Key Tax Aspects of the Consolidated Appropriations Act

December 23, 2020 | **CLIENT ALERTS**

On December 21, 2020, the US Congress included a second COVID-19 stimulus package valued at around $900 billion as part of the Consolidated Appropriations Act 2021 (the "CAA"). The package includes the extension of various programs created by the March 2020 CARES Act, as well as the creation of new programs to address areas of the US economy impacted by the COVID-19 pandemic. The President has criticized several provisions of the CAA and, while still expected to sign it into law, has not done so as of publication of this high-level summary regarding some key tax aspects of the CAA.

BUSINESSES:

Clarification of Tax Treatment for Forgiveness of Covered Loans. The CARES Act provided that forgiven Paycheck Protection Plan ("PPP") loan proceeds shall not be included in the gross income of an eligible recipient; however, the CARES Act did not state whether such tax-exempt proceeds spent on otherwise deductible business expenses would be entitled to a deduction. The CAA clarifies this issue and provides that the IRS shall not prohibit any eligible recipient from otherwise claiming deductions, basis increase, or any other tax attribute by virtue of the PPP proceeds' exclusion from taxable income. In addition to PPP loan proceeds being deductible, the CAA provided the same clarification for Economic Injury Disaster Loan proceeds used for otherwise deductible business expenses.

Payroll Tax Credits for Employee Retention. The CARES Act included refundable payroll tax credits for employers that retained employees in 2020, although such credits were subject to limitations. The CAA makes retroactive changes to mitigate such limitations. The most important of these limitations was that under the CARES Act, employers receiving PPP funds were unable to claim the employee retention credit. The CAA removes this restriction and allows a credit for certain wages not used to support an employer's PPP loan forgiveness application. Wages eligible for both PPP forgiveness and the retention credit can be used under either program, but not both, at the election of the employer. In addition, the CAA extended the CARES Act employee retention credit program into 2021 and also modifies it to potentially create more incentive for employers to retain employees in 2021.

Waiver of Reporting Requirements for Debt Forgiveness . With respect to amounts forgiven under CARES Act programs, the CAA removes the general requirement that lenders report debt forgiveness in an amount over $600.

Extension of Credits for Paid Sick and Family Leave. The mandate for employers to make payments to employees who are subject to quarantine or leave due to family needing COVID-19-related care or childcare unavailability has been extended through March 31, 2021. Additionally, employers who make payments to employees in accordance with the Families First Coronavirus Response Act for extended sick and family leave due to COVID-19 shall be eligible for payroll tax deductions to offset such payments through the same period.

Travel and Entertainment Deduction. Businesses may now temporarily fully deduct any expense that is for food and beverages at a restaurant. This full deduction will be available to any expense for business meals through January 1, 2023.

INDIVIDUALS:

Immediate Payment to Taxpayers. Under the CAA, certain US taxpayers will receive a one-time stimulus payment in the form of an advance tax rebate. The amount will equal up to $600 for a single filer, $1,200 for a married couple filing jointly, with an additional amount up to $600 for each qualifying child. The payments phase out for taxpayers with adjusted gross income over $150,000 for married filing jointly, $112,500 for head of household, and $75,000 for other taxpayers, and are completely phased for taxpayers with adjusted gross income over $174,000 for married filing jointly, $124,500 for head of household, and $87,000 for other taxpayers.

Charitable Contributions. The CARES Act allowed for a $300 “above-the-line” deduction for charitable contributions made by taxpayers that do not itemize their deductions. In addition, the CARES Act removed the limitation that prevented taxpayers from deducting more than 60% of their adjusted gross income as a charitable contribution and replaced it with a 100% limitation. The CAA allowed for a $600 “above-the-line” deduction, extended such deduction into 2021, and also extended the 100% limitation into 2021.

Unreimbursed Medical Expenses. The CAA permanently allows a deduction for unreimbursed medical expenses that exceed 7.5% of adjusted taxable income. A 10% floor was set to take effect in 2021.

Employer-paid Student Loans. The CARES Act provided a program in which employers could provide tax-free student loan repayment benefits to employees. This program was set to expire on December 31, 2020 and the CAA extends this program until December 31, 2025.

In addition to the foregoing, which is meant solely to highlight key provisions, the CAA included numerous other new, extended, or modified programs for specific businesses or areas of tax law (including, but not limited to, farming and low-income housing tax credits). Moreover, as a more general appropriations bill, the CAA extended numerous existing tax programs the discussion of which is beyond the scope of this alert.

For any assistance contact any of the three team members below or your usual Lippes Mathias contact with any questions or concerns.

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