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Technical Corrections in Cares Act Can Provide Significant Savings to Businesses

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Two provisions of The Coronavirus Aid, Relief, and Economic Security Act (CARES Act), which was signed into law on March 27, 2020, can provide cash to business owners through accelerated deductions and opportunities to carry losses back to previous years and obtain refunds. Some taxpayers will be able to combine these for increased savings.

The CARES Act corrected the "retail glitch" contained in the Tax Cuts and Jobs Act (TCJA) that made Qualified Improvement Property (QIP) subject to 39-year depreciation and ineligible for bonus depreciation. Improvements to the interior of a non-residential building, including leasehold improvements, that are not attributable to enlarging the building, the internal structural framework, or an elevator or escalator are called QIP. Under the TCJA, QIP could either be depreciated over 39 years or expensed under IRC section 179. Expensing QIP under IRC 179 was limited to $2 million a year and could not cause a net operating loss (NOL). With these limitations, QIP frequently had to be depreciated over 39 years, which caused significant differences in the initial cash outlay for QIP as compared to the deductible tax expense for these improvements. The CARES Act provides some relief for these circumstances. QIP is now 15-year property and eligible for bonus depreciation. It also is not subject to the $2 million a year limit that applies to IRC Section 179 property. These changes were made retroactive back to 2018. As a result of this correction, taxpayers may go back and claim bonus depreciation on QIP placed in service on previously filed 2018 or 2019 tax returns and may claim bonus depreciation on QIP in the current year. These changes create tax deductions for 2018, 2019 and for the current year, and the taxpayer can receive a current year refund for previously paid taxes.

The CARES Act also enhances the benefit of the "retail glitch" correction. The CARES Act restores a five-year carryback provision for NOL which applies to the years 2018, 2019 and 2020. This provision allows NOL from those years to offset income and taxes from the previous five years, which can cause a refund of taxes that were previously paid.

Filing or amending tax returns for years 2018, 2019 or 2020 to reflect this new classification can reduce taxable income, producing refunds of taxes that were previously paid or deposited, and consequently can put cash, in the form of tax refunds, in a business owner's pocket. Taxpayers with the right set of circumstances could combine these provisions of the Cares Act to provide cash liquidity during these difficult and uncertain times.

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