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The CARES Act – Charitable Giving

The Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into law by President Trump on March 27, 2020. As part of an effort to encourage charitable giving, the CARES Act makes four significant liberalizations to the rules governing charitable deductions. The CARES Act also makes changes to some of the requirements regarding retirement funds and distributions. This memo discusses these tax and retirement provisions.

The Congressional response and the federal agencies charged with providing guidance to the COVID-19 coronavirus challenges continue to develop and change as new challenges emerge. This is a summary of only a portion of the laws passed that concern the charitable contribution tax deductions and retirement funds. There are many caveats to each rule and every situation is different. Please consult with counsel to determine how these changes may impact you.

Modified Limitations on Charitable Contributions from Individuals.

The CARES Act allows individuals to deduct cash contributions to public charities up to 100% of their adjusted gross income. The previous limit was 60%. The taxpayer is only allowed to deduct up to the amount of adjusted gross income, however, excess can be carried forward over the next 5 years. The deduction is only for contributions to public charities; contributions made to the private foundations or donor advised funds do not qualify for the deduction.

The taxpayer must elect to apply this provision with respect to the contribution. The exact mechanism for election is not yet known, but will likely be clarified by the IRS later this year.

Modified Limitations on Charitable Contributions from Corporations.

The CARES Act also increased the charitable contribution tax deduction for corporate taxpayers. Corporate taxpayers can deduct cash contributions to public charities up to 25% of taxable income. The previous limit was 10%. The deduction is only for contributions to public charities; contributions made to the private foundations or donor advised funds do not qualify for the deduction.

The taxpayer must elect to apply this provision with respect to the contribution. As with the individual tax deduction, the exact mechanism for election is not yet known, but will likely be clarified by the IRS later this year.

Above-The-Line Deduction for Charitable Contributions.

The CARES Act adds a $300 charitable contribution above-the-line deduction. This deduction is available to individuals who take the standard deduction and is not available to those who itemize their deductions because the charitable contribution will be available elsewhere.

The charitable contribution is for taxable years beginning in 2020 and must be made in cash. Unlike other tax provisions within the CARES Act, this provision does not state that this above-the-line deduction will only be available for the current year. In addition, the charitable contribution must be made to public charities.

Increased Allowable Contributions of Food Inventory.

The CARES Act increases the deduction on food inventory donations to charitable organizations from 15% of income to 25%. For individuals, this is defined as 25% of aggregate net income; for Corporations, this is defined as 25% of income.

Temporarily Changed Distribution Rules for Retirement Plans.

The CARES Act has a provision that suspends the required minimum distributions from IRAs for individuals age 72 and over. In addition, the CARES Act allows early, penalty-free withdrawals from certain retirement plans. There are specific requirements that must be met before an early withdrawal can be taken free from penalties. Seek advice from financial and legal counsel before taking an early withdrawal to determine if your individual situation may qualify.

Lisa K. Cagle is an associate attorney at our firm. She has prepared the above summary on The CARES Act- Charitable Giving and The SECURE Act. Please reach out to her or our firm with any questions you may have on either of these acts.