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BUSINESS TAX BREAKS AND INCENTIVES:

THE CARES ACT

Employee Retention Credit

1. This is a credit against the employer share of Social Security payroll taxes and is only available for businesses in 2020. You **cannot** take this credit if you have received a Payroll Protection Loan.
2. You are eligible for this credit if your business was impacted in the following ways:
 - a. Your business was fully or partially suspended during a calendar quarter due to orders from an appropriate governmental authority; **OR**
 - b. You had a "Significant Decline in Gross Receipts" during the calendar quarter.
 - c. A Significant Decline in Gross Receipts occurs when your gross receipts for the current quarter are *less than* 50% for the same quarter in 2019. It creates a period of eligibility for the credit that doesn't end until a calendar quarter where you are at 80% compared to the prior year.
3. The **AMOUNT** of the credit is 50% of "Qualified Wages" for each employee, up to \$10,000 per employee. Wages otherwise subsidized are not eligible for the credit.
4. If you have greater than 100 employees, qualified wages only include wages paid while the employee is *not providing services*.
5. If you have 100 or fewer employees, all wages paid during the quarter are qualified.
6. The difference between the credit calculated and the employer payroll tax liability is **REFUNDABLE** and you can claim a refund on your payroll tax for the quarter.

Employer Payroll Tax Deferral

1. Taxpayers are allowed to defer paying the 6.2% employer share of the Social Security tax (but not the 1.45% employer share of the Medicare tax) through the end of 2020. The tax would be payable over the following two years with half paid by December 31, 2021, and the other half by December 31, 2022.
2. You **cannot** defer your payroll taxes if you have a Payroll Protection Loan and it is forgiven.
3. If you take the Employee Retention Credit for a quarter, only the difference between your Social Security tax liability and your credit will be refundable.
4. Only the employer portion of the payroll taxes due during 2020 are eligible for the deferral.

Income Tax Provisions for Businesses

1. You can now take Bonus depreciation on qualified improvements to real property. Bonus Depreciation allows you to establish a *Net Operating Loss* whereas Section 179 (previously available) did not. This change is effective **retroactively**, back to the beginning of 2018.
2. Net Operating Losses incurred in 2018, 2019 or 2020 will be allowed to be carried back to each of the previous 5 years. Additionally, Net Operating Losses carried to 2018, 2019 and 2020 can offset 100% of taxable income, instead of 80%.
3. The rules limiting interest deductions have been significantly relaxed. These rules only apply to large businesses (average annual gross receipts of \$25 million or more). If they do apply, you can deduct up to 50% of your combined 2019 and 2020 taxable income. In the event you have a loss in 2020, you can compute the limitation on just your 2019 taxable income.

Sales & Excise Tax Provisions for Businesses

1. Florida Businesses were granted a 10-day reprieve from interest and penalties for late-filing February 2020 Sales Tax Returns. Those need to be filed by March 31, 2020.
2. Florida Businesses affected by the Coronavirus virus also have until April 30th to remit their March Sales Tax Returns. Those were due on April 20th.
3. Florida has also delayed the Annual Report filing until June 30th, 2020.

PPP Loans

Note that the SBA says it may review PPP Loans of any size in the future. Documents should be kept for at least six years after the loan is forgiven or paid in full, and borrowers must provide access to these records upon request by the feds.

Banks received notification today from the United States Small Business Association and the US Treasury that modifications have been approved to the Paycheck Protection Program (PPP). The modifications implement the following important changes:

- The covered period for loan forgiveness has been extended from eight weeks after the date of the loan disbursement to 24 weeks after the date of the loan disbursement, providing substantially greater flexibility for borrowers to qualify for loan forgiveness; however, borrowers who have already received PPP loans retain the option to use an eight-week covered period.
- A lower requirement that 75 percent of loan proceeds must be used for payroll costs and that 75 percent of the loan forgiveness amount must have been spent on payroll costs during the 24-week loan forgiveness covered period to 60 percent for each of these requirements. If you use less than 60 percent of the loan amount for payroll during the forgiveness covered period, you will continue to be eligible for partial loan forgiveness, subject to at least 60 percent of the loan forgiveness amount having been used for payroll costs.
- Provides a safe harbor from reductions in loan forgiveness based on reductions in full-time equivalent employees for borrowers that are unable to return to the same level of business activity the business was operating at before February 15, 2020, due to compliance with requirements or guidance issued between March 1, 2020 and December 31, 2020 by the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention, or the Occupational Safety and Health Administration, related to worker or customer safety requirements related to COVID-19.

- Provides a safe harbor from reductions in loan forgiveness based on reductions in full-time equivalent employees, to provide protections for borrowers that are both unable to rehire individuals who were employees of the borrower on February 15, 2020, and unable to hire similarly qualified employees for unfilled positions by December 31, 2020.
- Increases to five years the maturity of PPP loans that are approved by SBA (based on the date SBA assigns a loan number) on or after June 5, 2020.
- Extend the deferral period for borrower payments of principal, interest, and fees on PPP loans to the date that SBA remits the borrower's loan forgiveness amount to the lender (or, if the borrower does not apply for loan forgiveness, 10 months after the end of the borrower's loan forgiveness covered period).
- In addition, the new rules will confirm that June 30, 2020, remains the last date on which a PPP loan application can be approved.

Presently, we are awaiting rules, guidance, a modified borrower application form, and a modified loan forgiveness application from the SBA and the US Treasury. Once received, we will provide updated guidance and information to you.