



Canadian tax alert

COVID-19 – U.S. update

March 27, 2020

Over the past few days, the U.S. federal government and the state governments have introduced measures to support U.S. taxpayers. Our Tax and Legal team is closely monitoring all U.S. government announcements, and will provide regular updates on any support measures announced. Our Tax and Legal team will remain available to assist you during this unprecedented and uncertain time.

In this update, we highlight the recent tax-related announcements from the federal and state governments.

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FEDERAL SUPPORT

Coronavirus Aid, Relief, and Economic Security Act ("Phase III")

(Awaiting signing into law as of March 27, 2020)

Highlights

- In excess of \$2 trillion in spending and tax breaks, including:
 - \$500 billion for loans to industries, states and local governments;
 - \$367 billion for the creation of a fund to provide loans to small businesses;
 - \$150 billion in assistance to state and local governments;
 - \$130 billion for hospitals.
- Key business tax provisions include:
 - Elimination of taxable income limit for certain net operating losses (NOLs);
 - NOLs incurred in 2018, 2019 and 2020 may be carried back five tax years;
 - Excess business loss rules of Internal Revenue Code (IRC) section 461(l) suspended;
 - Refunds accelerated for previously generated corporate alternative minimum tax credits;
 - IRC section 163(j) business interest limitation increased from 30% to 50% of section 163 adjusted taxable income;
 - Qualified improvement property "retail glitch" corrected;
 - Adoption of an employee retention tax credit;
 - Eligible employers allowed refundable credit against payroll taxes equal to 50% of paid qualified wages for each qualified employee;
 - Example - an employer whose business has been fully or partly suspended due to government order, or who earns 50% or fewer gross receipts for the current calendar year compared to the prior calendar year.
 - Maximum credit is \$5,000 per employee (i.e., \$10,000 qualified wages paid during eligible quarters);
 - Employers with over 100 employees calculate qualified wages under a different formula than employers with under 100 employees.
 - Receipt of a small business interruption loan may render tax credit unavailable.
 - Payment of certain federal employment taxes delayed until December 31, 2021 and December 31, 2022;
 - Temporary exemption from excise tax for alcohol used to produce hand sanitizer.
- Direct cash "recovery rebates" to qualifying taxpayers earning less than a certain amount.

Families First Coronavirus Response Act ("Phase II") (March 18, 2020)

Highlights

- Mandated paid sick leave for employees of small and medium sized businesses during a public health emergency.

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- Definition of public health emergency includes an emergency with respect to COVID-19 declared by a federal, state or local authority under the Family and Medical Leave Act of 1993 (the FMLA).
- Payroll tax credits introduced to assist employers' provision of such leave, for qualified paid coronavirus-related sick leave or family leave for eligible employer:
 - The paid family leave applies to employers with fewer than 500 employees, with possible exemptions for certain health care providers and first responders and businesses with fewer than 50 employees.
 - The paid sick leave applies to private entities or individuals that employ fewer than 500 employees and also public agencies (e.g., government) and any other entity that is not a private entity or individual with more than one employee.

Coronavirus Preparedness and Response Supplemental Appropriations Act ("Phase I") (March 6, 2020)

Highlights

- \$8.3 billion of emergency funding for government agencies, including:
 - \$2.2 billion for the Center for Disease Control;
 - \$3 billion for vaccine research; and
 - \$1 billion for small business loans.

IRS Notice 2020-18 and related FAQ (March 20, 2020)

Highlights

- Extension of time for "affected taxpayers" to file income tax returns or make payments of income taxes ordinarily due April 15, 2020, until July 15, 2020 regardless of the amount of taxes owed.
- IRC section 965 transition tax installment payments are covered under the IRS 90-day payment extension (July 15, 2020), even though these originated in 2017.
- Fiscal filers for 2019 are affected taxpayers and eligible for the July 15, 2020 extension.
- Taxpayers who have filing or payment due dates other than April 15 have not been granted an extension at this time.
 - Second quarter estimated tax payments are still due June 15, 2020.
- Form 8991 and IRC section 59A BEAT payments have been extended until July 15, 2020 for any taxpayer who has had the filing deadline extended from April 15 to July 15, 2020.
- In general, the time for filing most information returns is not extended at this time. Note that:
 - Forms 5472 for corporations are generally due on the extended due date of the reporting corporation's tax return (e.g., July 15, 2020 for calendar year filers).
 - It is unclear whether Forms 5472 for disregarded entities are similarly extended; it is recommended to file extensions for such returns prior to April 15, 2020.
 - Forms 5471 are generally due on the extended due date of the reporting U.S. person's tax return (e.g., July 15, 2020 for calendar year filers).

- Notice 2020-18 is also notable for the acknowledgement by the IRS that a federally declared disaster has occurred.
 - Under IRC section 139, during a “qualified disaster” (generally including a federally declared disaster), qualified disaster relief payments made by employers to individuals are tax-free to the recipient but deductible by the payer and not subject to employment taxes or withholding.
 - Employers should review the section 139 rules and existing guidance regarding what constitutes a qualified disaster relief payment, and monitor for further guidance from the IRS.

IRS Notice 2020-17 (superseded by Notice 2020-18) (March 18, 2020)

Highlights

- Extensions of time to make certain payments due April 15 until July 15 are automatic for all affected taxpayers (e.g., corporations, or consolidated groups of corporations, owing taxes under \$10,000,000).
- Between April 15 and July 15, no interest, penalty or additional tax calculated for failure to pay federal taxes postponed by Notice 2020-17.
- Payments on amounts in excess of the applicable postponed payment amount are still due by April 15.

U.S. STATE INCOME TAX

At present, the following states have offered specific guidance. We expect many to provide updates now that the federal proposal has been finalized.

Alabama

- The April 15, 2020 deadline for business returns and associated tax payments is extended until July 15, 2020.

Arizona

- The April 15, 2020 deadline for individual and corporate tax returns and payments is extended until July 15, 2020. No late filing and late payment penalties will be assessed.

California

- The Franchise Tax Board has postponed filing and payment deadlines to July 15, 2020 for 2019 tax returns and payments, 2020 quarter 1 and quarter 2 estimates, 2020 LLC taxes and fees and 2020 non-wage withholding payments.
- For taxpayers whose 2019 filing or payment due date falls between March 15, 2020 and July 15, 2020, the due date is July 15, 2020. For those with 2020 estimated tax payments due between March 15, 2020 and April 15, 2020, the due date is July 15, 2020.
- There is also an Employment Development Department 60-day extension for payroll taxes; the extension must be requested in writing.

Colorado

- The deadline for state income tax payments for individuals and businesses, as well as estimated tax payments are all extended until July 15, 2020.
- Estimated tax payments due on or after April 15, 2020 and on or before June 15, 2020 have been moved to July 15, 2020.
- All income tax returns required to be filed by April 15, 2020 are now due on or before October 15, 2020.

Connecticut

- The April 15, 2020 deadline for business returns and associated tax payments is extended until June 15, 2020.

Delaware

- The April 15, 2020 deadline for business returns and associated tax payments is extended until July 15, 2020.

District of Columbia

- The April 15, 2020 deadline for business returns and associated tax payments is extended until July 15, 2020.

Georgia

- The April 15, 2020 deadline for business returns and associated tax payments is extended until July 15, 2020.

Hawaii

- State income tax returns and payments that are due between April 20, 2020 and June 20, 2020 are eligible for an extension until July 20, 2020.

Idaho

- The April 15, 2020 deadline for business returns and associated tax payments is extended until June 15, 2020.

Illinois

- The income tax filing deadline is extended from April 15, 2020 until July 15, 2020. This extension does not apply to any estimated payment due dates. Those payments are still due on April 15, 2020 and June 15, 2020. This extension also does not include an extension of the extended due date. That date will remain October 15, 2020.

Indiana

- The April 15, 2020 deadline for business and individual returns, and associated tax payments, is extended until July 15, 2020.

Iowa

- The filing of returns and the related payments that are due between March 19, 2020 and July 31, 2020 are now due July 31, 2020. Interest begins to accrue on August 1, 2020.
- This relief does not apply to estimated taxes.

Kansas

- The April 15, 2020 deadline for business returns and associated tax payments is extended until July 15, 2020.

Kentucky

- The April 15, 2020 deadline for business returns and associated tax payments is extended until July 15, 2020.
- It should be noted that interest is not waived; only penalties are waived.

Louisiana

- The due date for income and franchise tax returns, and associated tax payments, are extended until July 15, 2020. No interest or penalties will be applicable if returns are filed and taxes are paid by this date.
- Fiscal year filers with return and payment due dates between March 1, 2020 and May 30, 2020 benefit from an automatic 60-day extension from the original due date. The extension period will run from July 16, 2020 to the general extension date of November 15, 2020, for corporate returns.
- Interest and penalties will start to accrue on July 16, 2020.
- Estimated payments are not covered by this relief.

Maryland

- The April 15, 2020 deadline for filing business and individual returns and associated tax payments is extended until July 15, 2020. No interest or penalties will be applied to filings and payments made by July 15, 2020.
- Fiscal and calendar year filers with tax years ending January 1, 2020 through March 31, 2020 are also eligible for the July 15, 2020 filing and payment deadline.

Minnesota

- Corporate taxpayers do not receive a payment extension – payments are still due on April 15, 2020. However, they do receive an automatic filing extension to the later of November 15, 2020 and the date of any federal filing extension.
- Individual taxpayers are eligible for an extension to file returns and pay associated taxes until July 15, 2020.

Mississippi

- The April 15, 2020 deadline for business returns and associated tax payments is extended until May 15, 2020.

Missouri

- The April 15, 2020th deadline for business returns and associated tax payments is extended until July 15, 2020.

Montana

- The April 15, 2020 deadline for tax return filing and tax payments for individual income taxpayers has been extended to July 15, 2020.
- Montana intends to be lenient with waiving penalties and interest associated with late tax and estimated tax payments.

Nebraska

- The state is providing this same income tax relief to state income taxpayers as the IRS has provided federally. The tax filing deadline will thus automatically be extended to July 15, 2020 for state income tax payments and estimated payments that were originally due on April 15, 2020.

New Jersey

- The April 15, 2020 deadline for filing business and individual returns is extended until June 30, 2020.

New Mexico

- Business and individual returns and associated tax payments due between April 15, 2020 and July 15, 2020 are extended until July 15, 2020.
- Withholding tax returns and payments due between March 25, 2020 and July 25, 2020 may be submitted without penalty by July 25, 2020.

New York State/City

- The April 15, 2020 deadline for business and individual returns and associated tax payments is extended until July 15, 2020.
- It should be noted that interest is not waived; only penalties are waived.

North Carolina

- The April 15, 2020 deadline for business and individual returns and associated tax payments is extended until July 15, 2020.
- Penalties will be waived if returns are filed and taxes are paid by July 15, 2020.

North Dakota

- The April 15, 2020 deadline for business and individual returns and associated tax payments is extended until July 15, 2020.

Oklahoma

- The April 15, 2020 deadline for business and individual returns and associated tax payments is extended until July 15, 2020.

Oregon

- The relief provided by the IRS extending the filing deadline to July 15, 2020 will be matched in Oregon for individuals and corporations.
- Initial quarterly payments for the Corporate Activity Tax (CAT) are due April 30, 2020. However, to the extent that the pandemic makes it difficult for businesses to estimate their first payment, an underpayment penalty will not be assessed to those making a good faith effort to estimate their first quarter payments.

Pennsylvania

- The April 15, 2020 deadline for business and individual returns and associated tax payments is extended until July 15, 2020.

Rhode Island

- The state's April 15, 2020 income tax filing deadline will be pushed back to July 15, 2020 to align with the IRS' newly extended federal tax deadline.

South Carolina

- The filing deadline for business and individual returns and associated tax payments is extended until July 15, 2020.
- Tax returns and payments due between April 1, 2020 and June 1, 2020 will now be due June 1, 2020. Penalties and interest will not be charged if payment is made by June 1, 2020. This includes South Carolina individual income taxes, corporate income taxes, sales and use tax, admissions tax, and other taxes paid to the South Carolina Department of Revenue.

Tennessee

- The franchise, excise tax and income tax filing and payment deadlines are extended from April 15, 2020 to July 15, 2020.

Texas

- The Texas Department of Revenue will offer assistance (e.g., short-term payment agreements, waivers of penalties and interest) for certain affected businesses. Taxpayers are requested to call 1 (800) 252-8880 to discuss relief options.

Utah

- The State Tax Commission plans to mirror the federal extensions and intends to post further guidance as soon as possible.

Vermont

- The April 15, 2020 deadline for business returns and associated tax payments is extended until July 15, 2020.

Virginia

- Businesses impacted by coronavirus can request an extension of the due date for filing and payment of their February 2020 sales tax returns due March 20, 2020, for 30 days. When granted, businesses will be able to file and pay no later than April 20, 2020, with a waiver of any penalties.
- Any income tax payments due during the time period of April 1, 2020 to June 1, 2020, will now be due on June 1, 2020. This includes individual and corporate income taxes paid to Virginia Tax.
- Late payment penalties will not be charged if payments are made by June 1, 2020. However, interest will still accrue; as such, if taxpayers can pay by the original filing due date, they should.

Washington

- A business may request a filing extension from the Department of Revenue (DOR) prior to the due date of the return, and, if granted, the business would be allowed to delay reporting and paying its tax liability. If a business needs an extension of more than 30 days, the law requires the Department to collect a deposit from the business.
- The DOR may also waive penalties under limited circumstances if a business is late in paying its tax obligation. The law also grants the DOR authority to provide a one-time, 24-month, late payment penalty waiver if the business has not owed a late payment penalty during the previous 24 months. Businesses can contact the DOR at 1 (360) 705-6705.

Wisconsin

- Both federal and Wisconsin income tax payment and return due dates are automatically extended from April 15, 2020 to July 15, 2020. Wisconsin law will automatically extend time and waive interest and penalties for taxpayers due to a presidentially declared disaster.

U.S. SALES TAX

States have also started providing guidance and extensions for sales tax filings and payments. For example, the following states have provided some form of an extension or flexibility to certain taxpayers: Alabama, California, Florida,

Illinois, Louisiana, Massachusetts, Maryland, Michigan, Minnesota, New York, Pennsylvania, South Carolina and Virginia.

CAN WE BE OF ASSISTANCE?

We anticipate that additional guidance will be announced and that the tax landscape will be changing often. We are available to assist you through this challenging time. Please reach out to your Deloitte representative or any of the U.S. Tax experts listed on this alert to discuss next steps and/or any concerns you may have.

[For more information on COVID-19, see our Canadian COVID-19 information hub and our global COVID-19 information hub](#)

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