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THE CARES ACT'S IMPACT ON INDIVIDUALS

On March 27, 2020, Congress passed and the president signed into law the "Coronavirus Aid, Relief and Economic Security Act" (CARES Act). It provides a $2 trillion economic stimulus for businesses and individuals faced with the challenges of the COVID-19 pandemic. This is a brief overview of notable provisions of the CARES Act, many of which will be substantial for individuals.

TAXES

Direct Payments to Taxpayers

The CARES Act provides for rebates paid directly from the Internal Revenue Service (IRS) to individual taxpayers. The CARES Act provides recovery rebates of up to $1,200 ($2,400 for married couples filing jointly) plus $500 for each child under 17. The amount will phase out for those whose adjusted gross income exceeds $75,000 or $150,000 if married.

The IRS will use either your 2019 tax return, 2018 tax return, or if neither of those are available, a Social Security Benefit Statement to determine the amount of your individual rebate check. The payment is intended to be an advance payment of the credit you will receive on your 2020 tax return. For example, if your rebate payment is less than the amount you're owed as a refund for your 2020 tax return, you'll receive the excess as a credit for your 2020 return. As of now, it is unclear what happens if the amount you receive as a rebate is greater than what you are owed for the year 2020. The CARES Act provides no mechanism to repay the excess advance payment nor does it require income recognition for any excess.

Suspension of Section 461(l) Limitations

The CARES Act temporarily suspends restrictions under IRC Section 461(l), which provides limitations on an individual's ability to use losses from a business on their individual tax returns. Section 461(l) provided that the amount of loss an individual could use in a year to offset other sources of income was capped at $250,000 or $500,000 if married filing jointly. Any amount over this was considered a net operating loss, subject to the prior rules mentioned above. The CARES Act suspends the limitations on the use of net business losses to offset other sources of income for 2018, 2019 and 2020. This allows a taxpayer previously limited by this provision to file an amended return and hopefully offset losses incurred during those years.

Rules Regarding Retirement Funds

Prior to the CARES Act, early distributions taken out of a qualified retirement plan would subject the taxpayer to income tax liability and a 10% penalty. The CARES Act provides some relief to those who must withdraw from a qualified plan or IRA during this economic downturn. Any distributions deemed a "coronavirus related distribution" shall not be subject to the 10% penalty normally imposed. The distribution is still subject to income tax liability, but instead of recognizing the income in a single year, the CARES Act allows a taxpayer to recognize the income over a 3 year period. The amount received as a distribution may also be re-paid at any time in the 3 year period so long as the plan satisfies rollover contribution rules.

There are limitations to a "coronavirus related distribution." First, the distribution is defined as one taken in 2020 to: (i) an individual diagnosed with SARS-CoV-2 or with COVID-19; (ii) an individual whose spouse or dependent is diagnosed with the same virus; or (iii) an individual who experiences adverse financial consequences as a result of being laid off, furloughed, etc. Second, the amount taken out of a qualified retirement plan cannot exceed $100,000. The above rules are also applicable to IRAs.

Finally, the CARES Act provides some relief to taxpayers who are subject to the required mandatory distribution (RMD) rules. The CARES Act temporarily suspends the requirement to withdraw an RMD for 2020.

Retirement plan loan rules have also been amended in the CARES Act. The maximum loan amount distributed from March 27, 2020 to December 31, 2020 is now increased from $50,000 to $100,000. Individuals who have an outstanding loan plan during this time may delay their repayment due date by one year. Of course, the loan must be a coronavirus related distribution.

UNEMPLOYMENT BENEFITS

The CARES Act makes substantial changes to unemployment assistance, expanding the benefits available and extending coverage to more individuals. The CARES Act extends coverage to certain individuals who are affected by COVID-19, including individuals who are self-employed. Individuals who qualify are eligible to receive unemployment compensation for weeks of unemployment beginning on January 27, 2020 and ending on December 31, 2020 for as long as their unemployment continues. The CARES Act adds an additional 13 weeks of unemployment benefits and requires that states waive the one-week waiting period to receive benefits.

Not only does the CARES Act extend coverage to more individuals, it also increases the amount of benefits an individual can receive. The CARES Act provides for an increase in weekly benefits of $600 until July 31, 2020, in addition to what is already paid under the applicable state's unemployment assistance program. The additional $600 will be provided even if that means the individual is receiving more than their pre-unemployment earnings.

These provisions are contingent on each state entering into an agreement with the federal government to participate in the Pandemic Unemployment Assistance program. As of March 28, 2020, Illinois had not formally entered into an agreement to participate in the temporary Pandemic Unemployment Assistance program, however, Governor J.B. Pritzker announced Illinois would be working closely to bring as much federal aid to its residents as possible.

On March 27, 2020, the Illinois Department of Employment Security (IDES) announced additional steps to address the unprecedented volume of unemployment benefits claims as a result of COVID-19. IDES requests that individuals to adhere to the new claims filing process. More information on the new claims filing process can be found online at https://www2.illinois.gov/ides/individuals/UnemploymentInsurance/Pages/default.aspx.

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FORECLOSURES AND EVICTIONS

Section 4022 of the CARES Act provides for a right to request forbearance for consumers as well as a moratorium on certain residential foreclosures. Covered mortgages are limited to federally backed mortgages which would include, for example, FHA, Fannie Mae or Freddie Mac mortgages. Private mortgages are not covered.

For covered loans, any consumer experiencing financial hardship as a result of the emergency may demand up to 180 days forbearance, and an additional 180 days, as long as they are experiencing financial hardship.

Also, for federally backed mortgages, servicers cannot initiate foreclosures, or proceed to judgment or sale for 60 days starting March 18, 2020.

The CARES Act also provides for a moratorium on new filings for evictions for 120 days from March 27, 2020. Also, during this period, landlords may not charge additional fees or charges related to nonpayment of rent. Again, these rules apply only to federally backed mortgages.

MOMKUS LLC IS HERE TO HELP

Please feel free to contact your Momkus LLC attorney with questions or concerns. Our office is operating at 100% and we've been designated as an "essential service" during the crisis; your calls and emails will receive prompt attention, even if we can't personally shake your hand.