

# Business Related Tax Provisions in the CARES Act

On March 27th the Coronavirus Aid, Relief, and Economic Security Act – the CARES Act – was passed by Congress and signed into law. This Act provides over \$2 trillion in economic stimulus and is the third act of Congress in response to COVID-19. Below are a list of business related tax provisions in the Act.

- **Employee Retention Credit:** Section 2301 of the CARES Act creates a tax credit of employers subject to a COVID-19 related closure. The employment tax credit for eligible employers for each calendar quarter is equal to 50 percent of qualified wages of each employee.
- **Delayed Payment of Employer Payroll and SECA Taxes:** Section 2302 of the CARES Act permits employers to delay payment of the employer-portion of Social Security taxes on wages paid between the date of enactment of the CARES Act and January 1, 2021. Half of the delayed payroll taxes will be due by December 31, 2021 and half will be due by December 31, 2022. This same delay applies to the Self Employed Contributions Act and Railroad Retirement Tax Act.
- **Net Operating Losses:** Section 2303 of the CARES Act allows a C-corporation that incurs a net operating loss in 2020 or has incurred one in 2018 or 2019 is permitted to carry back that NOL to the prior five years of offset prior year income to claim a tax refund on previously paid federal income taxes. This modification will help improve business liquidity.
- **Losses for non C-corporations:** Section 2304 amends the changes in the Tax Cuts and Jobs Act that limited non C-corporation taxpayers' ability to deduct excess business losses – defined as “the amount by which the total deductions attributable to all of a taxpayer’s trades or businesses exceed such taxpayer’s total gross income and gains attributable to those trades or businesses plus \$250,000 (or \$500,000 in the case of a joint return)” – in tax years after December 31, 2017 and January 1, 2026. As amended this limitation only applies to taxable years beginning after December 31, 2020.
- **Credit for Alternative Minimum Tax Liability:** Section 2305 of the CARES Act accelerates a corporation’s ability to recover AMT refundable credits that could have been claimed in 2020 and 2021 to 2018 and 2019, allowing corporations to obtain additional business liquidity.
- **Limitation on Business Interest:** Section 2306 of the CARES Act modifies the adjusted taxable income limit, when calculating the amount of deductible business interest expense in a taxable year, from 30% to 50%. This change applies to taxable years beginning in 2019 and 2020. For partnerships, this modification is only allowed for the taxable year beginning in 2020.
- **Bonus Depreciation for Qualified Improvement Property:** Section 2307 of the CARES Act is a technical correction to the Tax Cuts and Jobs Act of 2017’s bonus depreciation provision, which due to a drafting error left out “qualified improvement property” as a type of “qualified property” preventing it from qualifying for bonus depreciation deductions. Specifically the Act corrects the drafting error by assigning a 15-year depreciable life to qualified improvement property, thereby allowing it to be characterized as qualified property eligible for bonus depreciation.
- **Temporary Excise Tax Exemption for Alcohol Used in Hand Sanitizer:** Section 2308 of the CARES Act eliminates the excise tax on distilled spirits between December 31, 2019 and January 1, 2021 use in or contained in hand sanitizer.

For more information please see:

[The National Law Review](#)  
[Foley & Lardner](#)  
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