

Insights: Alerts

CARES Act | Business Tax Breaks in Coronavirus Aid, Relief and Economic Security (CARE) Act

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Please note: The below information may require updating, including additional clarification, as the COVID-19 pandemic continues to develop. Please monitor our main [COVID-19 Task Force page](#) and/or your email for updates.

The CARE Act passed by the Senate on March 25, 2020 provides several significant temporary tax breaks to business taxpayers.

- **Net Operating Loss (“NOL”) Relief.**

- *Temporary Repeal of Taxable Income Limitation.* The Tax Cuts and Jobs Act enacted in 2017 (the “TCJA”) imposed a limitation on the use of NOL carryforward deductions for NOLs arising after 2017. That limitation permitted a deduction for NOL carryforwards arising after 2017 to 80% of the taxpayer's taxable income in the year of the carryforward. The CARE Act restores that limitation to 100% of taxable income with respect to such NOL carryforwards for taxable years beginning in 2018, 2019 and 2020.
- *Temporary Restoration of NOL Carrybacks.* The TCJA repealed the ability of a taxpayer to carry back an NOL to a prior year effective for NOLs arising after 2017. The CARE Act restores the ability for a taxpayer to carry back an NOL arising in 2018, 2019 and 2020 to each of the five prior tax years. The ability to carry back NOLs will allow for an immediate refund-infusing cash into the taxpayer's coffers.

- **Modification of Business Interest Limitations.** The TCJA limits the amount of business interest that a taxpayer can deduct to 30% of a modified taxable income, a computation that is analogous to EBITDA computed using tax accounting principles, effective for tax years beginning in 2018. Special rules also require business interest incurred by partnerships to be subject to a limitation determined at the partnership level. In each case, any interest expense limited by this rule can be carried forward to subsequent years and deducted subject to the same limitations.

- **General Rules.** The CARE Act increases the limitation for deduction of business interest to 50% of modified taxable income for the taxpayer's taxable years beginning in 2019 and 2020.
- **Partnership Rules.** For a partnership's taxable year beginning in 2019, 50% of business interest limited at the partnership level is deemed to be deductible by the partnership is treated as being incurred by the partner and thus deductible by the partner in computing its taxable income, subject to the application of the general limitation applying to the partner.
- **Employer Payroll Tax Relief.** The CARE Act provides for a deferral of payment by (i) certain employers of both the employee and employer portion of Social Security ("FICA") taxes due, and (ii) self-employed individuals for 50% of the self-employment taxes ("SECA") due for the period beginning after the date of enactment of the CARE Act through December 31, 2020 ("Applicable Deferred Payroll Taxes"). Deposits of Applicable Deferred Payroll Taxes will be deemed timely paid if all such deposits are made not later than the following dates: (i) 50% of the Applicable Deferred Payroll Taxes are due not later than December 31, 2021, and (ii) the remaining amounts are due not later than December 31, 2022.

Employers with small business loans outstanding under paragraph (36) of Section 7(a) of the Small Business Act that are forgiven under other provisions of the CARE Act are not eligible to defer payment of payroll taxes under the CARE Act.

Related People



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