ROUNDUP OF RECENT TAX DEVELOPMENTS

Accounting & Finance Professional Association

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Topics Covered

- What’s New Heading into 2021
- American Rescue Plan Act of 2021
- Filing Issues for 2020
- Noteworthy 2020 Form Changes
- Michigan Developments
- Can’t Fully Pay?

What's New Heading into 2021

Educational Assistance (Prior Law)

- Employers can provide up to $5,250 of educational assistance
- Tuition, books and supplies
- Excluded from employee's taxable income

Educational Assistance (New Law)

- Employers can pay principal and interest on an employee’s student loans
- Benefit excluded from employee’s income
- Effective 03/27/2020

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Health and Dependent Care FSAs (Prior Law)

- Allows employees to make pre-tax contributions to be used later to reimburse medical or dependent care expenses on a tax-free basis
- Amounts remaining in the FSA at the end of the year are forfeited
- Plan may permit a grace period of up to 2 ½ months
- Expenses paid during grace period limited to $500

Health and Dependent Care FSAs (New Law)

- Amounts remaining in FSA at the end of 2020 may be carried over to 2021
- Amounts remaining in FSA at the end of 2021 may be carried over to 2022
- Grace period extended to 12 months
- Not limited to $500
- Requires a plan amendment

Charitable Contributions (Prior Law)

- Must itemize to claim charitable contribution deduction
- Cash contributions to public charities generally limited to 60% of AGI
- Non cash contributions limited to 50% of AGI

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Charitable Contributions (Prior Law)

- 30% of AGI limit applies to contributions of long-term capital gain property
- Contributions to private foundations limited to 30% of AGI or 20% for contributions of long-term capital gain property

Charitable Contributions (New Law)

- For 2020, a $300 above- the-line deduction is permitted for charitable contributions and the 60% AGI limit is increased to 100%
- For 2021, a $300 ($600 MFJ) above-the-line deduction is permitted for charitable contributions and the 60% AGI limit is increased to 100%

Medical Expenses

- Itemized deduction permitted only for prescription drugs or insulin
- Over-the-counter medicines can be reimbursed tax free through health FSAs, HSAs, Archer MSAs and HRAs if prescribed by a physician
- Over-the-counter medicines reimbursed through an HSA or Archer MSA are no longer required to be prescribed by a physician after 12/31/2019

Educator Expense Deduction

- Above-the-line deduction for up to $250 of unreimbursed classroom expenses by elementary and secondary school teachers
- Extended to expenses incurred for PPE, disinfectant and other supplies for the prevention of COVID-19 after 03/12/2020

Economic Impact Payments

- CARES Act provided for $1,200 ($2,400 MFJ) EIP, plus $500 per qualifying child
- CAA, 2021 provided for $600 ($1,200 MFJ) EIP, plus $600 per qualifying child
- Results in a Recovery Rebate Credit for 2020 of $1,800 ($3,600 MFJ), plus $1,100 per qualifying child
- Shortfall refundable on 2020 Form 1040
- Any excess does not have to be paid back

EIC and CTC

- Earned Income Credit (EIC) and Child Tax Credit (CTC) use earned income for the current year
- If 2020 earned income is less than 2019, may elect to use 2019 earned income

Retirement Plans (Prior Law)

- Distributions taxed in year of distribution
- Distributions prior to age 59 ½ generally subject to 10% penalty
- Distributions may be rolled over tax-free within 60 days
- Plans may permit employee loans, subject to various requirements

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Retirement Plans (New Law)

- Distributions made during 2020 may be included in taxable income ratably over 3 years
- 10% early withdrawal penalty does not apply
- 2020 distributions may be recontributed tax-free during 3-year period beginning on the date the distribution was received
- Maximum loan amounts are increased and repayment due dates are delayed 1 year

Required Minimum Distributions

- RMDs generally must begin by April 1 of the calendar year after an individual reaches age 72
- Prior to January, 2020, the RBD was 70 ½
- Under the CARES Act, no RMD is required for 2020 from an IRA or defined contribution plan

IRA Contributions

- Prior to 2020, taxpayers who had attained age 70 ½ were prohibited from making IRA contributions
- Age 70 ½ limitation removed for taxpayers beginning after 2019

Paycheck Protection Program

- Loans to employers to keep employees on payroll while business slows down or is shut down to COVID-19
- Loan forgiven if at least 60% of proceeds are used for payroll cost and no more than 40% for interest on mortgage obligations, rent, utilities, covered operation expenditures, covered property damage cost, covered supplier cost, and covered worker protection expenditures

Paycheck Protection Program-Cont'd

- Determination period generally begins on the loan origination date and ends on a date chosen by the borrower that occurs beginning on the date that is 8 weeks after the loan origination date and ends on the date that is 24 weeks after the loan origination date or 03/31/2021, whichever is earlier

Paycheck Protection Program-Cont'd

- Amount otherwise includable in gross income by reason of debt forgiveness is excluded provided that certain requirements are met
- Business expenses are deductible even if paid for with loan proceeds that are forgiven and excluded from income

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Business Meals

- Deduction for business meals is generally limited to 50% of the cost of the meal
- Meals that are not separately stated on an invoice for the cost of entertainment are not deductible
- For 2021 and 2022, a taxpayer can deduct 100% of the cost of a business meal purchased in a restaurant

NOL Carrybacks (Prior Law)

- Prior to TCJA, an NOL could be carried back 2 years and forward up to 20 years
- TCJA repealed the 2 year carryback, except for farming and casualty insurance companies
- NOL carryovers limited to 80% of taxable income for the year in which it was carried to, but could be carried forward indefinitely until used up

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NOL Carrybacks (New Law)

- For tax years beginning after 12/31/2017, and before 01/01/2021, an NOL must be carried back 5 years
- An irrevocable election may be made to relinquish the carryback and thus only carry the NOL forward
- 80% limit is eliminated

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Qualified Improvement Property

- QIP placed in service after 12/31/2017, is 15 year property eligible for bonus depreciation
- Represents a correction to TCJA which had inadvertently excluded it from eligibility for bonus depreciation

Excess Business Losses (Prior Law)

- TCJA limits excess business losses of a taxpayer other than a C corporation for tax years beginning after 12/31/2017, and before 01/01/2026
- Excess business losses are carried forward as part of the taxpayer's NOL
- An excess business loss is generally equal to the aggregate deductions of the trade or business over its aggregate income plus $250,000 ($500,000 MFJ)

Excess Business Losses (New Law)

- Limitation on excess business losses of a taxpayer other than a C corporation does not apply to tax years beginning in 2018, 2019 or 2020

Business Interest Expense (Prior Law)

Starting in 2018, TCJA limits the business interest expense deduction for taxpayers with average annual gross receipts in excess of $25 million to the sum of:

1) Business interest income;
2) 30% of adjusted taxable income; and
3) Floor plan financing interest

Business Interest Expense (New Law)

- Effective for tax years beginning in 2019 and 2020, the 30% ATI limitation is increased to 50%

Employer Payroll Taxes

- Special rule for period beginning on 03/27/2020, and ending before 01/01/2021
- 50% of employment taxes may be deferred until 12/31/2021
- Remaining 50% may be deferred until 12/31/2022
- Also applies to self-employed individuals

Paid Sick and Family Leave (Prior Law)

- FMLA protects an employee's job for the time period the employee is unable to work due to family or medical reasons
- No requirement for paid family or medical leave

Paid Sick and Family Leave (New Law)

- Employers with fewer than 500 employees are required to provide up to 2 weeks of paid sick leave and up to 10 weeks of paid family leave during the period beginning 4/1/2020 and ending 12/31/2020
- May be extended at the employer's option through 3/31/2021
- Employer is reimbursed through a refundable tax credit against the employer's payroll tax liability
- Similar credit available for self-employed individuals

Employee Retention Credit

- Refundable tax credit equal to 50% of wages up to $10,000 per employee, including health plan expenses, allowed for wages paid after 03/12/2020, and before 07/01/2021
- Calendar quarters beginning after 12/31/2020, the credit is increased to 70% of qualified wages up to $10,000 on a per calendar quarter per employee basis

Corporate Minimum Tax

- TCJA repealed the corporate AMT beginning after 12/31/2017
- Any remaining minimum tax credits that had been carried forward were allowed in full in 2021
- Under the CARES Act, any remaining minimum tax credits are allowed in full for tax years beginning in 2019

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American Rescue Plan Act of 2021

Child Tax Credit for 2021

- Fully refundable
- Increases age of eligible child to include 17 year olds
- Increases amount to $3,000 ($3,600 for children under 6)
- Phase out of increased CTC begins at MAGI of $75,000 for single, $150,000 for married, and $112,500 for head of household
- Pre-ARPA phase out applies to “regular” $2,000 CTC, i.e., beginning at $200,000 MAGI or $400,000 MFJ
- Treasury authorized to make advanced payment of credit in monthly installments

Earned Income Tax Credit

- Expands the EITC for taxpayers without children for 2021 by:
  - Doubling the credit percentage to 15.3%
  - Increasing the earned income base to $9,820
  - Increasing the phase-out threshold to $11,610
  - Allowing taxpayers ages 19 and older without children to qualify, eliminating the 25-64 age range for the year

Earned Income Tax Credit-Cont'd

- Allows taxpayers to use 2019 earned income instead of 2021 earned income
- Eliminates a rule that bars individuals who have children without social security numbers from claiming the childless EITC

Earned Income Tax Credit-Cont'd

- Allows individuals who are separated from their spouses to claim the EITC on a separate return if they live with their child for more than half the year
- Increases the limitation on the EITC for individuals with a certain amount of investment income to $10,000, from $3,650 in 2021, and adjusted for inflation

Dependent Care Credit

- For 2021, the credit is refundable
- Increases the maximum allowable expenses to $8,000 for 1 dependent and $16,000 for 2 or more
- Allows the credit to cover 50% of expenses
- Phase out begins at $125,000
- Excludes as much as $10,500 in employer-provided dependent care from tax in 2021

Recovery Rebate Credit

- New Recovery Rebate Credit to offset third Economic Impact Payment ($1,400 per eligible person/dependent)
- Phase out of credit begins at AGI of $80,000 for single and $160,000 for married filing jointly
- Complete phase out at $100,000/$200,000 respectively

Excess Business Losses

- Extends for an additional year (through 2026) the limitation on excess business losses for non-corporate taxpayers

Student Loan Forgiveness

- Makes student loan forgiveness tax-free for discharges taking place in 2021 through 2025

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COBRA Premium Assistance

- Employers subsidize the cost of COBRA for former employees and claim a credit to offset their Medicare payroll taxes
- Former employee must have been terminated or had hours reduced involuntarily (i.e., N/A if they leave on their own)
- Penalty for failing to notify health plan of cessation of eligibility for COBRA (e.g., eligible for other health insurance)
- Person receiving COBRA assistance not considered eligible person for health care tax credit
- Premium assistance not included in gross income
- Applies to period beginning 4/1/21 and ending 9/30/21

Premium Tax Credit

- For 2021 and 2022:
  - Eliminates premiums for individuals at 150% of the Federal Poverty Level (FPL) or less
  - Reduces premiums for all other households
  - Makes households above 400% of the FPL eligible, with a premium cap of 8.5% of income

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Premium Tax Credit-Cont'd

- No need to repay excess advance PTC payments for 2020
- No additional income tax where advance credit payments exceed the taxpayer's PTC
- Allows taxpayers who receive unemployment compensation in 2021 to be eligible for the credit without any premiums, by disregarding any income above 133% of the FPL

EIDLs and Restaurant Grants

- Advance funds provided through the SBAs Economic Injury Disaster Loan program and restaurant grants are excluded from gross income

Paid Sick and Family Leave

- Extends through 09/20/2021, tax credits for employer-provided paid sick and family leave
- Increases the wages covered by the paid family leave credit from $10,000 to $12,000 per worker
- Covers as many as 60 days of paid family leave for self-employed individuals, instead of 50

Paid Sick and Family Leave-Cont'd

- Expands type of leave eligible for credit
- Expands the paid leave credits, including for self-employed individuals, to cover COVID-19 vaccinations and wait times for test results or diagnoses

Paid Sick and Family Leave-Cont'd

- Bars employers from receiving credits if their paid leave favors highly compensated employees, full-time workers, or employees based on tenure
- Resets days taken into account for paid sick leave credits for quarters beginning after 03/31/2021

Paid Sick and Family Leave-Cont'd

- Applies credits against an employer's hospital insurance tax liability
- Allows gross-up of credit in lieu of exclusion from tax

Employee Retention Credit

- Extends through 12/31/2021, the employee retention credit established by the CARES Act and applicable against hospital insurance tax liability

Filing Issues for 2020

Recovery Rebate Credit

- Credit may be claimed only if the Economic Impact Payments (EIP) are less than the credit
- Complete worksheet in the instructions for Form 1040 and Form 1040-SR
- Taxpayers that received the full amounts of both EIPs do not need to complete any information about the recovery rebate on their 2020 tax returns

Recovery Rebate Credit-Cont'd

- Taxpayers that receive an EIP should keep Notice 1444 and Notice 1444-B for the second EIP
- IRS Notice CP21C were sent to taxpayers if the IRS was unable to process the 2019 tax return in time to issue an EIP

Home Office Deduction

- W-2 employees working from home cannot claim a home office deduction
- Self-employed individuals, sole proprietors and SMLLCs who own or rent and file Schedule C can claim a home office deduction if:
  - A part of the home is used exclusively on a regular basis for conducting a business; or
  - The home is used as the principal location of the taxpayer's business

Home Office Deduction-Cont'd

- Can deduct expenses for a separate free-standing structure, such as a garage, if:
  - Used exclusively and regularly for business
  - Does not have to be the principal place of business

Home Office Deduction-Cont'd

- Two options for figuring the deduction on Form 8829:
  - Regular method allocates actual expenses between personal and business use based on square footage
  - Simplified method uses a rate of $5 per square foot for business with a maximum deduction of $1,500

COVID-Related IRA Distributions

- Distributions made during 2020;
- To an individual diagnosed with SARS-CoV-2 or COVID-19;
- Whose spouse or dependent is so diagnosed; or
- Experiences financial hardship because of quarantine or other factors

COVID-Related IRA Distributions-Cont'd

- Distributions may not exceed $100,000 in the aggregate
- Can ratably spread the income over a 3 year period beginning with 2020
- Not subject to 10% early distribution penalty
- Can avoid income recognition by repaying the distribution within 3 years (and amending the affected returns)
- Notice 2020-50 expanded the categories of eligible individuals

Charitable Contributions

- A qualified charitable contribution is:
  - Made in cash
  - Allowed under IRC § 170
  - Made to an IRC § 501(c)(3) organization
  - Is not for the establishment or maintenance of a donor advised fund
  - Does not include any amount which is carried over from a prior year

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Charitable Contributions-Cont’d

- Above-the-line deduction for taxpayers who do not itemize
- Up to $300 per individual ($600 FMJ)
- Extended to 2021 tax returns

Charitable Contributions-Cont'd

- Corporations can deduct up to 25% of their taxable income (increased from 10%)
- Individual taxpayers that itemize can deduct contributions up to 100% of their AGI (increased from 60%)
- The 25% limitation on deductions for donations of food inventory is extended through 2021

Household Daycare

- Taxpayers who have hired a nanny, babysitter or other in-home caregiver due to remote work and/or disruptions to schooling, etc.
- Amounts paid to those who qualify as household employees are generally treated as W-2 wages subject to federal, state and local income, employment and unemployment taxes

Household Daycare-Cont'd

- If cash wages of $2,200 or more were paid to any one employee in 2020, a W-2 must be provided and Form W-2 and Form W-3 must be filed with a SSA as well as the State tax authority
- Social security and Medicare taxes must be paid by the employer and employee
- Federal unemployment tax must be paid by the employer if total cash wages of $1,000 or more in any calendar quarter of 2019 or 2020 were paid

Household Daycare-Cont'd

- Use Form 1040, Schedule H, for reporting
- Schedule H taxes may trigger a failure to pay estimated tax penalty
- Consider making estimated payments or increasing withholding if employment is to continue in 2021

Expanded Payment Options

Relief for taxpayers struggling with tax debts as a result of Coronavirus (IR-2020-248):

- Use Form 1127, Application for Extension of Time for Payment of Tax Due to Undue Hardship, to obtain an extension of up to 180 days
- Offer in compromise

Expanded Payment Options-Cont'd

- Installment agreements
  - IRS automatically adds new balances to existing agreements rather than defaulting the agreement
  - Certain taxpayers who owe less than $250,000 may set up an installment agreement without providing a financial statement or substantiation if the monthly payment proposal is sufficient

Expanded Payment Options-Cont'd

- Some taxpayers that owe only for 2019 and who owe less than $250,000 may qualify to set up an installment agreement without a Notice of Federal Tax Lien being filed by the IRS
- Qualified taxpayers with existing Direct Debit Installment Agreements may be able to use the IRS' Online Payment Agreement to propose a lower monthly payment amount and change payment due dates

Paycheck Protection Program

- CARES Act
  - Established the PPP
  - Allows employers to acquire a loan to cover payroll costs and certain non-payroll costs
  - Designed to help businesses endure reduced economic activity resulting from COVID-19

Paycheck Protection Program-Cont'd

- CCA, 2021
  - Creates ability for some employers that already acquired a PPP loan to acquire a second PPP loan
  - Eliminated a provision which prevented employers that acquired a PPP loan from also using the employer retention credit

Paycheck Protection Program-Cont'd

- Can apply for forgiveness once all loan proceeds have been used
- Can apply for forgiveness any time up to the maturity date of the loan
- Must begin making loan payments if forgiveness is not applied for within 10 months after the last day of the covered period
- Eligible expenses paid with the proceeds of a forgiven PPP loan may be deducted

COVID Sick Pay

- Payroll tax credit available to employers with fewer than 500 employees:
  - Required to pay 80 hours of emergency paid sick leave, and/or
  - 10 weeks of expanded FMLA leave
- Applicable to leave for COVID-related absences from work

COVID Sick Pay-Cont'd

- Self-employed individuals can base the credit on prior year net earnings from self-employment
- Originally expired on 12/31/2020

COVID Sick Pay-Cont'd

- Extended by CAA, 2021 to 03/31/2021
- If an employee exhausted this leave in 2020, there is no additional leave available for 2021 that is eligible for the credit, even if the employer voluntarily chooses to provide the leave
- American Rescue Plan Act extends the credit through 09/30/2021

General Loan Relief

- Taxpayers who are insolvent during 2020 and who are discharged from a loan can generally exclude the forgiven loan amount from gross income on their 2020 return (IRC § 108)
- Taxpayers who receive discharge of indebtedness income as a result of selling their principal residence may exclude the discharged debt on their 2020 return (IRC § 108)

General Loan Relief-Cont'd

- Gross income does not include forgiveness of certain loans such as emergency Economic Injury Disaster Loan (EIDL) grants

Noteworthy 2020 Form Changes

Virtual Currency

- Question as to whether taxpayer received, sold, sent, exchanged or otherwise acquired virtual currency moved to the top of Page 1 of Form 1040
  - Potential for it to be missed as part of an attachment schedule
  - Misreporting of transactions or holdings has been problematic
  - General IRS push for compliance in this area

Virtual Currency-Cont'd

- IRS treat virtual currency as property for tax purposes
- See Notice 2014-21 and Rev. Rul. 2019-24

Charitable Contributions

- $300 above-the-line deduction on Form 1040 for those who do not itemize deductions on Schedule A
- $300 limitation applies to both single and married filers
- $150 available for those married filing separately

Charitable Contributions-Cont'd

- Donations must be in cash made in 2020
- Cannot go to a donor advised fund or supporting organization
- Cannot use a charitable contribution carried forward from a prior year
- Excess current-year amounts cannot be carried forward to a future year

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Deferrals of Self-Employment Tax

- The following filers may take advantage of the payroll tax deferral made available to employers under the CARES Act:
  - Schedule H (Household Employment Taxes)
  - SE (Self-Employment Tax)
- 50% of social security taxes imposed on net earnings from self-employment income earned between 3/27/20 and 12/31/20 may be deferred and instead paid equally over 2021 and 2022

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Deferrals of Self-Employment Tax-Cont'd

- The maximum deferral amount, not the amount actually deferred, is used to determine the equal repayment amounts
- May reduce estimated tax payments by taking the deferral into account

Deferrals of Self-Employment Tax-Cont'd

- The deferral appears on Part III of Schedule SE (Form 1040) and on Form 1040, Schedule 3, Line 12(e)
- This amount then flows to Form 1040, Page 2, as a reduction of tax due
- Instructions to Form 1040, Schedule 3, provides a worksheet

FFCRA Credits

- Eligible self-employed individuals may be entitled to refundable qualified sick and family leave credits
- Offset self-employment tax for qualified sick leave and family leave amounts paid from 4/1/2020 through 12/31/2020

FFCRA Credits-Cont'd

- CAA, 2021 extends these refundable credits through 3/31/2021 and allows self-employed individuals to use prior-year net self-employment income in determining the credits
- American Rescue Plan Act further extends the credits through 9/30/2021

FFCRA Credits-Cont'd

- New Form 7202 (Credits for Sick Leave and Family Leave for Certain Self-Employed Individuals) used for self-employed individuals
- Different than businesses with employees which use Form 941 (Employer's Quarterly Federal Tax Return) or Form 7200 (Advanced Payment of Employer Credits Due to COVID-19)

FFCRA Credits Cont'd

- Instead of filing for advanced funds through an immediate payroll tax offset, self-employed individuals would have seen the benefit by reducing estimated tax payments with a future credit in mind when estimating tax due

QBI Deduction

- Changes made to Form 8995 (Qualified Business Income Deduction Simplified Computation) instructions
- No longer references charitable contributions in determining QBI
- There had been confusion as to whether charitable contributions should reduce QBI
- Worksheet added to the instructions for tracking previously disallowed losses or deductions to be included in the current-year deduction calculation

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Form 1099-NEC

- Form 1099-NEC (Non-Employee Compensation) brought back to report non-employee compensation previously reflected on Form 1099-MISC
- Requirement to report non-employee compensation by January 31 created by the PATH Act of 2015
- Using Form 1099-MISC created confusion and resulted in businesses having 2 different due dates for the same form

Schedule K-1

- For a Schedule K-1 that accompanies an S corporation or partnership return, the box codes have been moved from Page 2 of the Schedule to the instructions
- Schedule K-1 for Form 1041 still uses Page 2 to list the various codes
- For a decedent's Schedule K-1, the executor is now responsible for notifying the partnership or S corporation of the name and tax ID of the decedent's estate if the partnership interest or S corporation stock goes to the estate

Coronavirus-Related Distributions

- Form 8915-E (Qualified 2020 Disaster Retirement Plan Distributions and Repayments) is a new form for reporting CRDs and repayments
- Notice 2020-50 and the instructions to Form 8915-E provide guidance
- Form 1099-R still used to report CRDs, even if entire amount was repaid during 2020

EIPs and Recovery Rebate Credit

- Payments are not taxable income to the recipients
- There will be a reduction in the calculation of the recovery rebate credit on Form 1040, Line 30
- A worksheet is provided in the instructions
- EIPs may be verified via Notice 1444 for the first round and Notice 1444-B for round two

Michigan Developments

Unemployment Benefits

- Taxpayers receiving an incorrect 1099-G for unemployment benefits they did not receive should report the identity theft to the UIA
- UIA will issue a corrected 1099-G
- Those unable to obtain a timely, corrected form should still file an accurate tax return, reporting only the benefits received
- For questions go to www.michigan.gov/incometax and click on “E Services Individual Income Tax”

News Release, Mich. Dept. Treasury, 02/12/2021

Estimated Taxes

- Automatic waiver of all penalty and interest related to estimated taxes owed by individuals who received unemployment benefits during 2020
- MCL § 206.301(1) imposes a penalty at:
  - 25% of the tax due for a failure to make a required estimate
  - 10% of the tax due for underpaying estimates or remitting estimates after the due date

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Estimated Taxes-Cont'd

- Even individuals not subject to penalty because they were not required to remit estimated tax in the immediately preceding year may have faced interest accruing on unpaid estimates owed as reported on Form MI-2210
- Taxpayers eligible for this waiver do not need to include a completed Form MI-2210 to report the amount of the penalty or interest eligible to be waived

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Estimated Taxes-Cont'd

- Taxpayers whose underpayment of estimates was not due to the receipt of unemployment benefits in 2020 may be subject to penalty and interest and should file Form MI-2210
- The waiver does not relieve taxpayers of the obligation to remit quarterly estimated payments for 2021

Estimated Tax Penalty and Interest Waiver for Individuals Who Received Unemployment Benefits in Tax year 2020, Mich. Dept. of Treasury, 02/09/2021

SUW Tax Payments

- Restaurants that depend on indoor dining and most entertainment and recreational venues scheduled to make sales, use and withholding tax payments for December, 2020 and January, 2021 or for the last quarter of 2020 can postpone filing and payment requirements until February, 2021

SUW Tax Payments-Cont'd

- Treasury will waive all penalties and interest for 33 days
- The department had previously extended an automatic 31-day waiver of penalty and interest for SUW returns or payments due on 12/20/2020
- The 2020 Sales, Use and Withholding Tax Annual Return (Form 5081) remains due by 02/28/2021

See, State Tax Update, 12/10/2020 and News Release 01/14/2021

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New Collections Scam

- Taxpayer received a letter asking them to contact a toll-free number
- Appears credible because it uses specific personal facts that are pulled directly from publicly available information

New Collections Scam-Cont'd

- Treasury only corresponds through official letters that use State of Michigan letterhead and embody both the names of the Governor and the State Treasurer
- Taxpayers who receive a letter from a scammer should call Treasury's Collections Service Center at (517) 636-5265

News Release, Mich. Dept. of Treas. 01/12/2021

Historic Tax Credit

- L. 2020, S54 (P.A. 343), effective 12/30/2020
- Amends the individual income tax and corporate income tax provisions of the Income Tax Act to provide for an historic preservation tax credit
- Up to 25% of qualified expenditures on the rehabilitation of historic buildings, structures and sites
- Essentially reinstates a tax credit that was eliminated in 2012

Can’t Fully Pay?

Extension of Time to Pay

- May be eligible for an extension of time to pay of up to 180 days
- File Form 1127, Application for Extension of Time for Payment of Tax Due to Undue Hardship

Installment Agreements

- If you cannot fully pay within 180 days, you may be able to pay in monthly installments
- You will be charged interest and a reduced late payment penalty until the tax is fully paid
- IRS collection generally will cease as long as the terms of the agreement are followed
- One requirement of an installment agreement is that the taxpayer cannot owe again for another year

Installment Agreements-Cont'd

- However, in order to provide more flexibility, instead of defaulting the agreement, the IRS will automatically add certain new tax balances to existing individual and business installment agreements or the taxpayer may be able to modify the agreement online

Guaranteed Installment Agreements

- Owe $10,000 or less
- Have filed and paid all tax returns during the 5 years prior to the year of liability
- Can fully pay a tax liability within 3 years
- File and pay all tax returns during the agreement
- Have not had an installment agreement within the last 5 years preceding the year of liability

Streamlined Installment Agreements

- Unpaid liability is $50,000 or less, including tax, assessed penalties and interest
- Taxpayer can fully pay the liability within 72 months

Regular Installment Agreements

- May need to provide extensive financial disclosure
- IRS will conduct a fairly detailed financial analysis
- IRS may file a Notice of Federal Tax Lien
- However, in response to COVID-19, IRS will waive the requirements for financial statements and substantiation in many circumstances for balances owed up to $250,000 if the monthly payment proposal is sufficient

Offer in Compromise

- IRS may compromise the taxpayer’s liability, i.e., except less than full payment
  - Doubt as to liability
  - Doubt as to ability to make full payment
  - To promote effective tax administration in exceptional circumstances or to avoid economic hardship

Offer in Compromise-Cont'd

- Unless certain low-income guidelines are met, the taxpayer must:
  - Submit 20% of the offer amount as a lump sum payment or make those payments in 5 or fewer installments
  - Agree to pay the offer amount within 24 months and submit the first payment with the application

Suspending Collection Due to Economic and Other Hardships

- IRS may temporarily delay collection if:
  - Collection of the tax would cause a financial or other hardship for the taxpayer or the taxpayer's family
  - E.g., preventing the taxpayer from meeting necessary living expenses
  - IRS may file a Notice of Federal Tax Lien

Bankruptcy

- Bankruptcy places a "stay" on further IRS collection actions
- Discharge generally limited to taxes incurred more than 3 years before the bankruptcy petition is filed

Liens, Levies and Seizures

- IRS authority to take enforcement action arises 10 days after the first notice and demand for payment
- Normally, IRS sends several notices
- If no response is received, the IRS sends a Notice of Intent to Levy by certified mail

Liens, Levies and Seizures-Cont'd

- 30 days later, if the taxpayer has not requested an Appeals office Collection Due Process (CDP) hearing to consider collection alternatives, IRS may begin enforcement actions
- IRS may place a lien for the unpaid tax on the taxpayer's property
- IRS may also seize (levy on) the taxpayer's property

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Liens, Levies and Seizures-Cont'd

- A levy can also be made on property in the hands of third parties (employers, banks, etc.)
- After seizure, IRS can sell the property to satisfy the tax bill
- Certain property cannot be levied upon:
  - A limited amount of personal belongings, clothing, furniture, and business or professional books and tools;

Liens, Levies and Seizures-Cont'd

- Unemployment, worker's compensation, certain welfare benefits, and certain pension benefits;
- Court-ordered child support payments;
- Undelivered mail; and
- A small amount of wages.

- IRS must obtain court approval to seize a personal residence

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The End