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Rebates, Retirement Funds, and Charitable Contributions Under the CARES Act

Adam L. Fernandez, Esquire
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Adam L. Fernandez, Esq.
afernandez@wispearl.com

On Friday, March 27th, the U.S. House of Representatives passed, and the President signed into law the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The CARES Act is designed to boost the economy by providing over $2 trillion in relief, ranging from individual rebates to increased unemployment benefits to tax breaks. Below are some highlights of the CARES Act (the "Act"), relating to recovery rebates, special rules for accessing retirement funds, and changes to the rules regarding charitable contributions.

Recovery Rebates for Qualifying Individuals

The Act provides for payments of $1,200 for singles and heads of households, $2,400 for married couples filing joint returns, and an additional $500 per qualifying dependent child under age 17. The rebates phase out at a 5% rate above the following adjusted gross income (AGI) levels: $75,000 (single)/$112,500 (head of household)/$150,000 (joint). Eligibility for a recovery rebate is determined based upon your 2019 (if filed) or 2018 income tax returns, or in the absence of a return being filed, your Social Security Benefit Statement (Form SSA-1099). **Rebate payments will not be counted as taxable income because the rebate is a credit against tax liability**. An individual who is claimed as a dependent on another individual's tax return is not eligible to receive a recovery rebate.

Special Rules for Accessing Retirement Funds

- Required Minimum Distributions (RMDs): **RMDs are waived for 2020**. The waiver includes RMDs that must be taken by April 1, 2020 due to the account owner turning 70½ in 2019. The SECURE Act (which became law at the end of 2019) raised the age that individuals must begin taking RMDs from 70½ to 72, but this change does not apply to individuals who turned 70½ in 2019. **Distributions from inherited IRAs are not included in the waiver and need to be taken in 2020**.
- Hardship Distributions from IRAs and 401(k)s: **People affected by the coronavirus can access up to $100,000 of their retirement savings without being subject to the 10% penalty that normally applies to distributions taken before age 59½**. Such so-called

hardship distributions *are taxable* to the account owner, but the tax can be paid over three years, rather than all in one year. Alternatively, the owner can repay the distribution to the retirement plan within three years and avoid having to pay tax. To qualify for a hardship withdrawal, the account owner or his or her spouse or dependent must have been diagnosed with the coronavirus or lost income due to a business closure, layoff, quarantine, reduction in hours, or inability to work due to lack of childcare.

- <u>Loans from 401(k) Plans</u>: Participants in 401(k) or similar retirement plans who have been diagnosed with the coronavirus or affected by economic losses related to the virus can **take a loan from their retirement account over the next six months up to the lower of $100,000 or 10% of the account balance** (which is an increase from the current plan loan limit of $50,000). **Individuals with existing 401(k) loans can delay repaying any loans due in 2020 for one year**.

<u>Changes to Charitable Contribution Rules</u>

The Act added an above-the-line deduction of up to $300 for charitable contributions made in cash by individuals who do not itemize deductions, in addition to the standard deduction. This provision is applicable for the tax year 2020 and beyond. For individual taxpayers that itemize deductions, cash contributions made during 2020 will not be subject to AGI limitations. Prior to tax year 2020, an individual's charitable contributions made in cash were limited to 60% of their adjusted gross income. For corporate taxpayers, charitable contributions will be limited to 25% of taxable income, as opposed to the current 10% limitation.

Please contact any member of our firm if you have any questions about the CARES Act, or other recent coronavirus-related legislation and how it might impact you.

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About the Author: Mr. Fernandez focuses his practice on structuring and implementing estate and tax planning strategies for individuals and closely held businesses. His work includes assisting clients with all the legal and tax aspects of the formation and operation of various business entities, including proprietorships, partnerships, corporations, limited liability companies, and joint ventures. If you have any questions regarding this client alert, please contact Mr. Fernandez (afernandez@wispearl.com) or any one of Wisler Pearlstine's Private Client Services Department attorneys. We look forward to hearing from you.

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