

A Plan for Every Longhorn: Estate and Tax Planning Webinar May 15, 2020

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Coronavirus, Aid, Relief and Economic Security Act ("CARES ACT")

Tax Implications

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CARES Act: Economic Impact Payments

Stimulus Payments

- \$1,200 (\$2,400 joint filers) plus \$500 for each qualifying child under the age of 17.
- Phase-out of payment for singles \$75,000-\$99,000/ joint filers \$150,000-\$198,000.
- IRS to first utilize 2019 tax return info (2018 tax return info if 2019 has not been filed). Payment may be received electronically if the IRS has bank account information or they will otherwise mail checks. Taxpayers may check the status or provide/update bank account information at www.irs.gov.
- Rev. Proc. 2020-28 contains procedures for eligible recipients that are non-filers and simplified reporting procedures for those that want to file, both to facilitate timely receipt of a stimulus payment.

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CARES Act: Paycheck Protection Program

PPP Loans through the SBA are available to small businesses that meet size limits and SBA guidelines for small business. The loans are made through SBA-approved lenders and guaranteed by the SBA.

The loan amount is determined by a formula using 2019 average monthly payroll costs (defined below) times 2.5. The loan is nonrecourse, and may be fully or partially forgiven based on the expended amounts in the subsequent 8 week coverage period.

Proceeds of the loans must be used for payroll costs (gross employee pay, state payroll taxes, employer contributions for health and retirement benefits) as well as rent, utilities, and interest on mortgage/debt obligations existing prior to the coverage period. Compensation in excess of \$100k as pro-rated for the coverage period is excluded. Loan proceeds not forgiven are repaid or treated as a loan.

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CARES Act: Paycheck Protection Program - Continued

Forgiveness of the PPP loan is a process that requires recipients to submit support for expenditures made during the coverage period in the categories identified above. Forgiveness will not be granted for loan proceeds not spent on these items, not spent in accordance with ratios for payroll/overhead items, or if the entity has experienced a headcount reduction or reduced employee pay by more than 25%.

Forgiven PPP proceeds are not income, but the corresponding expenses are not deductible. Stay tuned for pending legislation.

Detailed regulations and FAQs have been issued to clarify the loan application and forgiveness process, and can be accessed at www.sba.gov. This process is evolving and requires vigilance.

Several other loan sources exist such as Economic Injury Disaster Loan administered by the SBA separately from the PPP, and Main Street Loan Program administered by the Federal Reserve.

CARES Act: Business Tax

NOLs from tax years 2018/2019/2020 now have carryback possibilities to the preceding 5 years and may offset up to 100% of taxable income. Election to waive the carryback of 2018 and 2019 NOLs is due on the 2020 return. Rev. Proc. 2020-24.

The business interest expense deduction is limited generally to 50% of adjusted taxable income (from what was 30%). Taxpayers have the option to apply the 50% or 30% limit. Special provisions exist for partnerships. Rev. Proc. 2020-22.

Excess business losses limitation (ELA) for non-corporate taxpayers is removed for 2018/2019/2020. This may enhance the NOL amounts available for carryback.

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