

CARES Act Summary

On March 25th, 2020, the United States Senate passed the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), which the House of Representatives passed (after some last minute drama) and the President signed into law on March 27th. The CARES Act is one of several pieces of legislation meant to address the various impacts of the coronavirus pandemic in the United States. The Act focuses on programs that provide income to individuals and funding for business continuation.

The CARES Act contains the following key provisions that could have an impact on Diversified Trust Clients:



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PERSONAL TAX PROVISIONS

- **Cash Rebate Payments:** The CARES Act provides a refundable tax credit for 2020 to certain taxpayers. Although the credit is for 2020, the bill treats the taxpayer as if he or she had overpaid an amount equal to the credit in 2019 (or if the taxpayer has not yet filed a 2019 tax return, 2018) so that the taxpayer is eligible to receive his or her refund immediately. No minimum income is necessary to receive the credit. No action needs to be taken for a qualifying individual to receive a rebate.
 - \$1,200 to individual filers with adjusted gross incomes of \$75,000 or less (or \$112,500 or less for a head of household), and \$2,400 to married couples filing jointly with adjusted gross incomes of \$150,000 or less.
 - There is an additional \$500 credit for each of their “qualifying children”.
 - For taxpayers with incomes over the \$75,000/\$112,500/\$150,000 threshold, the credit is reduced by 5% of the taxpayer’s adjusted gross income over \$75,000/\$112,500/\$150,000. This results in a complete phase out for taxpayers who in 2019 made more than \$99,000 (individuals), \$146,500 (heads of households), and \$198,000 (joint filers).
- **Retirement Distributions and Withdrawals:**
 - Required Minimum Distribution (RMD) rules for qualified plans and individual retirement accounts are suspended for 2020.
 - Waiver of 10% penalty for early distributions up to \$100,000 for anyone who is diagnosed with Coronavirus, whose spouse or dependent is diagnosed, or who is quarantined, furloughed, laid off or has reduced hours or is unable to work due to lack of childcare qualifies.

- A distribution can be repaid within three years of the date of distribution to any plan or IRA to which a rollover contribution can be made. Repayments will be treated as rollover contributions.
- For amounts not repaid, regular income taxes due on the distribution will be spread over three years unless the person taking the distribution elects otherwise.
- **Charitable Contributions:**
 - Provides for a permanent (not scheduled to sunset) “above the line” charitable contribution deduction for up to \$300 of cash contributions to certain section 501(c)(3) public charities beginning in 2020, even if the individual takes the standard deduction.
 - 60% adjusted gross income limitation is suspended for **cash** charitable contributions by individuals in 2020 (so that individuals could receive a charitable contribution deduction for up to 100% of their 2020 adjusted gross).
 - Donor advised funds and supporting organizations do not qualify for the special treatment, only public charities.

BUSINESS TAX PROVISIONS

- **Employee Retention Credit for Employers Closed Due to Covid-19:** Qualifying businesses may claim a 50% credit for up to \$10,000 of wages paid to an employee for all calendar quarters. An eligible employer is one which is in a trade or business:
 - 1) whose operation is fully or partially suspended due to orders from an appropriate governmental authority limiting commerce, travel or group meetings due to COVID-19; or
 - 2) who has a “significant decline” in gross receipts (i.e., there is a decrease to less than 50% of the gross receipts for the same quarter in the prior year).

Different rules apply as to the covered wages depending upon the number of employees the employer had in 2019. Tax exempt entities are also able to take advantage of this credit. However, the credit is not available to employers receiving a Small Business Interruption Loan under section 1102 of the Act or if a Work Opportunity Tax Credit is allowed for the employee.

- **Paycheck Protection Program:**
 - Fully guaranteed SBA loans available to any:

- Business, nonprofit, veterans group, or tribal business with 500 or fewer employees, or a number set by the SBA for the relevant industry.
 - Sole proprietors, independent contractors, and eligible self-employed workers.
 - Hotel and food service chains with 500 or fewer employees per location.
 - Eligible recipients could receive loans for as much as \$10 million or 250% of their average monthly payroll costs. Interest rates during the covered period would be capped at 4%.
 - During the 8-week period beginning on the date a Paycheck Protection Loan is funded, a borrower will be eligible for forgiveness and cancellation of indebtedness for *up to* the full principal amount of such loan. Payroll costs, mortgage interest, rent and utility payments would be eligible for forgiveness. Remaining balances can be paid off over a 10-year period.
 - Loan proceeds cannot be used to compensate individual employees at an annual rate above \$100,000, or to pay for emergency sick or family leave under the second coronavirus response package.
 - Forgiven amounts are tax free and not subject to income tax.
- **Other Business Changes:**
 - NOL's created in 2018, 2019 and 2020 can now be carried back 5 years without any limitations.
 - Business losses can offset non-business income. These losses would be carried back first and then forward unless the taxpayer elects to forgo the carry back in the next 120 days.
 - Business interest expense can offset up to 50% (was 30%) of business income for 2019 and 2020.
 - The TCJA repealed the corporate AMT and allowed corporations to claim corporate AMT credits over several years until 2021. The CARES Act allows corporations with outstanding AMT credits to claim their credits immediately.

KEY INSIGHTS

- Cash rebates will help relieve immediate financial hardship and provide peace of mind to the many qualifying individuals impacted by COVID-19. Even though some will not qualify, this will bring welcome relief for many people we may know.
- Suspension of the RMD for 2020 is good news for individuals who do not rely on their RMD for daily living expenses and who otherwise may be required to liquidate retirement

account assets in a down market to fund required minimum distributions. In addition, funds will remain in the retirement account for an additional year earning income and potentially growing/recovering tax-free.

- The increase in the standard deduction under the 2017 Tax Cuts and Jobs Act and the associated decrease in the number of taxpayers who itemize deductions (including charitable deductions) have been cited as the reason for a dip in charitable giving in 2018. While giving in times of need will continue independent of any tax benefit, this added deduction will bring much needed relief to the many charitable organizations that depend on modest gifts from a large number of donors.
- The changes relating to Net Operating Losses, Net Business Losses, Corporate AMT Credits, Business Interest Expense and Qualified Improvement Property create opportunities to claim refunds by filing an amended return taking advantage of these new rules.

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