act - Paycheck Protection Program (PPP)

- 5.2 million loans, $525 million distributed, average size $101K

- PPP loan forgiveness – 3 application forms
  - Form 3508
  - Form 3508EZ
  - Form 3508S
Polling Question #1

- Did your business receive a PPP loan?
  - Yes
  - No
  - Not sure/Don’t want to say
CARES Act - Paycheck Protection Program (PPP)

• Owners are capped at lesser of $15,385/$20,833 or 2.5/12 of their 2019 compensation
• Owner retirement contributions are capped at 2.5/12 of 2019 amounts
• Owner-employee with less than 5% stock ownership of a C or S corp is not subject to special owner-employee compensation caps
• Rent paid to related party landlord is only forgivable to the extent of the landlord’s mortgage interest expense
• IRS Notice 2020-32: expenses paid with forgiven funds not deductible
CARES Act - Paycheck Protection Program (PPP)

- New SBA questionnaire – Form 3509
  - “to facilitate the collection of supplemental information that will be used by SBA loan reviewers to evaluate the good-faith certification . . . that economic uncertainty made the loan request necessary.”
  - All borrowers with PPP loans of $2 million or more
  - Form and supporting documents due back to lender within 10 days of receiving form from lender
Polling Question #2

• If your business received a PPP loan, have you applied for forgiveness?
  o Yes
  o No
  o Not sure/Don’t want to say/Didn’t receive a PPP loan
CARES Act - Employee Retention Credit

- Cannot do both credit and PPP
- Credit = 50% of qualified wages up to $10,000
- Credit claimed on payroll tax filings
- Eligible if employer experiences:
  - Full or partial suspension of operations due to government orders; or
  - Significant decline in gross receipts (>50% from same quarter in prior year)
CARES Act - Social Security Tax Deferral

- Employers can defer the deposit of employer-side Social Security taxes otherwise due between March 27 and December 31, 2020
- 50% of deferred amount must be paid by December 31, 2021
- Remaining deferred amount must be paid by December 31, 2022
- Applies to Self-employment Tax as well
Polling Question #3

• Has your business deferred the deposit of employer-side Social Security taxes?
  o Yes
  o No
  o Not sure/Don’t want to say
CARES Act - Qualified Improvement Property

- Qualified Improvement Property
  - Interior
  - Nonresidential
  - “Made by the taxpayer” after the building is first placed in service
  - Does not involve enlargement of the building, elevator, escalator, or internal structural framework

- CARES Act corrects TCJA flaw, changing it from 39-year to 15-year property, retroactively to TCJA effective date

- This makes it eligible for bonus depreciation
CARES Act – Temporary changes to TCJA limits

- TCJA imposed limits on NOLs, business interest deductions, and excess business losses of noncorporate taxpayers
- Excess business loss limitation postponed until 2021
- Suspension of 80% taxable income limitation and a 5-year carryback for NOLs arising in 2018, 2019, and 2020
- Business interest deduction limitation – adjusted taxable income limit raised from 30% to 50% for 2019 and 2020 (special rule for partnerships)
Minnesota

- Federal conformity on Sec. 179 expensing
  - No longer required to add back 80%, beginning in 2020
  - Retroactive for certain like-kind exchange property
    - MN Revenue to issue guidance soon regarding amending returns
Questions?

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