<u>CARES ACT – BUSINESS TAX PROVISIONS</u>

This past Friday, March 25, Congress passed and the President signed, H.R. 718; the CARES Act. This $2 trillion stimulus bill was the latest action by our Federal government to mitigate the economic fallout from COVID-19. Due to the breadth of this Act's provisions, we recommend conferring with your banker, law firm and CPA firm on matters of specific interest to you and your situation.

CARES' business tax provisions were envisioned to provide tax cash management relief for local Mom-n-Pop businesses to global, international corporations. CARES' business provisions provide the following:

- <u>**A *refundable employee retention credit for employers***</u> subject to closure due to COVID-19. Eligible employers may receive a credit of 50% on qualified wages against their employment taxes. This provision provides two situations where an employer qualifies for the credit as follows:
    - Operations were partially, or fully, suspended due to COVID-19 related shut-down order; or
    - Gross receipts decline more than 50% compared to the same 2018 quarter.

    When a qualifying employer has 100 or fewer employees, 100% of its employees qualify for this credit. The credit covers first $10,000 of compensation, including health benefits, paid to an eligible employee between March 13 and December 31, 2020.

    Stancil observation – we recommend for businesses that want to pursue this credit to schedule a consultation with us to develop procedures for maximizing the credit. We anticipate additional guidance from Treasury on this credit. <u>NOTE this credit is NOT AVAILABLE to employers who take advantage of the Paycheck Protection Program SBA Loan Program.</u>

- ***Delayed payment of employer payroll taxes***. Self-employed individuals and employers may defer payments of employer's 6.2% share of Social Security payroll taxes owed from CARES enactment date through December 31, 2020. This deferred payment will be due 50% December 31, 2021 and balance December 31, 2022.

    Stancil observation – effectively CARES provides an interest free loan for an employer's social security tax payment. This deferral does not apply to an employer's 1.45 % Medicare tax.

- **A technical amendment regarding *qualified improvement property*.** This amendment allows taxpayers to immediately write-off improvements made to their facilities they have previously had to depreciate over as long as 39-years. This amendment corrects an oversight in the 2017 act that our national association (AICPA) has strongly and repeatedly petition to be made. For eligible taxpayers, you may amend your returns to claim this deduction.

    Stancil observation – we anticipate this may be the most relevant business provision for our clients.

- Modifies ***net operation loss ("NOL")*** rules. This modification
    - Allows individual returns reporting losses from S Corp and LLC K-1s plus corporate businesses to carryback NOLs arising in a tax year beginning in 2018, 2019 and 2020 5-years against prior year income; and
    - Removes the 80% taxable income limitation on NOL carrybacks.

    Stancil observation – we anticipate this can be an important provision for some of our clients. Depending on your situation, the qualified improvement property write-off may result in an NOL for a business to carryback. This provision may result in an immediate need to file amended returns to carryback NOL's.

- Modifies the ***limitation on business interest expense***. Currently, business interest expense may be limited to 30% of adjusted taxable income. The act increases this potential limitation to 50% of adjusted taxable income.

  Stancil observation – we have seen limited applicability of this limitation with our clients.

The CARES Act leverages the Federal Treasury to provide individual and business taxpayers cash flow relief. This expansive Act uses many of the tools available to the Federal government. As with any Act, we will receive additional guidance from the Federal government on the nuts and bolts for implementing each stimulus provisions. Stancil will monitor and timely advise you when this information becomes available.

Regarding state relief, Stancil continues to monitor developments at the state level. Many states have enacted relief provisions that mirror the Federal's actions. We ask you to contact us with your specific state questions.

For additional information and questions, contact
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