Global Tax Alert

Report on recent US international tax developments – 27 March 2020

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The United States (US) Congress this week enacted the *Coronavirus Aid, Relief, and Economic Security (CARES) Act*, a roughly US$2 trillion stimulus package to address the coronavirus crisis. The legislation capped many days of around-the-clock negotiations between congressional leaders and the Administration and is the third coronavirus bill to be passed by Congress in a span of several weeks. The President is expected to sign the bill shortly.

Attention will next turn to a fourth congressional coronavirus bill, that members from both sides expect will be needed, though there is currently no clear idea of the scope or timing of the next measure.

The *CARES Act* broadly provides for: direct checks to households under certain income thresholds; expanded unemployment insurance; loans to small businesses; stabilization of key industries (paired with accountability provisions); and investment in medicines and vaccines, and the provision of medical equipment. It includes eight business tax provisions aimed at providing liquidity through:

- Crediting against employers' payroll taxes amounts paid in wages to retained workers
- Delaying payment of employer payroll taxes
- Allowing a five-year carryback period for net operating losses (NOLs) and temporarily removing the 80% limitation on the use of NOLs

Building a better working world

- Allowing NOL relief for noncorporate businesses
- Clarifying Alternative Minimum Tax refund allowances
- Increasing the allowance for business interest deductions
- Adding a technical correction for qualified improvement property (QIP) under Internal Revenue Code Section 199A that was enacted by the *Tax Cuts and Jobs Act* (TCJA)
- Excepting temporarily from alcohol excise taxes businesses that convert to producing hand sanitizers

Importantly, the final bill does not include several earlier proposals that were included in a prior Senate Republican draft of the bill; for example, narrowing the application of downward attribution of stock ownership.

The Internal Revenue Service (IRS) on 24 March posted Frequently Asked Questions (FAQs) on the extension of certain filing and payment deadlines to 15 July 2020 that was provided in Notice 2020-18 issued last week. The FAQs indicate, among other things, that for any taxpayer whose Federal income tax return filing due date has been postponed from 15 April to 15 July 2020, the due date of that taxpayer's Section 965 installment payment has also been postponed to 15 July 2020. Similarly, for any taxpayer whose Federal income tax return filing deadline has been postponed from 15 April to 15 July 2020, the due date for Form 8991 and the Base Erosion Anti-Abuse Tax (BEAT) payment has been postponed to 15 July 2020. The relief provided by Notice 2020-18 does not generally apply to the filing of information returns (see Rev. Proc. 2018-58, which explains the impact on other filings, etc., from a postponement to file under Section 7805A (which is the authority for Notice 2020-18)).

The IRS also announced on the IRS Foreign Account Tax Compliance Act (FATCA) FAQ website that foreign financial institutions filing a FATCA Report (Form 8966) to the IRS that is generally due on 31 March are granted an extension to file to 15 July 2020. A Form 8809-I, Application for Extension of Time to File FATCA Form 8966 will not be required for this extension.

The IRS on 25 March unveiled a new People First Initiative to address COVID-19, that temporarily adjusts or suspends key compliance programs. The IRS release describes changes to its operations effective (roughly) 1 April through 15 July. Some highlights that are particularly relevant include the following:

- During this period, the IRS will generally not start new examinations, but will continue to work refund claims.
- New examinations may be started, if necessary, to preserve the statute of limitations.
- For existing exams, though IRS examiners will not hold in-person meetings, they will continue their examinations remotely, where possible.
- Appeals employees will also continue to work their cases by phone and videoconference.
- New automatic, systemic liens and levies will be suspended.
- Liens and levies initiated by field revenue officers will be suspended.

Endnote

1. All "Section" references are to the Internal Revenue Code of 1986, and the regulations promulgated thereunder.

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