

Stradley Ronon Stevens & Young, LLP
2005 Market Street
Suite 2600
Philadelphia, PA 19103-7018
215.564.8000 Telephone
215.564.8120 Facsimile
www.stradley.com

With other offices in:
Washington, D.C.
New York
New Jersey
Illinois
Delaware



www.meritas.org

Stradley Ronon is a member of Meritas, the premier global alliance of independent law firms. Meritas firms offer a full range of legal services to meet every client need.

Information contained in this publication should not be construed as legal advice or opinion or as a substitute for the advice of counsel. The enclosed materials may have been abridged from other sources. They are provided for educational and informational purposes for the use of clients and others who may be interested in the subject matter.

Copyright © 2021
Stradley Ronon Stevens & Young, LLP
All rights reserved.

IRS Releases Guidance on Corporate Charitable Deduction for Cash Contributions

The IRS, in [news release 2021-27](#), explained how corporations may qualify for the new 100% limit for disaster relief contributions and offered a temporary waiver of the recordkeeping requirement for corporations otherwise qualifying for the increased limit. Generally, under Section 170, a corporation's charitable deduction can't exceed 10% of its taxable income, computed with certain modifications. (Section references are to the Internal Revenue Code of 1986, as amended (the Code).) The Taxpayer Certainty and Disaster Tax Relief Act of 2020, part of the Consolidated Appropriations Act, 2021 (CAA 2021), temporarily increased the limit, to up to 100% of a corporation's taxable income, for contributions paid in cash for relief efforts in qualified disaster areas. Qualified contributions must be paid by the corporation during the period beginning on Jan. 1, 2020, and ending on Feb. 25, 2021. Contributions made to a supporting organization or to establish or maintain a donor advised fund do not qualify.

A corporation elects the increased limit by computing its deductible amount of qualified contributions using the increased limit and by claiming the amount on its return for the tax year in which the contribution was made. Corporations must meet the usual recordkeeping requirements that apply to charitable contributions, including obtaining a contemporaneous written acknowledgment (CWA) from the charity. For corporations electing this increased limit, a corporation's CWA must include a disaster relief statement, stating that the contribution was used, or is to be used, by the eligible charity for relief efforts in one or more qualified disaster areas. However, because of the timing of the new law, a CWA may have been obtained without the disaster relief statement and, as such, the IRS will not challenge a corporation's deduction of any qualified contribution made before Feb. 1, 2021, solely on the grounds that the corporation's CWA does not include the disaster relief statement.

IRS Updates FAQs for Paid Sick and Family Leave

The IRS has updated its [Frequently Asked Questions \(FAQs\)](#) related to the paid sick and family leave tax credits, as amended under the Families First Coronavirus Response Act (FFCRA). The updates to the FAQs cover how the COVID-related Tax Relief Act of 2020 (COVIDTRA), part of CAA 2021, extends the availability of the tax credits created by the FFCRA to eligible employers for paid sick and family leave provided through March 31, 2021, as well as other amendments to the credits. (See our prior coverage [here](#), [here](#), and [here](#).) Under the FFCRA, employers were required to provide paid sick leave and expanded family and medical leave to employees for COVID-19 related reasons. Also, it provided refundable paid sick leave credits and paid childcare leave credits for employers who provided qualifying leave through Dec. 31, 2020. COVIDTRA extends the refundable payroll tax credits for paid sick and family leave through the end of March 2021. This provision is effective as if included in FFCRA.

Corrected Forms 1099-MISC Must Be Filed if Certain SBA Loan Payments Reported as Income to Borrower

The IRS has announced, in [Announcement 2021-2](#), that lenders who have filed with the IRS or furnished to a taxpayer Form 1099-MISC, which reports certain payments on SBA subsidized loans as income to the borrower, must file and furnish corrected Forms 1099-MISC excluding such amounts from income. (See our prior coverage [here](#) with regard to the IRS's recent waiver of the reporting requirement.)

IRS Releases Form 7202 and Instructions for the Credits for Sick Leave and Family Leave for Self-Employed Individuals

The IRS has released [Form 7202](#), Credits for Sick Leave and Family Leave for Certain Self-Employed Individuals, and [related instructions](#). The form is used by self-employed individuals to calculate the amount to claim on their 2020 tax return for qualified sick and family leave equivalent credits provided by the FFCRA.

Philadelphia DOR Updates Guidance on U&O Tax during COVID Restrictions

The City of Philadelphia's Department of Revenue (DOR) has released [guidance](#) on the application of its Use & Occupancy Tax (U&O Tax) to businesses that were ordered to close during the Mayor of Philadelphia's "Safer at Home" restrictions first announced on Nov. 16, 2020. In general, impacted businesses can exclude space not used or closed as a result of the restrictions from their calculation of the U&O Tax.

NYC Releases Guidance on Decoupling from CARES Act Changes

The New York City Department of Finance has released updated memoranda, [20-6](#) (regarding Sections 163(j), 172, and 461(l)) and [18-11](#) (regarding Section 163(j)), discussing the City's decoupling from certain provisions of the Code under the City's Business Corporation Tax (BCT), General Corporation Tax (GCT), Unincorporated Business Tax (UBT), and Banking Corporation Tax (BTX). The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) included several amendments to Sections 163(j), the business interest expense limitation, 172, the net operating loss limitations, and 461(l), the non-business loss limitations, originally enacted by the 2017 Tax Cuts and Jobs Act (TCJA). The BCT, GCT, UBT, and BTX are decoupled from CARES Act changes to the interest expense



Christopher C. Scarpa



Jacquelyn Gordon

For more information, contact Christopher C. Scarpa at 215.564.8106 or cscarpa@stradley.com or Jacquelyn Gordon at 215.564.8176 or jgordon@stradley.com.

provisions under Section 163(j)(10) for tax years beginning in 2019 and 2020, and for tax years beginning before Jan. 1, 2021, the GCT, UBT, and BTX are decoupled from CARES Act changes to the net operating loss provisions under Section 172 and the UBT is decoupled from CARES Act changes to the limitation on excess business losses of non-corporate taxpayers under Section 461(l).

NYC Releases Guidance on GILTI, FDII, and Section 965 Repatriation Amounts

The New York City Department of Finance has released updated memoranda, [18-10](#) and [18-9](#), regarding the federal treatment of income earned overseas. The TCJA added provisions to the Code regarding the mandatory deemed repatriation of income under Section 965 and the treatment of foreign-derived intangible income (FDII) and global intangible low-taxed income (GILTI) under Section 250. The memoranda discuss these changes with regard to New York City's BCT, GCT, UBT, and BTX. New York City has decoupled from the federal FDII deduction for tax years beginning on or after Jan. 1, 2017.