

TAX, EMPLOYEE BENEFITS AND EXECUTIVE COMPENSATION

# Navigating COVID-19: Top Tax Issues

Legislation enacted during the COVID-19 crisis has sought to ease the economic burden of the pandemic on individuals and business. Among many provisions, the legislation broadly revises tax deadlines and rules. While the tax relief is beneficial to individuals and employees, its details are complex. Our lawyers counsel on a broad range of federal, state, local and international tax matters, and stand ready to assist corporations, partnerships and individuals in understanding the new rules and taking full advantage of the benefits offered.

## Key Issues to Consider

### Payroll Tax Credits

**The Issue:** The Families First Coronavirus Response Act and the CARES Act provide payroll and employee retention refundable tax credits, respectively, to employers whose operations were significantly impacted by COVID-19. Many employers struggle with determining how to apply these credits to their unique circumstances.

**How Manatt Can Help:** We draw on the integrated resources of Manatt's tax, employee benefits, and labor and employment practices to help employers understand the availability of these new federal tax credits. We can provide experienced guidance to address the expected future guidance on substantiation and other procedures for obtaining this federal tax relief.

### Federal and State Tax Return Filing and Payment Dates

**The Issue:** The IRS has extended the tax return filing due date for 2019, but there are unique filing dates for certain states and new rules for extensions beyond the new July 15 deadline. This has unique significance for deadlines of Section 1031 deferred real property exchanges.

**How Manatt Can Help:** We are here to help clients navigate these new and changing requirements and to take full advantage of the tax deferral benefits being made available.

### Employee Payroll Taxes

**The Issue:** Under the CARES Act, an employer may delay the payment of the employer share of Social Security taxes. However, there are unique stipulations for self-employed individuals, companies using a certified professional employer organization (PEO) and those that receive a PPP loan.

**How Manatt Can Help:** We are here to help clients work with their payroll providers and PEOs to take advantage of the tax deferral options being made available while minimizing future financial risk.

### CARES Act Retirement Plan Provisions

**The Issue:** The CARES Act brings changes to the 10% tax on early distributions, qualified plan loans, required minimum distributions, plan amendments and payment of required contributions to single-employer pension plans.

**How Manatt Can Help:** We are here to help employers work with their retirement plan administrators to take advantage of the financial and tax relief options being made available.

## Net Operating Loss, Business Interest Deductions and Excess Business Loss Limitation Rules

**The Issue:** In response to the pandemic's significant financial and economic impact, the CARES Act (i) relaxes the rules added as part of the 2017 Tax Cuts and Jobs Act related to the timing and amount of net operating losses that may be deducted; (ii) expands the ability of businesses to take additional tax deductions for interest paid or accrued on indebtedness of the business; and (iii) repeals the "excess business loss" limitation rules previously enacted by the 2017 federal tax reform for the 2018, 2019 and 2020 tax years, as if such limitation had never been enacted.

**How Manatt Can Help:** Our sophisticated tax team can provide guidance on understanding these rules; how to take advantage of them, including what exceptions apply; and how they may ease your business's economic hardships in the face of the COVID-19 crisis. We regularly advise businesses, including C corporations, S corporations, limited liability companies, partnerships and individual taxpayers on a variety of income tax matters and corresponding provisions of California, New York and other state laws.

## Bad Debts and Debt Cancellations

**The Issue:** Lenders and other creditors are facing heightened risk that borrowers may be unable to repay debts. For tax purposes, unpaid debts may be treated as business bad debt or nonbusiness bad debt, which can affect whether the debt generates an ordinary loss or a capital loss. For those currently indebted to others, the cancellation of debt can trigger taxable income.

**How Manatt Can Help:** Before parties determine whether to treat a debt as bad debt, or to have a debt canceled, Manatt's tax practice is here to help clients understand the consequences of bad debts and debt cancellations, the availability and application of special rules that may provide relief, and steps that may be taken to support the favorable treatment of a bad or canceled debt.

## Cross-Border Tax Impact of Travel Restrictions

**The Issue:** To curb the spread of COVID-19, countries around the world have restricted nonessential travel and limited entry to citizens and permanent residents. The inability of personnel to travel could have tax consequences related to tax residence for companies operating in more than one country.

**How Manatt Can Help:** We advise U.S. companies about the structuring of cross-border operations, the use of tax credits and double tax treaties to mitigate the effect of competing tax systems around the world, and the risks of inadvertent corporate tax residence outside the United States, as well as tax relief measures enacted by the United States to ensure liquidity during this period of economic slowdown.

## We're Here to Help:



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