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The Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”) was signed by President Trump on Friday, March 27, 2020.

This summary provides basic information from the 880-page CARES Act. It is not comprehensive, nor should it be taken as professional advice.

Section 1102—Paycheck Protection Program

Businesses and not-for-profit organizations with fewer than 500 employees may obtain Small Business Administration (SBA) “section 7(a)” loans through their local lenders up to 2.5 times their average monthly costs for payroll, including health and retirement benefits. The average is generally based on the 12-week period beginning February 15, 2019 (presumably 1/3rd of this amount). Limit: \$10,000,000. Loan payments on these debts 1) will be deferred for up to one full year, 2) stipulate maturities up to 10 years, and 3) have an interest rate not to exceed 4%. The loan proceeds may be used for payroll, mortgage *interest* (not principal) or rent payments, and utilities. “Payroll” does not include amounts paid under the Families First Act which gain the employer a tax credit. These parameters are significantly less generous than earlier versions of the bill; however, an SBA section 7(a) loan may be obtained even though the borrower also received an economic injury disaster loan and is eligible for generous Section 1106 loan forgiveness.

Lenders will have “delegated authority [from the SBA] to make and approve loans based on an evaluation of eligibility of the borrower [that may] only consider whether the borrower—(i) was in operation on February 15, 2020; and (ii) had employees for whom the borrower paid salaries and payroll taxes” or had independent contractors payments reportable on Form 1099-MISC. There are no personal guarantee or collateral requirements when the funds are used for the costs identified above.

Section 1106—Loan Forgiveness

Section 1106 of the Act provides details regarding qualifications for loan forgiveness for section 7(a) loans up to 100% of the loan amount. Somewhat extensive documentation is required at the loan application stage. Subject to employee retention, the “expected forgiveness amount” equals the total costs incurred during an 8-week period following the acquisition of a “covered loan” for 1) current payroll costs, and 2) interest on secured debt on real and personal property, rent and utility obligations, all having incurred before February 15, 2020. The debt forgiveness is **not** considered taxable income. The forgiveness amount is reduced by multiplying the “expected forgiveness amount” by a percentage calculated as follows: the average number of FTE (full-time equivalent) employees during the 8-week period, divided by the FTE for the period February 15, through June 30, 2019, **or** (at the election of the borrower) the FTE for January and February 2020. Cuts in pay greater than 25% for these employees will also affect the forgiveness amount. Employers may have until June 30, 2020, to reverse earlier FTE and compensation reductions and retain their forgiveness amounts.

Section 2102—Pandemic Unemployment Assistance

Assistance is intended for eligible individuals who have not been able to obtain unemployment benefits otherwise for a wide variety of reasons both directly related to the virus and as an employment consequence of it. Self-employed individuals are also eligible for benefits. Section 2103 of the Act includes employment with an employer that is normally exempt from contributing to state or federal unemployment tax funds (e.g., government offices and certain not-for-profit organizations). However, employees of 1) churches, 2) organizations “operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches”, and 3) church schools do not appear to be employed by eligible entities (Internal Revenue Code (IRC) section 3309(b)).

Because these employees’ wages are not typically reported to state employment agencies, we believe that these employers must be prepared to assist unemployed workers to document their compensation for the filing of claims.

Section 2201—2020 Recovery Rebates for Individuals

Eligible individuals will receive rebates of \$1,200 for a single filer or \$2,400 for joint return filers. These are considered advance payments on credits they will enjoy against their 2020 income tax filings. Even if their actual 2020 federal income tax liability turns out to be less than their rebate, no more than \$600 must be repaid (\$1,200 for joint return filers). In other words, a partial repayment may be required if the advance is too much. In addition, \$500 will be added to the advance payments for each dependent listed on taxpayers’ 2019 Form 1040 tax returns (or 2018, if 2019 is not yet filed).

Single individuals with adjusted gross income greater than \$75,000 (\$150,000 for joint return filers) will receive smaller advance payments. The payments will be delivered electronically if the taxpayer previously authorized direct deposit of a refund on or after January 1, 2018. Individuals receiving social security benefits who have not filed a tax return in either 2018 or 2019 will still be eligible based on their Form SSA-1099, annual Social Security Benefit Statement. Within 15 days after the disbursement, the IRS will send notice by mail to each taxpayer regarding the method of delivery and amount of rebate.

Section 2202—Special Rules for Use of Retirement Funds

Individuals will be permitted to receive “coronavirus-related distributions” from their retirement funds (up to \$100,000) without incurring the standard 10% early distribution penalty. Coronavirus-related distributions are authorized for individuals diagnosed with COVID-19, their spouse or dependents, and others “who experience financial consequences as a result of being quarantined, being furloughed or laid off or having work hours reduced, [or] being unable to work due to lack of child care.” Unless the taxpayer chooses to repay the withdrawal amount, the distribution will be reportable as taxable income, but spread over years 2020 through 2022.

Section 2203—Temporary Waiver of Required Minimum Distribution (RMDs) Rules for Certain Retirement Plans and Accounts

Individuals required to receive RMDs for 401(k), 403(b), IRA and other plans will be permitted to delay until future years their 2020 RMD requirements without tax or penalty.

Section 2204—Allowance of Partial Above-the-Line Deduction for Charitable Contributions

Beginning with 2020, up to \$300 of qualified charitable contributions may be deducted by individuals who would otherwise claim the standard deduction and not benefit from itemizing their deductions.

'C' Corporations are typically limited to charitable contribution deductions of 10% of their taxable income. For 2020 *only*, Section 2205 increases this contributions limit to 25%.

Section 2206—Exclusion for Certain Employer Payments of Student Loans

The Act applies IRC section 127(c) (“Educational Assistance Programs”) to payments of as much as \$5,250 made in 2020 by employers to employees or to their lenders of principal or interest on any qualified education loans. These amounts will not be reportable income to the employees.

Section 2301—Employee Retention Credit for Employers Subject to Closure Due to COVID-19

Employer’s whose operations are 1) “fully or partially suspended during a calendar quarter [in 2020] due to orders from an appropriate governmental authority limiting commerce, travel, or group meetings ... due to COVID-19” are eligible for credits on their Form 941 filings. In addition, 2) employers experiencing “significant declines in gross receipts” such that a calendar quarter in 2020 receives “less than 50 percent of gross receipts for the same calendar quarter” in 2019 are eligible until they experience a quarter when gross receipts are greater than 80 percent of the same quarter in 2019.

The credit is equal to 50 percent of “qualified wages” plus health plan expenses paid after March 12, 2020, and before January 1, 2021, to each employee not to exceed \$10,000 for all calendar quarters. Tax-exempt organizations also are eligible but based only on the first test listed above.

Important caveats: Employers receiving SBA section 7(a) loans (Section 1102) and wages already receiving credit based on the Families First Act are not eligible for the Section 2301 credit.

Section 2302—Delay of Payment of Employer Payroll Taxes

With respect to an employer’s share of the social security portion of the FICA tax (6.2 percent of gross wages) due for the period March 27, through December 31, 2020, the required payments may be deferred until December 31, 2021, (for at least the first 50% of the amount deferred) and December 31, 2022, for any remaining unpaid balance. For self-employed individuals who pay the full 15.3% SECA tax, ½ of the 12.4% social security component may be similarly deferred. An important caveat: Employers receiving SBA section 7(a) loan *forgiveness* (Section 1106) are not eligible for this delay.

Section 2303—Modifications for Net Operating Losses

Significant changes have been made to rules for deducting net operating losses, most notably an ability to carry back 2020 losses to earlier years for quick recovery of taxes previously paid.

This summary was prepared as a service to the clients of MinistryCPA based on information available March 28, 2020. As conditions are changing rapidly, this summary is not comprehensive, nor should it be taken as professional advice. Further assistance is available from our tax professionals or from other tax and human resource professionals.