中国 | 税务与商务咨询 | 雇主人力资源全球服务 | 2020年4月6日



税务快讯

Deloitte.

解读《救助法案》对美国个人和雇主的影响

2020年3月27日,美国总统将《新型冠状病毒疫情救助、缓解及经济保障法案》(以下简称"CARES"或"救助法案")正式签署成为法律。《救助法案》长达880页的法律条文中包含了很多适用于企业和个人的税收条款,旨在为美国经济提供直接的刺激措施。以下我们将从个人和雇主的角度,聚焦探讨法案中的重要条款可能带来的影响,帮助读者熟悉相关法规的变化。

影响个人的重要条款

原定截止日期为 **2020** 年 **4** 月 **15** 日的联邦和州所得税纳税申报和缴税期限延长

联邦所得税:美国联邦税局为受新型冠状病毒疫情影响的纳税人(以下简称"受影响纳税人";"纳税人"一词指个人、信托、遗产、公司或任何类型的非法人企业实体)提供救助,延长所得税纳税申报和缴款期限,且不因下列期限延长而征收逾期申报和付款的利息和罚款:

- 1. 受影响纳税人 2019 纳税年度的联邦所得税申报和税款缴纳(包括自雇收入税)的截止日期由原定的 2020 年 4 月 15 日自动推迟到 2020 年 7 月 15 日,以及
- 2. 受影响纳税人 2020 纳税年度的第一季度联邦预缴所得税(包括自雇收入税)的缴纳截止日期由原定的 2020 年 4 月 15 日自动推迟到 2020 年 7 月 15 日。

德勤观察:如果纳税人预计通过 2019 年联邦所得税表申请退税,我们建议尽快提交 2019 年税表,这样有利于纳税人尽早取得退税。

原定截止日期不在 2020 年 4 月 15 日的联邦所得税申报和税款缴纳 (包括自雇收入税)以及联邦预缴所得税的税款缴纳(包括自雇收入税)期限并没有被推迟。因此,2020 年第二季度、第三季度和第四季度联邦预缴所得税的纳税截止日期仍为 2020 年 6 月 15 日、2020 年 9 月 15 日和 2021 年 1 月 15 日。

州所得税:各州政府对此的应对方式有所不同。一些州已经决定遵从美国联邦税局规定,并将各自州所得税表的申报和缴税截止日期同步推迟到了 2020 年 7 月 15 日,比如加利福尼亚州和纽约州。少数几个州虽然也批准了延期,但推迟后的申报和缴税截止日期并非 7 月 15 日。

德勒观察: 目前为止,有些州仍未发布延期规定。对于未公布延期规定的州,为了避免由于疏忽错过申报,建议纳税人在 2020 年 4 月 15 日之前提交联邦所得税表的延期申请(适用于那些接受联邦税表延期申请的州),或在州原定申报截止日期之前提交该州特定的延期申请。

其他联邦信息申报表: 尽管法规已经对某些联邦信息申报表提供了延期规定(例如,709 表格-赠与税申报表的申报纳税截止日期自动推迟到2020年7月15日),但对于其他不是联邦个税申报表附属表格的信息申报表(如3520表格-报告与外国信托公司交易以及收到某些外国馈赠的申报),法规并没有提供延期规定。

德勤观察: 对于那些申报纳税截止日期没有推迟 90 天至 2020 年 7 月 15 日的联邦信息申报表,建议纳税人在 2020 年 4 月 15 日前提交适当的延期申请并缴纳税款(如有欠税),以避免任何潜在的延迟申报罚款以及逾期付款的利息和罚款。

2019 纳税年度的 FinCEN 表格 114 《外国银行和金融账户信息申报 表》的截止日期由原定的 2020 年 4 月 15 日自动推迟至 2020 年 10 月 15 日, 无需特定的延期申请。

现金补贴

在 2020 纳税年度,符合条件的纳税人将从联邦政府获得一笔现金补贴。补贴金额为单身纳税人 1,200 美元,已婚联合申报的纳税人 2,400 美元。每一个符合条件的子女将额外获得 500 美元补贴。符合条件的纳税人不包括非居民外国人、其他纳税人税表上的被扶养人、遗产或信托。

对于调整后总收入分别超过 75,000 美元的单身纳税人、112,500 美元的户主纳税人或 150,000 美元的已婚联合申报的纳税人,收入每超过 100 美元补贴将减少 5 美元。如果他们的调整后总收入分别超过 99,000 美元、146,500 美元或 198,000 美元,则将不能获得补贴。

美国联邦税局将根据纳税人在 2019 年税表上申报的调整后总收入或 2018 年税表上申报的调整后总收入(如果 2019 年税表尚未申报)来计算补贴金额。如果纳税人 2018 年和 2019 年的税表都尚未申报,则根据 2019 年 SSA-1099 表格(社会保障收入)的信息来计算补贴金额。

美国联邦税局将在不晚于补贴发放日后 15 天内向补贴接收者寄出一份通知,说明补贴支付方法、补贴金额以及美国联邦税局的联系电话。如果可获得补贴的纳税人在 2020 年期间没有收到补贴,纳税人可以通过申报 2020 年个人所得税表申请补贴返还。

德勤观察: 现金补贴是美国政府一项强有力的财政救济措施,为美国家庭和个人提供直接的现金补贴,用于补偿在新型冠状病毒疫情的艰难时期可能发生因失业导致的收入损失或其他费用的支出。

值得注意的是,只有美国公民和居民纳税人才可以享受现金补贴,仅在 美国短期停留的非居民纳税人不管其收入高低均不能取得补贴。另外, 只有拥有美国社保号的居民纳税人才能享受补贴,在美工作的外国人配 偶及其子女一般只持有个人纳税人识别号而非社保号,因此这类个人不 能获得现金补贴。

美国联邦税局将根据纳税人申报的 2018 或 2019 年税表自动计算并向符合条件的纳税人发放补贴。部分老年人或其他没有纳税义务的人士需要提交一份简易税表才能获得补贴。补贴将从 2020 年 4 月中旬开始发放并持续到 2020 年底。一般来讲,美国联邦税局会直接将补贴存入纳税人的银行账户。如果美国联邦税局没有纳税人的银行账户信息,补贴也可能通过邮寄支票来发放。美国财政部还计划开发网上平台,供纳税人在线填写银行账户信息,以便通过转账支付补贴,从而不需要邮寄支票。

纳税人可通过查阅其 2018 或 2019 年税表(或即将申报的 2019 年税表)上所申报的调整后总收入来判断是否可以享受现金补贴。符合补贴条件但尚未申报 2018 或 2019 年税表的纳税人应尽快提交税表以便能尽早获得补贴。

提高慈善捐赠的可扣除额度

对采用标准扣除的纳税人来说,从 2020 年开始,除了享受标准扣除,纳税人也可以同时享受慈善捐赠的税前扣除,但最高不得超过 300 美元。

而对采用分项扣除的纳税人来说,在 2020 年发生的现金慈善捐赠在调整后总收入的 100%的限额范围内可以全额扣除。超出而未能扣除的金额可以在未来的 5 年时间里,按照每年扣除额度不超过该年度调整后总收入的 60%来结转扣除。

德勒观察: 这些新政策将鼓励纳税人在 2020 年进行慈善捐赠,在一定程度上促进个人为缓解疫情作出贡献。然而,慈善捐赠扣除的实际节税将取决于纳税人当年的联邦所得税税率。税率越高,节税越多;反之,税率越低,纳税人能得到的节税就越少。建议纳税人对此规定产生的税务影响寻求专业意见。

延迟 2020 年 4 月 15 日到期的退休金供款缴存

在美国联邦税局决定将 2019 年联邦所得税申报时间推迟至 7 月 15 日之后,美国联邦税局宣布,纳税人也可以推迟至 7 月 15 日之前向其个人退休金账户(IRA)和健康储蓄账户(HSA)缴存 2019 年的供款。

德勤观察: 通过 HSA 和 IRA 账户储蓄可以带来一系列税收优惠。HSA 账户供款可以享受税前扣除的优惠,而根据 IRA 账户的类型和纳税人收入的高低,向 IRA 账户的供款也可能享受税前扣除。另外,IRA 账户里的收益不需要即时纳税,因此具有一定的递延纳税的效果。同时,HSA 账户中积累的本金和收益如果用于合格的医疗费用支出也可免税。纳税人应充分享受与 HSA 或 IRA 账户相关的税收优惠,本次对此类账户供款的延期给予纳税人更充裕的时间基于自身的情况考虑是否设立 HSA 或 IRA 账户以及进行供款以享受相应的税收优惠。

从退休金账户支取现金的税收优惠

最新法规允许受疫情影响的纳税人(年龄在 59.5 岁以下)可以从具有税收优惠功能的雇主赞助的退休金计划和 IRA 账户中支取最高 10 万美金,而无需支付 10%的附加税。受疫情影响的纳税人是指个人或其配偶或其被抚养人被诊断出新型冠状病毒感染的肺炎,或因新型冠状病毒疫情而被隔离、下岗、减少工作时间而遭受负面经济影响的纳税人。

德勤观察: 受"新型冠状病毒疫情影响"的支取有助于增加纳税人的现金流量和流动性。尽管这部分支取仍需要纳税,但纳税人可以选择在三年内分摊计税。纳税人也可以在三年内偿还相关支取,任何偿还的部分将无需再计税。

影响雇主的重要条款

员工稳岗税务补贴

员工稳岗税务补贴适用于因新型冠状病毒疫情而被停业或遭受营业损失但仍继续向雇员支付工资的合格雇主。补贴金额为合格雇主向雇员支付的合格工资的 50%,每名雇员的合格工资的最高限额为 10,000 美元(即最高补贴金额为每名雇员 5,000 美元)。该税务补贴可以抵免雇主应承担的社会保障税,即老年、幸存者和伤残保险(简称"OASDI")税。如果税务补贴额超过了雇主部分的 OASDI 税负总额,超出部分可申请退税。

合格雇主是指满足下列两项测试中任意一项测试的企业:

- 政府强制停业测试:适用于在 2020 年正常营业,但因新型冠状 病毒疫情而被政府明令暂停全部或部分商业活动,差旅或者集体 会议的企业。
- 营业收入测试:适用于营业收入比去年同季度减少了50%的企业,如果营业收入达到或超过去年同季度的80%以上,则不再符合这一测试。

该税务补贴是基于雇主支付给雇员的合格工资来计算的。合格工资指在 2020 年 3 月 13 日至 2020 年 12 月 31 日期间支付的工资。对于拥有

超过 100 名全职雇员的合格雇主,合格工资为雇员受新型冠状病毒疫情影响而不能正常工作期间的工资。而对于拥有 100 名及以下全职雇员的合格雇主,所有员工工资都被认定为合格工资,无论雇主处于营业或被强制停业状态。这项税务补贴适用于所有除政府机构以外的美国雇主,无论企业规模大小,免税机构也包括其中。

德勒观察: 员工稳岗税务补贴是美国政府为受此次新型冠状病毒疫情影响被迫停业或受巨大营业损失的雇主提供的一项现金补贴政策。从 2020 年第二季度开始雇主可以直接用来抵免其应缴纳的社会保障税, 超出部分可直接申请退税。这项税务补贴是为了鼓励企业保留员工,降低失业率,对雇主的救助力度之大史无前例,因此有关雇主应积极行动,及时判定自身是否满足合格雇主的测试,了解如何确定合格工资来计算补贴金额,以便尽早充分获得该项救助,增强企业现金流动性。

延迟缴纳社会保障税

《救助法案》规定了有关以下社会保障税的延迟缴纳:

- 雇主工资税:雇主可延迟缴纳"适用的就业税"。就此而言,是 指老年、幸存者和伤残保险税(OASDI)的雇主部分,或"一 级"铁路退休法案(Tier 1 RRTA)的社会保障税。
- 自雇税(自雇人士的社会保障税):自雇人士可延迟缴纳其一半的自雇税。

该条款适用于自法案颁布之日起至 2020 年底应缴纳的税款。延迟缴纳的税款中 50%的税款要求在 2021 年底前缴纳,剩下的 50%需要在 2022 年底前缴纳。

德勒观察: 这是一项允许雇主延迟缴纳部分社会保障税的临时规定。一般情况下,雇主需要缴纳工资总额的 6.2%作为企业部分的社会保障税, 2020 年工资总额的最高限额为 137,700 美元。雇主向雇员支付工资时需要向联邦政府缴纳联邦个人所得预扣税、企业部分的社会保障税和医疗保险税、以及雇员部分的社会保障税和医疗保险税。但是,延迟缴纳的规定只适用于企业部分的社会保障税。它不适用于企业部分的医疗保险税,也不适用于雇员部分的社会保障税和医疗保险税。

美国联邦税局预计将修订 941 表格,即雇主的季度联邦税表,以跟踪雇主递延缴税的情况。需要缴纳社会保障税的企业应密切关注该表格的修订进度。

在《救助法案》签署成为法律之前,一些国会议员就表示取决于新型冠 状病毒疫情对美国经济的影响,未来可能还会陆续出台更多的新政策。 因此我们将持续更新事态的进展。

如您有任何问题,请联系德勤团队:

北京

王焱

合伙人

06.40.05

+86 10 8520 7885

rewang@deloitte.com.cn

黄琴玲

高级经理

+86 10 8520 7648

mhuang@deloitte.com.cn

香港

汤爱伦

总监

+852 2852 6530

etong@deloitte.com.hk

劳健岳

高级经理

+852 2852 5875

juslo@deloitte.com.hk

















Deloitte("德勤")泛指一家或多家德勤有限公司,以及其全球成员所网络和它们的关联机构。德勤有限公司(又称"德勤全球")及其每一家成员所和它们的关联机构均为具有独立法律地位的法律实体。德勤有限公司并不向客户提供服务。请参阅 www.deloitte.com/cn/about 了解更多信息。

德勤亚太有限公司(即一家担保有限公司)是德勤有限公司的成员所。德勤亚太有限公司的每一家成员及其关联机构均为具有独立法律地位的法律实体,在亚太地区超过 100 座城市提供专业服务,包括奥克兰、曼谷、北京、河内、香港、雅加达、吉隆坡、马尼拉、墨尔本、大阪、上海、新加坡、悉尼、台北和东京。

隐私

感谢您对德勤中国服务的关注。德勤中国希望可以继续使用您的个人资料 (特别是姓名及联系信息),以向您发送市场和政策最新动态,以及由德勤中国举办、赞助或宣传之研讨会及其他活动的邀请函。如您日后不希望收到由德勤中国发出的信息,请回复电邮并在邮件主题栏中填上"Unsubscribe"。

如欲更新您的个人资料,请<u>点击</u>此处。

德勤于 1917 年在上海设立办事处,德勤品牌由此进入中国。如今,德勤中国为中国本地和在华的跨国及高增长企业客户提供全面的审计及鉴证、管理咨询、财务咨询、风险咨询和税务服务。德勤中国持续致力为中国会计准则、税务制度及专业人才培养作出重要贡献。德勤中国是一家中国本土成立的专业服务机构,由德勤中国的合伙人所拥有。敬请访问 www2.deloitte.com/cn/zh/social-media,通过我们的社交媒体平台,了解德勤在中国市场成就不凡的更多信息。

本通信中所含内容乃一般性信息,任何德勤有限公司、其成员所或它们的关联机构(统称为"德勤网络")并不因此构成提供任何专业建议或服务。在作出任何可能影响您的财务或业务的决策或采取任何相关行动前,您应咨询合资格的专业顾问。任何德勤网络内的机构均不对任何方因使用本通信而导致的任何损失承担责任。

© 2020 德勤 • 关黄陈方会计师行(香港)、德勤 • 关黄陈方会计师行(澳门)、德勤华永会计师事务所(特殊普通合伙)(中国大陆)版权所有 保留一切权利。

如您日后不希望收到关于该话题的信息,请回复电邮并在邮件主题栏中填上"取消订阅"。



Tax Newsflash

Deloitte.

The CARES Act - Impact on U.S. Individuals and Employers

On 27 March 2020, the President of the United States signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act into law. Within its 880 pages of text, the CARES Act contains numerous business and individual tax provisions aimed at providing an immediate stimulus to the US economy.

The below alert focuses on discussing the impact of key provisions to our GES clients from the angles of individuals and employers in order to get familiar with the relevant tax law changes.

Key provisions impacting individuals

Delay Filing of and Payment on Federal/State(s) Income Tax Returns due 15 April 2020

Federal: The Internal Revenue Service (IRS) grants filing and payment relief for taxpayers (the term "taxpayer" refers to an individual, a trust, an estate, a corporation or any type of unincorporated business entity) who are affected by the COVID-19 outbreak (Affected Taxpayers). For an Affected Taxpayer, the relief provides, with no interest and penalty charges:

- The due date for making Federal income tax payments (including tax payments on self-employment income) and filing Federal income tax returns due on 15 April 2020 in respect of an Affected Taxpayer's 2019 taxable year is automatically postponed to 15 July 2020, and
- 2. The due date for making first quarter 2020 Federal estimated income tax payment (including tax payments on self-employment income) due on 15 April 2020 in

respect of an Affected Taxpayer's 2020 taxable year is automatically postponed to **15 July 2020**.

Observation: If a taxpayer is expecting a refund for 2019, it is recommended that the 2019 Federal return should be filed as soon as possible so the taxpayer can get the money back from the IRS as early as possible.

Federal income tax returns and payments (including payments of tax on self-employment income), as well as Federal estimated income tax payments (including payments of tax on self-employment income), due other than 15 April 2020, are not postponed. Therefore, for taxpayer who needs to make the 2020 second quarter, third quarter and fourth quarter Federal estimated income tax payments, the due date of payments remain due on 15 June 2020, 15 September 2020 and 15 January 2021.

States: State are responding in somewhat differing ways. Several states have already conformed to the federal relief and moved their filing and payment deadlines to 15 July 2020 such as California and New York. A handful of states have granted due date relief but moved the filing and payment deadline(s) to a date other than July 15.

Observation: Some states have yet to issue guidance on how they are responding to the federal postponement of the 2019 federal income tax due dates. To avoid inadvertently late filings in states that have not issued formal guidance, it is advised that taxpayers should either file their federal extension by 15 April 2020 (applying to the states which accept federal extension) or file a state specific extension by the state's original tax return due date, as applicable.

Other Federal information return: Although the IRS provides relief to certain Federal information returns (e.g. the filing and payment due date of Form 709 Gift tax filing is automatically postponed to 15 July 2020), no relief is provided for the Federal information return which do not form as an attachment to the Federal tax return such as Form 3520. For the Federal information returns which do not qualify for the 15 July automatic extension, an applicable extension request should be filed by 15 April 2020.

Observation: For Federal information return which does not qualify for the 15 July automatic extension, an extension request together with any tax payment (if applicable) should be made by 15 April 2020 to avoid any potential late filing penalty, late payment interest and penalty charges.

Report of Foreign Bank and Financial Accounts (FBAR): An announcement posted on the FinCEN website clarifies that 2019 FinCEN Form 114, FBAR due on 15 April 2020 will be automatically extended until 15 October 2020. A specific extension request is not required.

Recovery rebates

Eligible individuals are entitled to a refundable credit in the amount of US\$1,200 for a single individual or US\$2,400 for married individuals filing jointly to be paid in the 2020 tax year. Qualifying children will generate an additional US\$500

each. An eligible individual cannot be a non-resident alien individual, claimed as a dependent on another taxpayer's return, or an estate or trust.

Taxpayers with adjusted gross income (AGI) above US\$75,000 (for single filers), US\$112,500 (for head of household filers) and US\$150,000 (for married filing jointly filers) will be subject to phase-out which will reduce the rebates by US\$5 for each US\$100. The credit phases out completely when a taxpayer's AGI exceeds US\$99,000, US\$146,500 or US\$198,000 respectively.

This credit will be determined based on AGI reported on an already filed 2019 tax return, the 2018 AGI if the 2019 return is not yet filed or information provided by the 2019 Form SSA-1099 if a taxpayer has not filed a 2019 or 2018 individual income tax return.

The IRS will mail a notice to the rebate recipient no later than 15 days after the date on which the rebate was distributed indicating the method used to pay the rebate, the amount of the rebate, and a phone number to contact IRS if the rebate was not received. If an eligible individual did not receive a rebate and is entitled to one, the computed amount is allowed as a refundable credit against the individual's 2020 income tax.

Observation: Recovery rebates are direct cash payment that American households can receive from the U.S. federal government. These rebates provide advanced financial relief to individual taxpayers to offset lost wages and cover other expenses during this special time of COVID-19 outbreak.

It is worth to note that the rebates are available to U.S. citizens and U.S. residents only. Foreign nationals who are present in the U.S. on a short-term basis and are considered as non-resident aliens do not qualify for receiving the rebates, regardless of the level of AGI.

In addition, the requirement that the rebate recipient must be a U.S. social security card holder is important to note. The spouse and child(ren) of foreign nationals working in the U.S. usually possess the individual taxpayer identification number (ITIN) instead of the social security number. In this case, the ITIN family members will not qualify for receiving the rebates.

The IRS will calculate and send the payment to those eligible automatically based on the taxpayers' 2018 or 2019 tax returns filed. Some seniors and others who typically are not obligated to file returns will need to submit a simple tax return to receive the payment. Distribution of the stimulus payments will begin from mid-April 2020 and continue throughout the year of 2020. Generally the payment will be deposited directly into the same banking account reflected on the return filed. If there is no bank information available on the tax return, a physical check may be mailed. The Treasury also plans to develop a web-based portal for individuals to provide their banking information to the IRS online, so that individuals can receive payments immediately as opposed to checks in the mail.

It is suggested for the taxpayers to check the AGI on their 2018 or 2019 tax return (or a potential 2019 tax return which has not been filed currently) to see if they are eligible for receiving the rebate. Taxpayers who are eligible for the rebate but have not yet filed a tax return for 2018 or 2019 shall file as soon as they can to receive the stimulus payment.

Enhanced charitable contribution deductibility

An above-the-line deduction for up to US\$300 in charitable donations to public charities starting in 2020 means taxpayer who take the standard deduction can still write off up to US\$300 in donations.

Individual taxpayers who take itemize deductions can elect to deduct up to 100% of their AGI for "qualified" cash contributions (i.e. cash contributions made to public charities, etc.) paid during 2020. Any excess of such "qualified" contributions not deducted in 2020 can be carried forward to the next 5 years, subject to the 60 percent of AGI limit.

Observation: The changes may increase incentive for taxpayers to make charitable contributions during the 2020 tax year, promoting individual contributions made towards relieving the outbreak to certain extent. However, the actual tax saving of claiming deductions would depend on taxpayer's Federal income tax bracket for the year. The higher the tax bracket, the greater the tax savings. Likewise, the lower the tax bracket, the less of a benefit taxpayer can get. As such, it is advised to seek professional advice on the related tax impact from this.

Delay contributions to retirement plans due 15 April 2020

Coming on the heel of IRS' decision to delay the Federal income tax filing for 2019 to 15 July, the IRS announced that savers also have until 15 July 2020 to make 2019 contributions into their individual retirement accounts (IRA) and their health savings accounts (HSA).

Observation: Saving in both HSAs and IRAs brings additional tax benefits. HSA contributions are tax-deductible, while IRA contributions can be tax-deductible depending on the type of IRA and the level of income. In addition, money in an IRA grows on a tax-deferred basis for retirement. Meanwhile, HSA dollars grow free of taxes and can be used tax-free for qualified medical expenses. Taxpayers shall take full advantage of the tax benefits of HSA or IRA accounts to achieve tax savings. The extension of contributing deadlines to these plans provides sufficient time for taxpayers to set up the accounts and make contributions to be tax efficient.

Increase access to retirement plans

To the extent that a participant (under the age of 59.5) who is affected by the outbreak (e.g. personally or have a spouse/dependent diagnosed with the coronavirus, experienced adverse financial consequences due to the coronavirus as result of being quarantined, laid off, reduced work hours, etc.), the CARES Act allows the participant to take "coronavirus distributions" from tax-favored employer-

sponsored retirement plans and IRAs of up to US\$ 100,000 without incurring the 10% additional tax.

Observation: The coronavirus distribution may help increase the participant's cash flows and liquidity. Although still taxable as gross income, the recipient may elect to include in gross income the amount of distribution ratably over a three-year period. The recipient is allowed to repay a coronavirus distribution over a three-year period. Any amount repaid would be deemed rolled over and thus, not included in gross income.

Key provisions impacting Employers

Employee retention credit

Eligible employers who are subject to closure or encounter financial difficulties due to coronavirus are allowed a refundable tax credit equal to 50% of up to US\$10,000 in qualifying wages paid to each employee (US\$5,000 maximum credit per employee). The credit is allowable against payroll tax, i.e., the Old Age, Survivors, and Disability Insurance (OASDI) tax imposed on the amount of wages paid by an employer. If the credit for the calendar quarter exceeds the employer's overall OASDI tax liability, the excess is refunded.

The credit is available to employers who meet the following two tests:

- Government Mandate Test: Employers carrying on a trade or business during 2020 that is fully or partially suspended by orders from an appropriate governmental authority limiting commerce, travel or group meetings due to the COVID-19 outbreak; OR
- Gross Receipts Test: Employers that have less than 50% of gross receipts for the corresponding quarter in the prior year. The employers will continue to be eligible until the gross receipts are at least 80% or more of gross receipts for the same calendar quarter as in the prior year.

The credit is allowed with respect to eligible wages paid to employees. Only wages paid during the period between 13 March 2020, and 31 December 2020, are eligible for the credit. For employers with greater than 100 full-time employees, eligible wages are wages paid to employees when they are not providing services due to the coronavirus-related circumstances. For eligible employers with 100 or fewer full-time employees, all employee wages qualify for the credit, whether the employer is open for business or subject to a shut-down order. Except for governmental employers, the credit is available to all US employers regardless of size, including tax-exempt organizations.

Observation: The CARES Act provides the fully refundable Employee Retention Credit to qualified employers who are subject to business closure or encounter financial difficulties due to COVID-19 outbreak who continue to pay employees their wages during the period of closure. From the 2nd quarter

of 2020, the Employee Retention Credit can be used to offset an employer's portion of social security tax liability and if the credit is over the tax liability, the employer can receive the refundable payment directly. The credit is aimed to encourage employers to maintain headcounts even if employees are unable to report to work due to the lockdown or other COVID-19 issues. The provision of this refundable credit is unprecedented and therefore U.S. employers are recommended to understand the application requirements and to act immediately. When needed, please consult for professional advice.

Delay in deposit of payroll taxes

The CARES Act provides for a delay in the required deposit of payroll taxes.

- Payroll Taxes: An employer may delay the deposit of "Applicable Employment Taxes." For this purpose, the taxes include the employer portion of the OASDI payroll tax or the "Tier 1" RRTA tax.
- Self Employed Contribution Act (SECA) Taxes: A selfemployed individual may delay the deposit of one-half of the individual's self-employment tax liability.

The taxes for which the deposit may be deferred are the taxes incurred from the date of enactment through the end of 2020. Of the taxes to be deferred, 50 percent of the deferred taxes are required to be deposited by the end of 2021. The remaining 50 percent are required to be deposited by the end of 2022.

Observation: This is a temporary provision allowing employers to defer depositing the employer share of some payroll taxes. In general, employers are required to deposit 6.2% of the amount of wages up to the social security wage base (US\$137,700 for 2020). This amount is in addition to any federal income tax withholding, the employer share of Medicare taxes, and the employee share of social security and Medicare taxes, which are all required to be deposited after employers making wage payment to employees. However, the deferral provision applies only to the employer's share of social security tax. It does not apply to the employer's Medicare taxes nor to the employee's share of social security or Medicare taxes.

The IRS is expected to revise Form 941, Employer's Quarterly Federal Tax Return, to track the employer's decision to defer tax deposits. Companies making the payroll tax deposit shall monitor the progress of the revised forms.

Even prior to the CARES Act being signed into law, some members of Congress have indicated additional future measures may be required, depending on the evolving impact of COVID-19 to the US economy. Stay tuned as this unfolds.

If you have any questions, please contact the following professionals:

Beijing Rebecca WangPartner
+86 10 8520 7885
rewang@deloitte.com.cn

Marisa Huang

Senior Manager +86 10 8520 7648 mhuang@deloitte.com.cn Hong Kong
Ellen Tong
Director
+852 2852 6530
etong@deloitte.com.hk

Justin Lo Senior Manager +852 2852 5875 juslo@deloitte.com.hk

















Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited ("DTTL"), its global network of member firms, and their related entities. DTTL (also referred to as "Deloitte Global") and each of its member firms and their affiliated entities are legally separate and independent entities. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte Asia Pacific Limited is a company limited by guarantee and a member firm of DTTL. Members of Deloitte Asia Pacific Limited and their related entities, each of which are separate and independent legal entities, provide services from more than 100 cities across the region, including Auckland, Bangkok, Beijing, Hanoi, Hong Kong, Jakarta, Kuala Lumpur, Manila, Melbourne, Osaka, Shanghai, Singapore, Sydney, Taipei and Tokyo.

Privacy

Thank you for your interest in Deloitte China services. Deloitte China would like to continue to use your personal information (in particular name and contact details) for the purpose of sending you marketing and regulatory updates, invitations to seminars and other events organized, sponsored or promoted by Deloitte China. If you do not wish to receive further communications from Deloitte China, please send a return email to the sender with the word "Unsubscribe" in the subject line.

If you would like to update your personal information, please click here.

The Deloitte brand entered the China market in 1917 with the opening of an office in Shanghai. Today, Deloitte China delivers a comprehensive range of audit & assurance, consulting, financial advisory, risk advisory and tax services to local, multinational and growth enterprise clients in China. Deloitte China has also made—and continues to make—substantial contributions to the development of China's accounting standards, taxation system and professional expertise. Deloitte China is a locally incorporated professional services organization, owned by its partners in China. To learn more about how Deloitte makes an Impact that Matters in China, please connect with our social media platforms at www2.deloitte.com/cn/en/social-media.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively the "Deloitte Network") is by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

© 2020 Deloitte Touche Tohmatsu in Hong Kong, Deloitte Touche Tohmatsu in Macau, and Deloitte Touche Tohmatsu Certified Public Accountants LLP in the Chinese Mainland. All rights reserved.

To no longer receive emails about this topic please send a return email to the sender with the word "Unsubscribe" in the subject line.