# CARES Act tax provisions aim to stabilize pandemic-ravaged economy

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The Coronavirus Aid, Relief, and Economic Security (CARES) Act, H.R. 748, which passed the Senate by a 96-0 vote late on Wednesday, contains a host of tax measures as part of a $2 trillion aid package designed to help the economy as it suffers from the effects of the coronavirus pandemic. While the focus of the legislation is not tax, a large number of tax provisions are included in the over-600-page bill.

**Recovery rebates:** The bill provides for payments to taxpayers — "recovery rebates" — which are being treated as advance refunds of a 2020 tax credit. Under this provision, individuals will receive a tax credit of $1,200 ($2,400 for joint filers) plus $500 for each qualifying child. The credit is phased out for taxpayers with adjusted gross income (AGI) above $150,000 (for joint filers), $112,500 (for heads of household), and $75,000 for other individuals. The credit is not available to nonresident aliens, individuals who can be claimed as a dependent by another taxpayer, and estates and trusts. Taxpayers will reduce the amount of the credit available on their 2020 tax return by the amount of the advance refund payment they receive.

**Payroll tax credit refunds:** The bill provides for advance refunding of the payroll tax credits enacted last week in the Families First Coronavirus Response Act, P.L. 116-127. The credit for required paid sick leave and the credit for required paid family leave can be refunded in advance using forms and instructions the IRS will provide. The IRS is instructed to waive any penalties for failure to deposit payroll taxes under Sec. 3111(a) or 3221(a) if the failure was due to an anticipated payroll tax credit.

**Employee retention credit:** The bill creates an employee retention credit for employers that close due to the coronavirus pandemic. Eligible employers are allowed a credit against employment taxes equal to 50% of qualified wages (up to $10,000 in wages) for each employee. Eligible employers are employers who were carrying on a trade or business during 2020 and for which the operation of that business is fully or partially suspended due to orders from an appropriate governmental authority limiting commerce, travel, or group meetings due to the COVID-19 outbreak. Employers that have gross receipts that are less than 50% of their gross receipts for the same quarter in the prior year are also eligible, until their gross receipts exceed 80% of their gross receipts for the same calendar quarter in the prior year. For employers with more than 100 employees, wages eligible for the credit are wages that the employer pays employees who are not providing services due to the suspension of the business or a drop in gross receipts. For employers with 100 or fewer employees, all wages paid qualify for the credit.

**Retirement plans:** Taxpayers can take up to $100,000 in coronavirus-related distributions from retirement plans without being subject to the Sec. 72(t) 10% additional tax for early distributions. Eligible distributions can be taken up to Dec. 31, 2020. Coronavirus-related distributions may be repaid within three years. For these purposes, an eligible taxpayer is one who has been diagnosed with SARS-CoV-2 virus or COVID-19 disease or whose spouse or dependent has been diagnosed with SARS-CoV-2 virus or COVID-19 disease or who experiences adverse financial consequences from being quarantined, furloughed, or laid off, or who has had his or her work hours reduced, or who is unable to work due to lack of child care. Any resulting income inclusion can be taken over three years. The bill also allows loans of up to $100,000 from qualified plans, and repayment can be delayed.

The bill temporarily suspends the required minimum distribution rules in Sec. 401 for 2020.

The bill delays 2020 minimum required contributions for single-employer plans until 2021.

**Charitable deductions:** The bill creates an above-the-line charitable deduction for 2020 (not to exceed $300). The bill also modifies the AGI limitations on charitable contributions for 2020, to 100% of AGI for individuals and 25% of taxable income for corporations. The bill also increases the food contribution limits to 25%.

**Payroll tax delay:** The bill delays payment of 50% of 2020 employer payroll taxes until Dec. 31, 2021; the other 50% will be due Dec. 31, 2022. For self-employment taxes, 50% will not be due until those same dates.

**Net operating losses:** The bill temporarily repeals the 80% income limitation for net operating loss deductions for years beginning before 2021. For losses arising in 2018, 2019, and 2020, a five-year carryback is allowed (taxpayers can elect to forgo the carryback).

**Excess loss limitations:** The bill repeals the Sec. 461(l) excess loss limitation. Sec. 461(l) was added to the Code by the law known as the Tax Cuts and Jobs Act, P.L. 115-97, and it disallows excess business losses of noncorporate taxpayers if the amount of the loss exceeds $250,000 ($500,000 for married taxpayers filing jointly).

**Corporate alternative minimum tax (AMT):** The bill modifies the AMT credit for corporations to make it a refundable credit for 2018 tax years.

**Interest limitation:** For tax years beginning in 2019 and 2020, Sec. 163(j) is amended to increase the adjusted taxable income percentage from 30% to 50%. Also, taxpayers can elect to use 2019 income in place of 2020 for the computation.

**Qualified improvement property:** The bill also makes technical corrections regarding qualified improvement property under Sec. 168 by making it 15-year property.

**Aviation taxes:** Various aviation excise taxes are suspended until 2021.

**Health plans:** The rules for high-deductible health plans (HDHPs) are amended to allow them to cover telehealth and other remote care services without charging a deductible.

Over-the-counter menstrual care products are added to the list of items that can be reimbursed out of a health savings account, Archer medical savings account, or health reimbursement arrangement.

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