COVID-19
Tax Summary

Right now, your highest priority is the health of you and your family during this global pandemic. The financial health of your business is also one of your top priorities. Fortunately, the federal government has enacted some very important tax measures that will ease the burden on your business. To help you navigate these new opportunities, we have provided a summary of IRS action already taken and federal tax legislation already enacted to ease tax compliance burdens and economic pain caused by COVID-19 (commonly referred to as Coronavirus).

We will be providing summaries of additional developments as they take place.

Filing and Payment Deadlines Deferred

After briefly offering only a postponed filing deadline, the IRS almost immediately pivoted to a policy that provides the following to all taxpayers—meaning all individuals, trusts, estates, partnerships, associations, limited liability companies or corporations regardless of whether or how much they are affected by COVID-19.

1. For taxpayers with a Federal income tax return or a Federal income tax payment due on April 15, 2020, the due date for filing and paying is automatically postponed to July 15, 2020, regardless of the size of the payment owed.

2. The taxpayer doesn't have to file Form 4686 (automatic extensions for individuals) or Form 7004 (certain other automatic extensions) to get the extension.

3. The relief is for:

   A. Federal income tax payments (including tax payments on self-employment income) and Federal income tax returns due on April 15, 2020 for the person's 2019 tax year; and

   B. Federal estimated income tax payments (including tax payments on self-employment income) due on April 15, 2020 for the person's 2020 tax year.

4. No extension is provided for the payment or deposit of any other type of Federal tax (e.g. estate or gift taxes) or the filing of any Federal information return.

5. As a result of the return filing and tax payment postponement from April 15, 2020 to July 15, 2020, that period is disregarded in the calculation of any interest, penalty, or addition to tax for failure to file the postponed income tax returns or pay the postponed income taxes. Interest, penalties and additions to tax will begin to accrue again on July 16, 2020.

Refunds: If possible, do not wait until July 15 to file if you are owed a refund; file as soon as possible. Refunds will continue to be paid. For the quickest results, taxpayers should use e-file or Free File with direct deposit to help expedite refunds.

Click here to read further information regarding these changes on the US Treasury's website.

High Deductible Health Plans (HDHPs) and Health Savings Accounts (HSAs)

For participants in HDHPs, all medical care services received and items purchased associated with testing for and treatment of COVID-19 will not impact the status of the plan as an HDHP. Individuals covered by an HDHP will remain eligible to make tax-advantaged contributions to their HSAs. All major health plans have waived member cost sharing, including copays, coinsurance and deductibles for COVID-19 diagnostic testing provided at approved locations in accordance with CDC guidelines for all commercial insured, Medicaid and Medicare members. In addition, many self-insured customers are choosing to implement similar actions.

Click here to read about the IRS Notice related to these changes.

Tax Credits and a Tax Exemption to Lessen Burden of COVID-19 Business Mandates

On March 18, President Trump signed into law the Families First Coronavirus Response Act (the Act). The Act generally provides employees with up to 80 hours of paid sick leave and expanded paid child care leave when employees' children's schools are closed or child care providers are unavailable. To pay for this benefit, employers are entitled to refundable payroll tax credits designed to immediately and fully reimburse them, dollar-for-dollar, for the cost of providing COVID-19-related leave to their employees. In addition, health insurance costs are included in the credit, employers face no payroll tax liability, and self-employed individuals receive an equivalent credit.

The Act includes four tax credits and one tax exemption discussed in more detail below.

Payroll tax credit for required paid sick leave (the Payroll Sick Leave Credit).

The Emergency Paid Sick Leave Act (EPSLA) division of the Act generally requires private employers with fewer than 500 employees to provide 80 hours of paid sick time to employees who are unable to work for virus-related reasons (with an administrative exemption for less-than-50-employee businesses that the leave mandate puts in jeopardy). The pay is up to $511 per day with a $5,110 overall limit for an employee directly affected by the virus and up to $200 per day with a $2,000 overall limit for an employee that is a caregiver.

The tax credit corresponding with the EPSLA mandate is a credit against the employer's 6.2% portion of the Social Security (OASDI) payroll tax (or against the Railroad Retirement tax). The credit amount generally tracks the $511/$5,110 and $200/$2,000 per-employee limits described above. The credit can be increased by:

1. the amount of certain expenses in connection with a qualified health plan if the expenses are excludible from employee income; and
2. the employer's share of the Medicare payroll tax imposed on any payments required under the EPSLA.

Refundable portion of the Payroll Sick Leave Credit.

Credit amounts earned in excess of the employer's 6.2% Social Security (OASDI) tax (or in excess of the Railroad Retirement tax) are refundable. The credit is electable and includes provisions that prevent double tax benefits (for example, using the same wages to get the benefit of the credit and of the current law employer credit for paid family and medical leave). The credit applies to wages paid in a period:

1. beginning on a date determined by IRS that is no later than April 2, 2020; and
2. ending on December 31, 2020.

Income tax sick leave credit for the self-employed (Self-Employed Sick Leave Credit).

The Act provides a refundable income tax credit (including against the taxes on self-employment income and net investment income) for sick leave to a self-employed person by treating the self-employed person both as an employer and an employee for credit purposes. Thus, with some limits, the self-employed person is eligible for a sick leave credit to the extent an employer would be entitled to the payroll sick leave credit if the self-employed person were an employee.

Accordingly, the self-employed person can receive an income tax credit with a maximum value of $5,110 or $2,000 per the payroll sick leave credit. However, those amounts are decreased to the extent the self-employed person has insufficient self-employment income determined under a formula or to the extent the self-employed person has received paid sick leave from an employer under the Act. The credit applies to a period:

1. beginning on a date determined by the IRS that is no later than April 2, 2020; and
2. ending on December 31, 2020.

Payroll tax credit for required paid family leave (the Payroll Family Leave Credit).

The Emergency Family and Medical Leave Expansion Act (EFMLEA) division of the Act requires employers with fewer than 500 employees to provide both paid and unpaid leave (with an administrative exemption for less-than-50-employee businesses that the leave mandate puts in jeopardy). The leave generally is available when an employee must take off to care for the employee's child under age 18 because of a COVID-19 emergency declared by a federal, state, or local authority that either:

1. closes a school or childcare place; or
2. makes a childcare provider unavailable.

Generally, the first 10 days of leave can be unpaid and then paid leave is required, pegged to the employee's pay rate and pay hours. However, the paid leave cannot exceed $200 per day and $10,000 in the aggregate per employee.

The tax credit corresponding with the EFMLEA mandate is a credit against the employee's 6.2% portion of the Social Security (OASDI) payroll tax (or against the Railroad Retirement tax). The credit generally tracks the $200/$10,000 per employee limits described above. The other important rules for the credit, including its effective period, are the same as those described above for the payroll sick leave credit.

Income tax family leave credit for the self-employed (Self-Employed Family Leave Credit).

The Act provides to the self-employed a refundable income tax credit (including against the taxes on self-employment income and net investment income) for family leave similar to the self-employed sick leave credit discussed above. Thus, a self-employed person is treated as both an employer and an employee for purposes of the credit and is eligible for the credit to the extent an employer would be entitled to the payroll family leave credit if the self-employed person were an employee.

Accordingly, the self-employed person can receive an income tax credit with a maximum value of $10,000 as per the payroll family leave credit. However, under rules similar to those for the self-employed sick leave credit, that amount is decreased to the extent the self-employed person has insufficient self-employment income determined under a formula or to the extent the self-employed person has received paid family leave from an employer under the Act. The credit applies to a period:

1. beginning on a date determined by IRS that is no later than April 2, 2020; and
2. ending on December 31, 2020.

Exemption for employer's portion of any Social Security (OASDI) payroll tax or railroad retirement tax arising from required payments.

Wages paid as required sick leave payments because of EPSLA or as required family leave payments under EFMLEA are not considered wages for purposes of the employer's 6.2% portion of the Social Security (OASDI) payroll tax or for purposes of the Railroad Retirement tax.

Timing for Tax Credit Refunds.

If the sick and family leave payments exceed the employer's Federal payroll taxes, the employer may file a request for an accelerated payment from the IRS. The accelerated payments are expected to be processed by the IRS in two weeks or less. Based on recent IRS guidance, the credit may be obtained by withholding the amount from all payroll taxes (income and the employer and employee shares of Social Security and Medicare taxes) that otherwise would be required for deposit thus reducing the circumstances in which a refund would be needed.

Examples.

IRS provides two examples in IR 2020-57:

Example 1:

If an eligible employer paid $5,000 in sick leave and is otherwise required to deposit $8,000 in payroll taxes, including taxes withheld from all its employees, the employer could use up to $5,000 of the $8,000 of taxes it was going to deposit for making qualified leave payments. The employer would only be required under the law to deposit the remaining $3,000 on its next regular deposit date.

Example 2:

If an eligible employer paid $10,000 in sick leave and was required to deposit $8,000 in taxes, the employer could use the entire $8,000 of taxes to make qualified leave payments and file a request for an accelerated credit for the remaining $2,000.

Click here for further information on these credits and exemption.

IRS Audits and Collections Changes

- **Field, Office and Correspondence Audits:** During the period of April 1, 2020 through July 15, 2020, the IRS will generally not start new field, office and correspondence examinations. The IRS will continue to work refund claims where possible, without in-person contact. However, the IRS may start new examinations where deemed necessary to protect the government's interest in preserving the applicable statute of limitations.
- **Field Collection Activities:** Liens and levies (including any seizures of a personal residence) initiated by field revenue officers will be suspended during this period. However, field revenue officers will continue to pursue high-income non-filers and perform other similar activities where warranted.
- **Automated Liens and Levies:** New automatic, systemic liens and levies will be suspended during this period.
- **Private Debt Collection:** New delinquent accounts will not be forwarded by the IRS to private collection agencies to work during this period.

Click here for further information on IRS Administrative Changes.

Click here for the response to COVID-19 can be found here.

Texas Comptroller's Office

Unlike the IRS, the State of Texas is not extending any due dates for taxes payable to the state. It is however, offering assistance to businesses in the form of short-term payment agreements and, in most instances, waivers of penalties and interest.

Click here for the full statement from the Texas Comptroller.

Click here to visit the Texas Comptroller COVID-19 Response Website, which provides contact numbers for assistance, online tools, tutorials and other resources for tax services, and a link to establish 24/7 account access on Webfile.

Munsch Hardt Kopf & Harr is continually monitoring the tax developments related to COVID-19 and will send out additional alerts as updates occur. In the interim, please call one of our Tax attorneys if you have any questions or need any additional information.

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