Changes to federal tax law have been pouring in during the last two weeks as federal and state policymakers work to assist individuals through the COVID-19 pandemic. Most changes are temporary in nature, designed to help affected individuals weather the crisis and free up cash for immediate needs:

- Tax recovery credit of $1,200 per individual, $500 per dependent child
- 2020 IRA required minimum distribution (RMD) waived
- 10% penalty waived on IRA and 401(k) coronavirus-related withdrawals up
- Deadline extended to July 15 for all filings and payments formerly due April 15
- Deadline extended to July 15 for 2019 additions to IRAs and HSAs
- Postponement of 50% of self-employment tax for self-employed individuals
- $300 “above the line” deduction for charitable donations permitted for non-itemizers
- Relaxed limits on cash donations to public charities (100% deduction possible)
- Excess business losses permitted against 2018-2020
- Employer educational assistance program can include employer payments on employees’ existing student loans
- Liberalization of certain healthcare-related co-pays and reimbursements

The Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into law on March 27, 2020 and is the third of three major bills providing economic assistance, strengthened unemployment assistance and health care funding. It serves as yet another pillar in the structure being built to support individuals through the COVID-19 health crisis that has led us into the current bear market. Other pillars directly affecting individuals include Internal Revenue Service Notices and FAQs issued over the past two weeks.

**Tax recovery credit**

The promised outright payments to individuals are actually “refunds.” Individuals other than non-resident aliens and dependents are treated as having made an income tax payment for 2019. This amount is “refunded” with a 2020 direct deposit into the taxpayer’s bank account.
The “advance refund amount” is the amount that would have been allowed as a credit for 2019 had the credit provision actually been in effect for 2019. The credit is phased out by 5% of the taxpayer’s 2019 adjusted gross income at the levels shown below.

<table>
<thead>
<tr>
<th>2019 AGI</th>
<th>Advance Refund Amount</th>
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</thead>
<tbody>
<tr>
<td>Single &lt; $75,000</td>
<td>$1,200</td>
</tr>
<tr>
<td>Single $75-99,000</td>
<td>Pro-rated</td>
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<tr>
<td>Single &gt;$99,000</td>
<td>$0</td>
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<table>
<thead>
<tr>
<th>2019 AGI</th>
<th>Advance Refund Amount</th>
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<tbody>
<tr>
<td>Joint &lt; $150,000</td>
<td>$2,400</td>
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<tr>
<td>Joint $150-198,000</td>
<td>Pro-rated</td>
</tr>
<tr>
<td>Joint &gt;$198,000</td>
<td>$0</td>
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The $500 per child payment is also pro-rated if the taxpayer has income above the highest threshold. For example, a couple who earned $200,000 in 2019 and has six children will receive a payment of $2,900.

- **What if I haven’t filed a 2019 income tax return yet?** The IRS will determine the amount of the rebate using information from your 2018 return.

- **What if my child is a dependent and also files a tax return?** Children who are (or can be) claimed as a dependent are not eligible to receive an “advance refund amount.” Parents will receive $500 for each child under age 17. A child who was a dependent for 2019, but not 2020, will receive a 2020 tax credit.

- **What if the IRS does not have my bank direct deposit information?** In addition to information from your tax returns, the IRS may have the bank information if you receive Social Security or other federal benefits. If not, they will mail a check to your last known address.

- **What if my 2020 income will be lower than my 2019 income?** You can claim an additional credit for the lower income amount on your 2020 income tax return.

- **What if my 2020 income is higher than my 2019 income?** You do not have to pay the government back.

- **How will I know my refund check has been deposited or sent?** The IRS will mail a notice to your last known address within 15 days of the payments.

**Action Item:** If you think the IRS does not have your bank account information and you have changed addresses this past year, file your 2019 return soon or file a change of address with the IRS so the advanced refund payment can find you.

**IRA and related retirement plans**

The 2020 required minimum distribution is waived for IRAs and defined contribution plans. In 2021, RMDs will resume, applying the new tables being created under the SECURE Act passed in December of last year. This is not a postponement but a complete 2020 waiver. Taxpayers will not be required to take two RMDs in 2021. The new triggering age for RMDs, set by the SECURE Act, remains at 72.

A distribution from an IRA or other retirement plan to a person younger than 59½ is usually subject to both income taxes and a 10% penalty. There are special rules for 2020 coronavirus-related distributions and how they can be repaid or taxed.
• An individual may withdraw up to $100,000 without a 10% penalty if the person is a “qualified Individual”. This is a person (1) who is diagnosed by a test with COVID-19, or (2) whose spouse has been so diagnosed, or (3) who experiences adverse financial consequences as a result of facts including, but not limited to, being quarantined, furloughed, laid off, unable to work due to lack of child care or experiences closing or reduced hours of a business owned by him.

• The distribution can be contributed back to the retirement plan at any time during the 3-year period beginning on the day after the date the distribution was received by the taxpayer. This avoids all income tax on the distribution.

• If the distribution is not contributed back to the IRA or plan, the distribution will be taxed ratably over the 3-year period beginning with 2020. A taxpayer must elect out of this provision if he intends to re-contribute the withdrawal to the plan.

Defined contribution plans such as 401(k)s may already permit loans to participants limited to the lesser of $50,000 or half the plan balance. For the period beginning March 27, 2020 and until September 27, 2020, the permissible amount of the loan is increased to the lesser of $100,000 or 100% of the plan balance. Payments on loans existing on March 27, 2020 can be deferred for one year.

• I already took my 2020 IRA RMD, can I put it back in? Maybe. If you took the withdrawal within the last 60 days, you can deposit the funds back into the IRA within the 60-day period. If you are outside the 60-day window or took a distribution from an inherited IRA, there may be future rules or clarification coming from the IRS instructing how this can be accomplished.

• I turned age 70 ½ in December 2019. I was told I didn’t have to take my 2019 RMD until April 2020. What now? You get a real holiday. Both the 2019 and 2020 RMDs are waived.

• I have a $30,000 loan from my 401(k). Can I take another $100,000? No, $100,000 is the limit in the aggregate. If your plan permits, you may take another $70,000. Loans are not permitted from IRAs.

Action Items:

• Consider cancelling any automatic RMD withdrawals you have set up for your IRA.

• Run the numbers. How do withdrawals affect your tax bracket? Is there space for some income tax bracket planning?

• Consider doing a Roth conversion with the dollars that would have been your RMD (and perhaps more).

Extended deadlines for taxes

Federal deadlines for filing 2019 income tax returns and paying the balance due for 2019 taxes are moved to July 15, 2020. This also applies to trusts, pass-throughs and C corps. First quarter estimated tax payments are due July 15, although second quarter estimated tax payments are due June 15 (further guidance is anticipated as that date approaches). Deadlines for Generation-Skipping Tax and Gift Tax returns are also extended.
All states will have some deferrals for 2019 taxes. However, not all states have the July 15 deadline or extended the deadline for first quarter estimated tax payments.

**Action Item:** Check your state tax website for the most up-to-date pronouncements.

### 50% self-employment tax-deferred

The CARES Act postpones the date on which employers must pay certain payroll taxes. Self-employed individuals pay self-employment tax as a component of their estimated quarterly personal income tax payments. For the purposes of computing those estimated tax payments, self-employed individuals are permitted to disregard 50% of the self-employment taxes otherwise due for the remainder of 2020. Half of the deferred payment is due to the IRS on December 31, 2021 and the remainder on December 31, 2022.

**Action item:** Seek professional accounting help as the IRS will be slow to issue forms or tables to help you figure this one out.

### More generous deductions for charitable gifts

Taxpayers who do not itemize have been unable to deduct charitable contributions. The CARES Act debuts a new $300 “above the line” deduction available to taxpayers making cash gifts to public charities in 2020 and in following years.

The CARES Act also introduces, for 2020 only, the ability to deduct 100% of cash charitable contributions paid in 2020 to public charities. This amount was previously limited to 60% of the taxpayer’s AGI. In 2020, the deduction for cash charitable contributions can be 200% of taxable income. The carryover rules continue to apply to excess deductions and limits for deductibility of other types of property still apply.

Donations to private foundations, donor-advised funds and supporting organizations do not qualify for this special treatment. The more generous deductions also do not apply to gifts of securities or other property.

**Action items:**

- Does it make more sense to do a qualified charitable distribution from your IRA or use cash and take a deduction? Run the numbers, it will depend on your income level and other assets.

- Is this the year to do a very large gift to your favorite charity? Work with your income tax and estate planning teams to find the right fit. It is unlikely the opportunity to deduct 100% will come around again anytime soon.

### Excess business losses

Prior law disallowed the deduction of excess business losses for tax years 2018 and 2019. An “excess business loss” is the amount of the taxpayer’s aggregate trade or business deductions that exceeds the sum of the taxpayer’s trade or business income or gain, plus $250,000 ($500,000 for joint filers). In other words, if the individual taxpayer had $1,000,000 of business losses and $250,000 of business gains, then the taxpayer was limited to $500,000 of losses. The remaining loss of $500,000 was carried forward into future years. The CARES Act modifies the loss limitation so that excess business losses arising in 2018, 2019 and 2020 are fully deductible in the year incurred.

**Action Item to consider:** Amend your 2018 personal income tax returns if you had excess carryover losses to take advantage of the new law, and 2019 personal income tax returns should be prepared with the new law in mind.
Non-taxable employer payments on student loans

Some employers have adopted educational assistance programs for employees’ education. The programs pay up to $5,250 of an employee’s tuition and educational expenses and the payment is excluded from the employee’s taxable compensation. For 2020, the employer may adopt an amendment to the program to permit the repayment of an employee’s eligible student loan as a non-taxable benefit. In all events, however, the aggregate nontaxable amount available to an employee cannot exceed $5,250.

- My employer already paid $6,000 tuition for my first semester classes in 2020. Can I also receive a nontaxable payment towards my student loans? No, not if your employer has already allocated $5,250 of the nontaxable benefit to your compensation.

Healthcare-related co-pays and reimbursements

High-deductible health plans generally require the participant to shoulder high deductibles for health care. The CARES Act permits these health plans to offer telehealth and remote care services in 2020 and 2021, without requiring a deductible paid by the participant.

Health Savings Accounts, Health Reimbursement Arrangements, health Flexible Spending Accounts and Archer Medical Savings Accounts all have very strict rules regarding the health expenses that can be reimbursed tax-free to the participant from these accounts. A new provision adds feminine hygiene products to the list of permissible tax-free reimbursements.