CARES ACT – TAX CONSIDERATIONS

With the CARES Act formally signed into law, Pacific Lake would like to share a summary of the key business tax reliefs and considerations for timing and strategy development. This document can also be used as a reference when having discussions with your tax advisors and accountants.

We will categorize the tax relief measures into actions for CEOs to consider today and those to keep in mind for current filings or retroactive tax year amendments. This summary is not meant to be authoritative or complete to the complexities of the Act and each Company's tax circumstances.

Current Relief

Deferral of Employer's Social Security Payments

Companies may defer the 6.2% employer share of Social Security payroll taxes on 2020 employee wages paid on or after March 27, 2020 through December 31, 2020. Payback is required over a 2-year period, with 50% due December 31, 2021 and the remaining 50% by December 31, 2022.

To participate, Companies should discuss with their tax advisor and payroll provider to effect this change.

Pacific Lake Perspective:

Deferring social security payroll taxes will have an immediate benefit to the cash position of the business. <u>However, the payroll tax deferral is not available for companies that receive loan forgiveness for an SBA Paycheck Protection Program Loan</u>. The IRS has clarified that any company receiving a PPP loan may defer social security payroll taxes until such time as the PPP loan is forgiven. At that point, the company must cease deferring the taxes and begin paying on a go forward basis. Any taxes deferred prior to loan forgiveness will be paid in 2021 and 2022. We advise all companies to take advantage of the payroll tax deferral immediately.

Payroll Tax Credit for Employees

Companies who retain "eligible employees" whose operations are (1) fully or partially suspended due to government order related to Covid-19 <u>**or**</u> (2) gross receipts during a calendar quarter in the period dropped more than 50% compared to the same quarter in the prior year may be eligible for a refundable credit against Company employment taxes. The credit is capped at 50% of qualified wages paid and up to $10,000 per each employee and is applicable for the period March 12, 2020 through December 31, 2020.

In order to be eligible, <u>Companies cannot also receive an SBA loan under the CARES Act</u>. Companies should discuss with their tax advisor and payroll provider for company-specific guidance and implementation of the credit.

Pacific Lake Perspective:

Since most companies will apply for an SBA loan (and hopefully be approved), this tax credit will likely be unavailable. However, for companies that are ineligible for SBA loans, this provision provides a meaningful and immediate cash benefit. If eligible under (1) or (2) and unable to participate in the SBA loan program, companies should take advantage of this relief with an immediate benefit to cash position via (1) offset to the extent of social security payroll taxes not completely deferred under the previous rule above or (2) paid directly to the Company for any excess.

Delayed Filing and Payment Deadline

The deadline for filing 2019 taxes and making any payments has been extended by 90 days until July 15,

2020. In addition, any estimated tax payments due in for Q1 2020 (originally due on April 15, 2020) are also deferred until July 15, 2020. This does not reduce the total taxable amount, but does allow companies to delay payments and retain cash through July 15th. The bill impacts federal tax deadlines, but most states have announced a corresponding rule delaying state tax filings and payments through July 15th (or later)

Pacific Lake Perspective:

If you have tax payments owed for 2019, delay making those payments until July 2020. If you are a pass-through entity that makes tax distribution to investors, delay those payments to reflect the new deadline (best practice is to inform investors and delay by 90 days from when you typically make tax distributions).

Long-Term Relief

Below is a table summarizing the other tax relief measures of the Act that should be considered with tax advisors for 2020 and in amending previous tax years where a material benefit will be provided to the company and/or investors:

Area	**Opportunity**	**Implementation**	**Timing**
Net Operating Loss (NOL) Carrybacks	NOLs from 2018-2019 can now be carried back 5 years, allowing companies to amend for refunds.	Review scenarios with tax advisor and to estimate cash tax impact on any NOL carryback.	2020 tax review (unless NOL is large and impacts cash in 2020)
Interest Expense Limitations	The 2017 tax cuts limited interest deductions to 30% of adjustable income (~30% EBITDA). The Act raises the limit to 50% for 2019 and 2020.	Tax advisors should update in-progress calculations for 2019 and going forward in 2020. No changes are needed for K-1s already prepared for 2019, the incremental benefit can be captured in 2020 filings.	2019 (in-process) 2020 tax review
Bonus Depreciation (Qualified Improvement Property)	Technical correction to clarify eligibility of 100% bonus depreciation for qualified improvement property (qualified improvements to facilities) for 2017 onward. Reduces net taxable income.	Review with Tax advisors to ensure any qualified improvement property assumed the 100% depreciation allowance, now corrected in the Act.	2020 tax review
Excess Business Loss Rules	Temporary suspension of excess business loss under Section 451(l) for pass-through entities for 2018 onward.	Review impact with tax advisors to estimate cash tax impact on any excess business losses that could now be allowed.	2020 tax review

Actions to Take Now:

- Begin taking the payroll tax deferral now – contact your payroll provider
- Delay tax payments or tax distributions – communicate delay to investors for distributions
- Discuss the long-term tax relief items with your tax advisors to determine if an adjustment to prior year returns is worthwhile, or if adjustments should be made in 2020