COVID-19 LEGISLATIVE RESPONSES: TAX INCENTIVES & CREDITS FACT SHEET

DISCLAIMER: As this memo is based on a constantly changing situation, it is subject to further updates. This memo should not be considered legal advice. Updated as of 3/26/20.

The CARES Act includes several tax incentives that could be valuable to eligible businesses attempting to navigate the crisis:

- **Employee Retention Tax Credit:** This provision would allow employers to claim a refundable payroll tax credit equal to 50 percent of wages (maximum of $10,000 in wages per employee) paid to employees during the crisis. The credit is restricted to employers who see a full or partial suspension of operations due to a shutdown order or who see gross receipts decline by more than 50 percent relative to the same quarter the previous year. For employers with more than 100 full-time employees, the credit is restricted to wages paid to employees not providing service due to COVID-19. For employers with fewer than 100 fulltime employees, it is applicable to all wages.
- **Delay of Payroll Taxes:** This provision would allow employers to defer payment on the employer contribution of Social Security payroll taxes through the end of the year. Half of this deferred amount would be due to be paid on December 31, 2021 and the other half by December 31, 2022.
- **Modification of Net Operating Losses (NOL):** This provision would allow NOLs from 2018, 2019, and 2020 to be carried back five years and allow NOLs to fully offset income. This change is intended to allow businesses to use losses and amend prior year returns to provide liquidity during the outbreak.
- **Modification on Limitation of Losses for Sole Proprietors and Pass-Throughs:** This provision temporarily lifts the loss limitation for sole proprietors and pass-throughs with the intention of allowing them to utilize excess losses to provide necessary cashflow.
- **Increase to Interest Expense Deduction:** This provision would raise (from 30 to 50 percent of taxable income) the limitation on interest that businesses are allowed to deduct from their 2019 and 2020 taxes.
- **Technical Amendment Regarding Qualified Improvement Property (QIP):** This provision would correct an error in the 2017 Tax Cuts and Jobs Act preventing businesses, particularly in the hospitality industry, from writing off facility improvement costs immediately rather than over 39 years.