KPMG

TaxNewsFlash

United States

No. 2020-138
March 22, 2020

Legislative update: Senate procedural vote fails to advance updated version of "phase 3" COVID-19 bill

The U.S. Senate this evening failed to invoke cloture to consider the "phase 3" COVID-19 bill released by Senate Majority Leader Mitch McConnell (R-KY) earlier today. The Senate vote was along party lines (with several Senators who are self-sequestering due to possible coronavirus exposure not voting).

Congressional leaders are expected to continue negotiations overnight and into tomorrow.

Summary of tax provisions in the updated Senate bill

Senate Republicans earlier today released an updated version of H.R. 748—legislation designed to address the COVID-19 crisis. That legislation contained a number of tax provisions.

The following is a high-level summary of some of the key tax provisions in the updated bill.

Provisions applicable to individuals

- **Recovery rebates for individuals**

The legislation would provide a rebate, or more accurately, a refundable tax credit of up to $1,200 for eligible individuals and up to $2,400 for eligible individuals filing a joint return. These credits are subject to phase outs beginning at the following adjusted gross income (AGI) levels:

- $150,000 in the case of a joint return
- $112,500 in the case of a head of household
- $75,000 in the case of all other eligible individuals

- **Early withdrawal from retirement funds**

The legislation would generally waive the 10% penalty for early withdrawal of funds from a qualified retirement plan in the case of "coronavirus-related distributions." A coronavirus-related distribution

generally would be any distribution made by an eligible retirement plan to an individual on or after January 1, 2020, and before December 31, 2020, who is (or whose spouse or dependent is) diagnosed with COVID-19 or who experiences certain defined financial crises related to the coronavirus crisis.

A taxpayer may repay the coronavirus-related distribution within three years from the date the distribution was made. To the extent any distribution made under the provision is taxable, the tax is spread ratably over a three-year period.

- **Temporary waiver of required minimum distribution rules for certain retirement plans and accounts**

The provision generally would waive for 2020 the required minimum distributions from defined contribution plans and IRAs.

- **Allowance of charitable contributions for non-itemizing taxpayers**

For taxpayers who claim the standard deduction, the provision would allow a charitable deduction of up to $300.

- **Increase in charitable contributions limits**

For individual taxpayers who itemize, the provision would suspend for 2020 the 50% of AGI limitation on certain charitable contributions. For corporations, the 10% AGI limitation would be increased to 25% for certain 2020 contributions.

Business provisions

- **Delay of 2020 employer payroll taxes**

The provision would allow employers to delay the payment of payroll taxes otherwise payable in 2020. Those taxes would instead be paid in 2021 and 2022.

- **Extended carry-back period for net operating losses**

The provision would allow corporations to carry back losses incurred in 2020, 2019, and 2018 for five years. The provision would also temporarily allow some net operating losses (NOLs) to fully offset income. Special rules would be provided for REITs and life insurance companies.

The bill also includes a technical correction to the 2017 tax law (the so-called "Tax Cuts and Jobs Act" or "TCJA") relating to the effective date of changes made by the TCJA to the NOL rules.

- **Expanded use of losses for partnerships and sole proprietors**

The bill temporarily (and retroactively) would suspend the application of the limitation on excess business losses of non-corporate taxpayers that was enacted as part of the TCJA, for tax years beginning after 2017 and before 2021. It also makes technical changes to the loss limitation rules, retroactive to the enactment of the TCJA.

- **Immediate refundabilty of corporate AMT credits**

The provision generally would permit corporations to immediately claim refunds against remaining AMT credits that have not previously been refunded.

- **Relaxation of limits on interest deductibility**

The provision would temporarily relax the section 163(j) limit on deductible interest. The rule would increase the interest limit from 30% of adjusted taxable income to 50% of adjusted taxable income for tax years beginning in 2019 and 2020. It would also provide special rules in the case of partnerships.

- **Technical correction for qualified improvement property**

The bill includes a technical correction to a provision enacted as part of the TCJA. The provision in the updated version of the Senate bill would change the recovery life of qualified improvement property to 15 years, making those costs eligible for bonus depreciation, retroactive to enactment of the TCJA.

Direct comments, including requests for subscriptions, to Washington National Tax. For more information, contact KPMG's Federal Tax Legislative and Regulatory Services Group at + 1 202.533.4366, 1801 K Street NW, Washington, DC 20006-1301.