CARES Act Increases Deductions for Certain Charitable Contributions

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On March 27, 2020, the Coronavirus Aid, Relief and Economic Security Act (CARES Act) was signed into law. The act, which provides assistance to individuals and businesses in response to the COVID-19 pandemic, increases the charitable contribution deduction that a taxpayer is entitled to claim for cash contributions made to most public charities during the 2020 calendar year.

Prior to the CARES Act, an individual's deduction for cash contributions to public charities generally was limited to 60% of the individual's adjusted gross income. The act increases the deductible amount for an individual's "qualified contributions" — which are defined as cash contributions made during the 2020 calendar year to public charities other than supporting organizations and donor advised funds, and to private operating foundations and conduit foundations — to 100% of the individual's adjusted gross income, subject to a reduction for other charitable contributions.

If an individual makes a charitable contribution during the 2020 calendar year that is not a qualified contribution (*e.g.*, a contribution to a private nonoperating foundation), the legislation permits the individual to take a charitable deduction, subject to generally applicable limitations, and provides for a corresponding reduction to the allowable deduction for qualified contributions.

The CARES Act also provides for an enhanced deduction for qualified contributions made by C corporations. Prior to the act, a C corporation's charitable contribution deduction generally was limited to 10% of its taxable income. Under the new law, a C corporation is now entitled to deduct qualified contributions of up to 25% of its taxable income, reduced by the amount of any other charitable contributions for which a charitable deduction is allowed.

To constitute a qualified contribution, the contribution must be made during the 2020 calendar year regardless of whether the taxpayer's taxable year is the calendar year. In addition, a taxpayer must elect to receive the benefit of the increased charitable deduction for any qualified contributions. The act does not specify the mechanism for making this election. Presumably, a calendar year taxpayer will make the election on the taxpayer's 2020 income tax return, and a fiscal year taxpayer will make the election on each income tax return that includes the date of the relevant contribution. In the case of a qualified contribution made by a partnership or an S corporation, each partner or shareholder must make a separate election.

If a taxpayer makes qualified contributions in excess of the amount that the taxpayer is entitled to deduct, the taxpayer may carry over the excess contributions to succeeding taxable years, subject to generally applicable charitable contribution carryforward limitations.