Highlights from the CARES Act
April 8, 2020

HIRTLE CALLAGHAN & CO
Chief Investment Officers

On March 27, 2020, the President signed the Coronavirus Aid, Relief and Economic Security Act ("CARES Act" or the "bill") into law to provide relief to those impacted by the coronavirus and the economic downturn. This stimulus bill will inject $2.2 trillion into the U.S. economy in the form of tax rebates, expanded unemployment benefits, forgivable loans and other tax relief provisions. It will have a significant impact on every aspect of the U.S. economy. Below, we summarize what we think you need to know about the CARES Act – as an individual, a small business owner and/or nonprofit organization.

INDIVIDUALS

The CARES Act includes several tax relief provisions designed to keep people engaged in the economy, such as direct cash payments, expanded unemployment benefits and flexibility around retirement distributions. The following list details specific provisions that could apply to you:

- **Temporary Waiver of RMDs for Certain Retirement Plans:** The CARES Act waives the minimum distribution ("RMD") requirements for certain qualified plans (including 401(k), 403(b) and 457(f) plans) and IRAs for 2020. The RMD is an annual minimum amount that individuals must withdraw from certain types of retirement accounts after reaching 72 years of age.[1] Waiving the RMD requirement provides relief to individuals who would otherwise have to withdraw funds from their retirement accounts (and pay income tax) during the economic slowdown.[2]

- **Qualified Plan Distribution Waiver:** The bill also enables individuals to withdraw up to $100,000 before December 31, 2020 from qualified retirement accounts for coronavirus purposes without having to pay the 10% early distribution penalty. A coronavirus-related distribution includes distributions made to those individuals diagnosed with COVID-19, with a spouse or dependent diagnosed with COVID-19 or experiencing adverse financial consequences as a result of being quarantined, furloughed or laid off. The distributions would be taxed over three years or could be recontributed back into the retirement account within three years.

- **Charitable Contribution Provisions:** The CARES Act includes provisions that encourage individuals to contribute to charitable organizations in 2020. For example, the law enables individuals to deduct up to $300 of cash contributions for 2020, whether they itemize their deductions or not. It also increases the limitations on deductions for cash charitable contributions by increasing the percentage of adjusted gross income that individuals may donate to charitable organizations (not including donor advised funds) to 100%.[3] This means that up to 100% of an individual's adjusted gross income may be claimed as a charitable itemized tax deduction in 2020.

- **Expansion of Unemployment Benefits.** The CARES Act expands existing unemployment benefits by providing an extra $600 weekly payment, in addition to the weekly benefit amount an eligible employee otherwise receives under state law. The bill also increases the maximum number of weeks an individual

---

[1]The SECURE Act raised the starting age that individuals must take their RMD from their retirement accounts from age 70 ½ to age 72 in 2020. However, individuals who were already 70 ½ in 2019 are not covered by this change and must continue to take their RMD beginning at age 70 ½.

[2] Although 2020 RMDs are being waived, qualified charitable distributions ("QCDs") can still be made in 2020. The QCD allows an individual over age 70 ½ to transfer up to $100,000 per year directly from his/her IRA to a public charity (not a donor advised fund) and have such distribution excluded from his/her income. QCDs remain a viable and valuable way for older IRA owners to make charitable gifts. However, since there is no legal requirement to take any IRA distribution in 2020, the IRA owner should also carefully consider other alternatives for charitable giving.

[3]Adjusted gross income is gross income minus adjustments to income, such as educator expenses, student loan interest, alimony payments or contributions to a retirement account.

may receive unemployment benefits and extends benefits to eligible individuals who are self-employed, seeking part-time employment or who would otherwise not qualify for unemployment benefits under state or federal law. While these new benefits are funded at the federal level, they will be administered at the state level.

- **Direct Payments.** U.S. residents earning less than $75,000 can expect a one-time payment of up to $1,200. Married couples will a receive a one-time payment of up to $2,400. In addition, they are eligible for an additional $500 per child age 16 and under. The payments are reduced for individuals with an adjusted gross income of more than $75,000 ($150,000 for couples) and not available for individuals with an adjusted gross income of more than $99,000 ($198,000 for couples). This means that a family of four earning less than $150,000 can expect to receive a payment of $3,400.

SMALL BUSINESSES AND NONPROFIT ORGANIZATIONS

The CARES Act creates emergency grants and forgivable loan programs to enable small businesses and nonprofits to retain employees and pay for other critical expenses. The bill also changes the rules for expenses and deductions to make it easier for organizations to stay open in the near-term. Key provisions are detailed below:

- **Paycheck Protection Program (PPP) Loans:** The PPP authorizes up to $349 billion in forgivable loans to businesses and nonprofit organizations with less than 500 employees who maintain their payroll during the coronavirus shutdown. Loans can be up to 250% of an employer's average monthly payroll costs with a maximum loan size of $10 million. The PPP loans are two-year loans with an interest rate of 1% and do not require collateral or personal guarantees. The borrower is eligible for loan forgiveness equal to the amount spent on payroll, rent, utilities and mortgage interest during the 8-week period beginning on the date of the origination of the loan so long as employee and compensation levels are maintained.

  Small businesses and sole proprietorships can now apply for PPP loans through third-party lenders. Self-employed individuals and independent contractors will be able to start applying for loans beginning on April 10th.

- **Economic Injury Disaster Loans ("EIDL"):** The Economic Injury Disaster Loan program provides low-interest, long-term loans (up to $2 million) from the Small Business Administration to small businesses and private nonprofit organizations suffering substantial economic injury due to COVID-19.[4] The loans may be used to pay fixed debts, payroll, accounts payable, rent, utilities and other bills that cannot be paid because of the disaster's impact. Under the CARES Act, businesses that apply for a disaster loan may receive an advance of up to $10,000 within three days of the application for the loan. The potential borrower would not be required to pay the loan advance, even if subsequently denied the loan.

  A business can obtain both a PPP and EIDL loan provided the proceeds from the two loans are not used for the same expenses. The EIDL is likely to be granted more quickly than a PPP loan. If the PPP loan is approved, it may be used to refinance the EIDL. Any advance EIDL payment will be subtracted from the PPP loan forgiveness amount.

- **Assistance for Mid-Size Businesses:** The CARES Act establishes an industry stabilization fund to enable banks and other lenders to make loans directly to mid-size businesses. The interest payments on these loans cannot exceed 2% and no interest or principal payments are due in the first six months of the loan. To be eligible, a business or nonprofit organization must have between 500 and 10,000 employees and be a U.S. entity with significant operations in the U.S. The loan proceeds must be used to retain at least 90% of the organization's workforce with full compensation and benefits through September 30, 2020. The business must also agree to certain limitations on compensation paid to highly compensated employees.

---

[4] Certain religious or political organizations are not eligible for EIDL.

- **Employee Retention Credit for Employers:** The Employee Retention Credit is another provision designed to encourage employers to keep employees on the payroll. The bill provides a refundable payroll tax credit for 50% of wages paid during the COVID-19 crisis up to $10,000 of compensation, including health benefits, paid to an eligible employee. The credit is available to employers whose operations were fully or partially suspended, due to a COVID-19- related shut-down order, or whose gross receipts declined by more than 50% when compared to the same quarter in the prior year. Employers receiving loans such as the PPP loans cannot use this provision.

- **Delay of Employer Payroll Taxes Payment:** Employers and self-employed individuals must pay a 6.2% social security tax on employee wages annually. Under the CARES Act, employers and self-employed individuals are permitted to pay their share of the 6.2% Social Security tax over a two-year period, with half of the amount required to be paid by December 31, 2021 and the other half by December 31, 2022. However, employers that receive loans such as the PPP loans are not eligible for this deferral.

- **Student Loan Repayment Benefit:** The CARES Act incentivizes employers to create a student loan repayment benefit for employees. An employer may contribute up to $5,250 annually toward an employee's student loans and such payment would be excluded from the employee's income. This $5,250 cap will expire on December 31, 2020.

- **Charitable Contribution Provisions:** Under the CARES Act, corporations can now take a deduction up to 25% (from 10%) of its taxable income for cash contributions made to public charitable organizations in 2020.

- **Tax Loss Carry Forwards:** The Tax Cuts and Jobs Act of 2017 significantly limited the ability of businesses to carry back net operating losses ("NOLs") to reduce income in prior years.[5] The CARES Act lifts some of these limitations and allows NOLs incurred in 2018, 2019 and 2020 to be carried back to offset taxable income earned during the five-year period prior to the year in which the NOL was incurred. The CARES Act also temporarily removes the taxable income limitation, therefore allowing taxpayers to utilize NOLs to offset 100% of taxable income in tax years 2018, 2019 and 2020.

The regulatory landscape continues to evolve as the government and businesses grapple with the impact of COVID-19 on the global economy. We will continue to keep you abreast of changes and opportunities as they arise. In the interim, we are happy to discuss any of these topics with you in greater detail and evaluate how they impact your personal investment portfolio or organization. Stay safe and healthy!

Alan E. Weissberger, Esquire
Senior Tax and Estate Planning Solution Specialist

[5] A NOL occurs when a company has more tax deductions than taxable income in a given year. When business owners have a NOL, they do not owe any taxes for that year and they may be able to get a refund for taxes paid in previous years or use their business losses to lower their taxable income in the future.