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Dear Clients and Friends:

I hope that you are keeping yourself, your loved ones, and your community safe from COVID-19 (the Coronavirus). I sent you a newsletter on March 20, 2020, summarizing IRS actions and federal tax legislation. I want to update you on the most significant developments since my March 20, 2020 letter, including provisions in the Coronavirus Aid, Relief, and Economic Security (CARES) Act (the gigantic federal economic stimulus package that was enacted on March 27, 2020) and other tax-related developments which may be of benefit to you.

This letter includes information for both individual taxpayers, trusts and estates, and businesses and, in the interests of brevity, cannot cover every development. In addition, keep in mind that both federal and California responses to the COVID-19 crisis continue to rapidly develop. If you have any questions about how the federal and/or California legislation or other government responses might impact or benefit you, please let me know.

Provisions Impacting Individuals, Trusts and Estates, And/Or Businesses:

Extended Due Dates For Tax Filings, Estimated Tax Payments And Other Tax Deadlines.

Now that a national emergency has been declared, the IRS has the ability to extend filing deadlines and to issue other compliance relief for approximately 250 Tax Code provisions. IRS officials report that the IRS is working its way through these approximately 250 Tax Code provisions, focusing first on those provisions which impact the most taxpayers or which would otherwise require immediate tax filings. The IRS has issued guidance in the following areas:

- ***Federal And California 2019 Filing Deadlines For 2019 Income Tax Returns And Gift Tax Returns.*** As I previously reported, the IRS has extended the due date for federal income tax returns and gift tax returns due April 15, 2020 to July 15, 2020. This extension applies to income tax returns filed by individuals, partnerships, corporations, estates and trusts.
- ***Federal And California Estimated Tax Payments.*** The IRS had previously extended the due date for the first installment for estimated income tax payments (due April 15, 2020) to July 15, 2020. The IRS has now announced additional

Internal Revenue Service Treasury Regulations require that I inform you that, to the extent that this communication or its attachments concern federal tax issues, any advice contained in this communication or any attachment thereto is not intended or written to be used, and cannot be used, to avoid penalties under the Internal Revenue Code.

guidance that the due date for the second installment of estimated income taxes (originally due on June 15, 2020) is now extended to July 15, 2020. The California Franchise Tax Board had previously extended the due dates for the first and second installments of 2020 California estimated taxes to July 15, 2020. If you pay estimated state income taxes in states other than California, you will need to check if that state has also extended its estimated tax due dates.

- ***Federal Deadlines Extended For Filing Of Certain Estate Tax Returns.*** The IRS has extended the due date for the filing of federal estate tax returns which were due between April 1, 2020 – July 15, 2020 to July 15, 2020. The deadline for payment of estate taxes due with these returns is similarly extended to July 15, 2020. No extension has been granted for estate tax returns due after July 15, 2020. An automatic 6-month extension is still available for estate tax returns due between April 1, 2020 – July 15, 2020 (assuming that the estate has not already claimed automatic extension), but the due date for 6-month automatic extensions will be calculated using the original due date (and not the July 15, 2020 date).
- ***Extension Of Deadline To File Refund Claim For 2016 Tax Returns.*** Under current law, a taxpayer who filed a timely 2016 income tax return by April 15, 2017, faced a deadline of April 15, 2020 to file a refund claim. The IRS has extended this refund filing deadline to July 15, 2020.
- ***Extension of Deadline To File “Quick Refund” Claims.*** The IRS has issued guidance to extend the filing date by six months for refund claims submitted on Form 1045 or Form 1139 (which provide a “quick refund” process which may be than filing an amended return). Please keep in mind, though, that filing a refund claim (whether by filing using the “quick refund process” or amending a prior year’s return) may extend the statute of limitations for the IRS to review any item on your old return.

If you are faced with other deadlines for a federal tax filing or deadlines to complete a tax transaction (such as a deadline to complete a Section 1031 real estate exchange), you can monitor the IRS’s issuance of extensions and additional tax relief on the IRS COVID-19 webpage: <https://www.irs.gov/coronavirus-tax-relief-and-economic-impact-payments>

Recovery Rebates For Individuals. To help individuals stay afloat during this time of economic uncertainty, the federal government will give a refundable tax credit of up to \$1,200 payments to eligible taxpayers and \$2,400 for married couples filing joint returns. An additional \$500 additional payment will be sent to taxpayers for each qualifying child dependent under age 17 (using the qualification rules under the Child Tax Credit). The federal government will immediately pay out this refundable tax credit in the form of a rebate to qualifying taxpayers, calculated using the taxpayer’s prior tax year information.

Rebates are gradually phased out, at a rate of 5% of the individual’s adjusted gross income over \$75,000 (singles or marrieds filing separately), \$122,500 (head of household), and \$150,000 (joint). If a taxpayer receives a reduced rebate (due to excess adjusted gross income on the prior year’s tax return used to calculate the initial rebate), the taxpayer will be eligible for a “true up” tax credit on the taxpayer’s 2020 tax return.

To obtain a rebate, tax filers must provide (on the relevant prior year's tax returns) social security numbers for each family member for whom a rebate is claimed. Adoption taxpayer identification numbers will be accepted for adopted children. The rebates are not available to nonresident aliens, estates and trusts, or to individuals who themselves could be claimed as dependents. Again, the taxpayer may "true up" the tax credit on the taxpayer's 2020 tax return if the rebate omits a qualifying family member (such as a child born in 2020).

Most individuals won't have to take any action to receive a rebate payment. IRS will compute the rebate based on a taxpayer's tax year 2019 return (or tax year 2018, if no 2019 return has yet been filed). Some qualifying taxpayers were not required to file a tax return for 2018 and 2019. If no return was filed for either 2018 or 2019, the taxpayer can submit his or her information at the following IRS website:

<https://www.irs.gov/coronavirus/economic-impact-payments>. If no return was filed for either 2018 or 2019, and the taxpayer does not submit his or her information at the IRS website, the IRS will attempt to use information for 2019 provided in Form SSA-1099, Social Security Benefit Statement, or Form RRB-1099, Social Security Equivalent Benefit Statement (although this will slow the process down). The IRS will also accept a late-filed 2019 tax return from taxpayers who were not originally required to file a 2019 tax return to initiate the rebate process.

The rebates will be paid out in the form of direct deposits or checks. The IRS will pay the rebate by direct deposit for those taxpayers who have submitted direct deposit information on their 2019 tax return. The IRS is working to create a website application for other taxpayers to provide direct deposit information to the IRS. Although this website application is not yet functional, it should become available at the following IRS website by mid-April: <https://www.irs.gov/coronavirus/economic-impact-payments>. Finally, the IRS will mail out a written notice to each taxpayer approximately two weeks after payment is made, alerting the taxpayer how payment was made and providing information on how to contact the IRS if payment has not been received.

Waiver Of Required Distribution Rules. Required minimum distributions that otherwise would have to be made in 2020 from defined contribution plans (such as 401(k) plans) and IRAs are waived. This includes distributions that would have been required by April 1, 2020, due to the account owner's having turned age 70 1/2 in 2019. If you took your 2020 RMD distribution on or after February 1, 2020 and before May 1, 2020, the IRS has issued guidance to extend the usual 60-day rule to allow you to the distribution back into an IRA (or to convert the distributed funds to a Roth IRA) to July 15, 2020. If you took your 2020 RMD distribution during this February 1, 2020 - May 1, 2020, window and directed your plan administrator to withhold income taxes, there is no mechanism for a return of the withheld taxes. In this event, you can make up for the withheld taxes by contributing other funds back to the IRA (and get a refund of the over-withheld taxes when you file your 2020 tax return).

Waiver Of 10% Early Distribution Penalty. The additional 10% tax on early distributions from IRAs and defined contribution plans (such as 401(k) plans) is waived for distributions made between January 1 and December 31, 2020 by a person who (or whose family) is infected with the Coronavirus or who is economically harmed by the Coronavirus (a qualified individual). Penalty-free distributions are limited to \$100,000, and may (subject to guidelines) be re-contributed to the plan or IRA. Income arising from the distributions is

spread out over three years unless the employee elects to opt out of the three-year rule. Employers may need to amend defined contribution plans to provide for these distributions. Additionally, defined contribution plans are permitted additional flexibility in the amount and repayment terms of loans to employees who are qualified individuals. Taxpayers should proceed with extreme caution if they want to take an early distribution from their retirement plan, as there are still significant unknowns as to how this legislation will be implemented. For example, must the taxpayer prove eligibility by obtaining a positive Coronavirus test (difficult to obtain if the taxpayer otherwise doesn't meet testing protocols in his or her area) or will a "probably Coronavirus" diagnosis by a medical professional (entered in the medical records) be sufficient? What level of "economic harm" must be proven? In addition, re-contribution of the withdrawn distribution to the retirement plan may not be possible unless the retirement plan is amended to permit re-contributions.

Charitable Deduction Liberalizations. The CARES Act makes four significant liberalizations to the rules governing charitable deductions:

- Individuals will be able to claim a \$300 above-the-line deduction for cash contributions made, generally, to public charities in 2020. This rule allows a limited charitable deduction to taxpayers claiming the standard deduction.
- The limitation on charitable deductions for individuals that is generally 60% of modified adjusted gross income (the contribution base) doesn't apply to cash contributions made, generally, to public charities in 2020 (qualifying contributions). Instead, an individual's qualifying contributions, reduced by other contributions, can be as much as 100% of the contribution base.
- Similarly, the limitation on charitable deductions for corporations that is generally 10% of (modified) taxable income doesn't apply to qualifying contributions made in 2020. Instead, a corporation's qualifying contributions, reduced by other contributions, can be as much as 25% of (modified) taxable income.
- For contributions of food inventory made in 2020, the deduction limitation increases from 15% to 25% of taxable income for C corporations and, for other taxpayers, from 15% to 25% of the net aggregate income from all businesses from which the contributions were made.

Exclusion For Employer Payments Of Student Loans. An employee currently may exclude \$5,250 from income for benefits from an employer-sponsored educational assistance program. The CARES Act expands the definition of expenses qualifying for the exclusion to include employer payments of student loan debt made before January 1, 2021.

Break For Remote Care Services Provided By High Deductible Health Plans. For plan years beginning before 2021, the CARES Act allows high deductible health plans to pay for expenses for tele-medical and other remote services without regard to the deductible amount for the plan.

Break For Nonprescription Medical Products And Hygiene Products. For amounts paid after December 31, 2019, the CARES Act allows amounts paid from Health Savings Accounts and Archer Medical Savings Accounts to be treated as paid for medical care even if they aren't paid under a prescription. In addition, amounts paid for menstrual care products will be treated as amounts paid for medical care. For reimbursements after December 31,

2019, the same rules apply to Flexible Spending Arrangements and Health Reimbursement Arrangements.

Provisions Impacting Businesses (Including Self-Employed Persons) Only:

Loans Under The SBA Payroll Protection Program Or Disaster Assistance Program. The CARES Act modifies and expands the federally guaranteed Small Business Administration 7(a) Loan Program to authorize loans up to \$10,000,000 to qualifying small businesses (businesses with under 500 employees, after applying aggregation rules for most affiliated businesses, other than businesses in the hospitality industry), sole proprietors, paid independent contractors and other self-employed individuals. The expanded SBA loan program (known as the SBA Paycheck Protection Program) offers loans of up to two months of the applicant's average monthly payroll costs from the prior year, plus an additional 25% of that amount, subject to a \$10,000,000 cap.

The Paycheck Protection Program features a loan forgiveness feature for loan proceeds which are used to pay employee salaries (including payroll taxes and employee benefits) under \$100,000, rent, utilities and other qualified business expenses, as long as the borrower uses the loan only for those purposes during the first eight weeks after receipt of the loan proceeds. The amount of loan forgiveness will also be reduced if the borrower decrease salaries and wages by more than 25% for any employee that made less than \$100,000 annualized in 2019. However, an employer who has already laid off employees may bring them back on board by June 30, 2020 and qualify their salaries (and benefits) for the loan-forgiveness element of the program. The SBA guidelines for the Paycheck Protection Program are still somewhat fluid (for example, the SBA issued guidance that at least 75% of the forgiven loan must have been used for payroll purposes), and the loan forgiveness feature will be processed by local banks. Taxpayers should carefully weigh the evolving rules for loan forgiveness carefully to ensure compliance.

Amounts which are forgiven under the Paycheck Protection Program are not subject to income tax as discharge of indebtedness income.

Borrowers who qualify for loan forgiveness under the Paycheck Protection Program are not eligible to claim the Employee Retention Credit (see below). You should carefully weigh the potential benefits of each program to determine which is more beneficial to your situation.

Loans will be funded on a "first come, first serve" basis through June 30, 2020, so applying early will be to your advantage. Since the SBA had not provided complete guidance on the amount of "due diligence" to be conducted by banks on loan applicants, many banks have limited loan processing to their existing client base (who have already undergone due diligence. If you have an existing loan or line of credit relationship with your bank, you should contact your bank officer for more information.

Additional information may be obtained through the SBA website (<https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program-ppp>) or the U.S. Treasury (<https://home.treasury.gov/system/files/136/PPP--Fact-Sheet.pdf>)

Finally, the SBA also offers small loans (\$10,000 or less) through the Disaster Assistance Program (commonly known as Economic Injury Disaster Loans or Grants). Use of the term “loan” is inaccurate since, in most cases, the loans do not need to be repaid. Unfortunately, it appears that this program has been swamped by the extreme demand and there are anecdotal reports that the processing of these small loans is, for all practical purposes, frozen.

Employee Retention Credit For Employers. Eligible employers can qualify for a refundable credit (known as the Employee Retention Credit) against the employer’s 6.2% portion of the Social Security (OASDI) payroll tax (or against the Railroad Retirement tax) for 50% of certain wages (below) paid to employees during the COVID-19 crisis.

The Employee Retention Credit is available to employers (including nonprofits) carrying on business during 2020, whose operations for a calendar quarter have been fully or partially suspended as a result of a government order limiting commerce, travel or group meetings. The Employee Retention Credit is also available to employers who have experienced a more than 50% reduction in quarterly receipts, measured on a year-over-year basis relative to the corresponding 2019 quarter, with the eligible quarters continuing until the quarter after there is a quarter in which receipts are greater than 80% of the receipts for the corresponding 2019 quarter.

For employers with more than 100 employees in 2019, the eligible wages are wages of employees who aren’t providing services because of the business suspension or reduction in gross receipts described above. For employers with 100 or fewer full-time employees in 2019, all employee wages are eligible, even if employees haven’t been prevented from providing services.

The Employee Retention Credit is provided for wages and compensation, including health benefits, and is provided for the first \$10,000 in eligible wages and compensation paid by the employer to an employee. Thus, the credit is a maximum \$5,000 per employee.

Wages don’t include:

- Wages taken into account for purposes of the payroll credits provided by the earlier Families First Coronavirus Response Act for required paid sick leave or required paid family leave;
- Wages taken into account for the employer income tax credit for paid family and medical leave (under Code Sec. 45S); or
- Wages in a period in which an employer is allowed for an employee a work opportunity credit (under Code Sec. 51).

An employer can elect to not have the credit apply on a quarter-by-quarter basis.

The IRS has authority to advance payments to eligible employers and to waive penalties for employers who do not deposit applicable payroll taxes in reasonable anticipation of receiving the credit. The credit is provided for wages paid after March 12, 2020 through December 31, 2020. The Employee Retention Credit is not available to employers receiving loans under the Paycheck Protection Program.

Delayed Payment Of Employer Payroll Taxes. Taxpayers (including self-employed taxpayers) will be able to defer paying the employer portion of certain payroll taxes through the end of 2020, with all 2020 deferred amounts due in two equal installments, one at the end of 2021, the other at the end of 2022. Taxes that can be deferred include the 6.2% employer portion of the Social Security (OASDI) payroll tax and the employer and employee representative portion of Railroad Retirement taxes (that are attributable to the employer 6.2% Social Security (OASDI) rate). For self-employed taxpayers, the deferral applies to 50% of the Self-Employment Contributions Act tax liability (including any related estimated tax liability). This relief isn't available if the taxpayer has had debt forgiveness under the CARES Act for loans under the Payroll Protection Program, so taxpayers should carefully weigh which program might yield the greater benefit to the taxpayer.

Net Operating Loss Liberalizations. The 2017 Tax Cuts and Jobs Act (the "2017 Tax Law") limited NOLs arising after 2017 to 80% of taxable income and eliminated the ability to carry NOLs back to prior tax years. For NOLs arising in tax years beginning before 2021, the CARES Act allows taxpayers to carryback 100% of NOLs to the prior five tax years, effectively delaying the 80% taxable income limitation and carryback prohibition until 2021.

The CARES Act also temporarily liberalizes the treatment of NOL carryforwards. For tax years beginning before 2021, taxpayers can take an NOL deduction equal to 100% of taxable income (rather than the present 80% limit). For tax years beginning after 2021, taxpayers will be eligible for a 100% deduction of NOLs arising in tax years before 2018, and a deduction limited to 80% of taxable income for NOLs arising in tax years after 2017.

The CARES Act also includes special rules for REITS, life insurance companies, and the Code Sec. 965 transition tax. There are also technical corrections to the 2017 Tax Law effective dates for NOL changes.

Deferral Of Noncorporate Taxpayer Loss Limits. The CARES Act retroactively turns off the excess active business loss limitation rule of the 2017 Tax Law in Code Sec. 461(l) by deferring its effective date to tax years beginning after December 31, 2020 (rather than December 31, 2017). (Prior to the CARES Act change, active net business losses in excess of \$250,000 (\$500,000 for joint filers) were disallowed under the 2017 Tax Law for tax years beginning after December 31, 2017 and were treated as NOL carryforwards in the following tax year.)

The CARES Act clarifies, in a retroactive technical amendment, that an excess loss is treated as part of any net operating loss for the year, but isn't automatically carried forward to the next year. Another technical amendment clarifies that excess business losses do not include any deduction under Code Sec. 172 (NOL deduction) or Code Sec. 199A (qualified business income deduction).

Still another technical amendment clarifies that business deductions and income don't include any deductions, gross income or gain attributable to performing services as an employee. And because capital losses of non-corporations cannot offset ordinary income under the NOL rules, capital loss deductions are not taken into account in computing the Code Sec. 461(l) loss and the amount of capital gain taken into account cannot exceed the lesser of capital gain net income from a trade or business or capital gain net income.

Acceleration Of Corporate Amt Liability Credit. The 2017 Tax Law repealed the corporate alternative minimum tax (AMT) and allowed corporations to claim outstanding AMT credits subject to certain limits for tax years before 2021, at which time any remaining AMT credit could be claimed as fully-refundable. The CARES Act allows corporations to claim 100% of AMT credits in 2019 as fully-refundable and further provides an election to accelerate the refund to 2018.

Relaxation Of Business Interest Deduction Limit. The 2017 Tax Law generally limited the amount of business interest allowed as a deduction to 30% of adjusted taxable income (ATI). The CARES Act generally allows businesses (unless they elect otherwise) to increase the interest limitation to 50% of ATI for 2019 and 2020 and to elect to use 2019 ATI in calculating their 2020 limitation. For partnerships, the 30% of ATI limit remains in place for 2019 but is 50% for 2020. However, unless a partner elects otherwise, 50% of any business interest allocated to a partner in 2019 is deductible in 2020 and not subject to the 50% (formerly 30%) ATI limitation. The remaining 50% of excess business interest from 2019 allocated to the partner is subject to the ATI limitations. Partnerships, like other businesses, may elect to use 2019 partnership ATI in calculating their 2020 limitation.

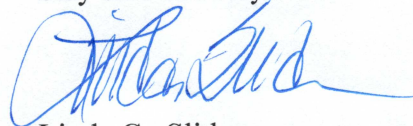
Technical Correction To Restore Faster Write-Offs For Interior Building Improvements. The CARES Act makes a technical correction to the 2017 Tax Law that retroactively treats a wide variety of interior, non-load-bearing building improvements [qualified improvement property (QIP)] as eligible for bonus depreciation (and hence a 100% write-off) or for treatment as 15-year MACRS property or (if required) to be treated as alternative depreciation system property, as eligible for a write-off over 20 years. The correction of this error in the 2017 Tax Law restores the eligibility of QIP for bonus depreciation, and in giving QIP 15-year MACRS status, restores 15-year MACRS write-offs for many leasehold, restaurant and retail improvements.

Accelerated Payment Of Credits For Required Paid Sick Leave And Family Leave. The CARES Act authorizes IRS broadly to allow employers an accelerated benefit of the paid sick leave and paid family leave credits allowed by the Families First Coronavirus Response Act by, for example, not requiring deposits of payroll taxes in the amount of credits earned.

Pension Funding Delay. The CARES Act gives single employer pension plan companies more time to meet their funding obligations by delaying the due date for any contribution otherwise due during 2020 until January 1, 2021. At that time, contributions due earlier will be due with interest. Also, a plan can treat its status for benefit restrictions as of December 31, 2019 as applying throughout 2020.

I will be pleased to hear from you at any time with questions about the above information or any other matters (whether related to COVID-19 or not). In the meantime, I wish you the very best in a difficult time.

Stay safe and stay well.



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