



March 2020

CARES Act Introduced in Senate Includes Amendments to International Tax Provisions of the TCJA

On March 19, 2020, U.S. Senate Republicans introduced the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which would provide tax relief for both individuals and businesses in response to the COVID-19 pandemic. Included in the bill are provisions that would amend Section 965 and Section 958, providing an opportunity for certain taxpayers to claim tax refunds.

Section 965, known as the “repatriation toll tax,” required taxpayers to pay a one-time tax on earnings of specified foreign corporations. Most companies had the option to pay the tax in installments over an eight-year period; however, for companies that had overpaid their 2017 federal income taxes, the entire overpayment was applied against outstanding Section 965 tax liability, thus eliminating refunds or the ability to credit the overpayment to quarterly estimated taxes. Section 2208 of the CARES Act would amend Section 965(h) to state that future installment obligations of the toll tax will not prevent a refund of overpayments or increase estimated taxes. The amendment to Section 965 would allow affected taxpayers to claim refunds of taxes applied against future toll tax installments.

Section 2209 of the CARES Act would restore the exception for downward attribution under Section 958(b)(4) eliminated by the TCJA in 2017. Prior to the TCJA, Section 958(b)(4) provided an exception to prevent the attribution of shares owned by a person that is not a U.S. person to a U.S. person. The repeal of Section 958(b)(4) resulted in additional tax and reporting requirements for some U.S. shareholders of foreign corporations. The restoration of Section 958(b)(4) would allow affected companies to amend 2018 tax returns and claim refunds.

Members of the Senate have indicated that they will continue to work on the CARES Act during the coming weekend in the hopes of reaching closure on the bill during the week beginning March 23.

For more information on the CARES Act, reach out to us at tax@dhg.com.