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Summers Compton Wells LLC (SCW) has been closely monitoring legislative and regulatory developments concerning the COVID-19 (coronavirus) pandemic to help employers and employees understand how to respond to the coronavirus pandemic. The following summary is prepared in connection with these efforts.

THE CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT (the "CARES Act")

March 31, 2020

By: Alan J. Ratchford

The CARES Act was enacted into law on March 27, 2020, as part of the federal effort to provide relief to small businesses affected by the ongoing COVID-19 pandemic, including a new Paycheck Protection Program, a subsidy for existing SBA loans, and expanding relief under the SBA's existing Economic Injury Disaster Loan program, which was signed into law on March 6, 2020 (SCW has prepared a separate summary of these provisions). The CARES Act also provides certain tax relief and other tax benefits for employers. This summary discusses those tax issues.

I. Businesses.

A. Employee Retention Credit for Employers.

1. New Law. This provision provides a refundable payroll tax credit for 50% of wages paid by eligible employers to certain employees during the COVID-19 crisis.

a) Eligible Employers. The credit is available to employers, including non-profits, whose operations have been fully or partially suspended as a result of a government order limiting commerce, travel, or group meetings. The credit is also provided to employers who have experienced a greater than 50% reduction in quarterly receipts, measured on a year-over-year basis. The credit is not available to employers receiving Small Business Interruption Loans under Sec. 1102 of the CARES Act.

b) Wages Paid to which Employees? For employers who had an average number of full-time employees in 2019 of 100 or fewer, all employee wages are eligible, regardless of whether the employee is furloughed. For employers who had a larger average number of full-time employees in 2019, only the wages of employees who are furloughed or face reduced hours as a result of their employers' closure or reduced gross receipts are eligible for the credit. No credit is available with respect to an employee for any period for which the employer is allowed a Work Opportunity Credit with respect to such employee.

c) Wages. The term "wages" includes health benefits and is capped at the first $10,000 in wages paid by the employer to an eligible employee. Wages do not include amounts taken into account for purposes of the payroll credits, for required paid sick leave or required paid family leave in the Families First Coronavirus Act, nor for wages taken into account for the employer credit for paid family and medical leave.

d) Other. The Internal Revenue Service (the "IRS") is granted authority to advance payments to eligible employers and to waive applicable penalties for employers who do not deposit applicable payroll taxes in anticipation of receiving the credit. (Act Sec. 2301(k))

e) Effective Date. The credit applies to wages paid after March 12, 2020 and before January 1, 2021.

B. Delay of Payment of Employer Payroll Taxes.

1. Background. Employers are required to withhold social security taxes and tax under the Railroad Retirement Tax Act (RRTA) from wages paid to employees. Self-employed individuals are subject to self-employment (SECA) tax.

2. Deferral of Employer Payroll Taxes. The CARES Act allows taxpayers to defer paying the employer portion of certain payroll taxes through the end of 2020. Thus, notwithstanding any other provision of law, the payment for "applicable employment taxes" for the "payroll tax deferral period" won't be due before the "applicable date." For purposes of the above rules, the term ''applicable employment taxes'' means employer social security taxes, employer Medicare taxes on wages up to the social security limit, and comparable RRTA taxes. The term ''payroll tax deferral period'' means the period beginning on the date of enactment of the Act (March 27, 2020) and ending before January 1, 2021. The term ''applicable date'' means: (A) December 31, 2021, with respect to 50% of the amounts to which employment taxes and self-employment tax, as the case may be, apply, and (B) December 31, 2022, with respect to the remaining 50% of those amounts. An employer will be treated as having timely made all deposits of applicable employment taxes required to be made during the payroll tax deferral period if all such deposits are made not later than the applicable date. The above rules won't apply to any taxpayer which has had indebtedness forgiven under Section 1105 of the CARES Act.

3. Deferral of Self-Employment Taxes. Notwithstanding any other provision of law, the payment for 50% of self-employment taxes imposed under Code Sec. 1401(a) for the payroll tax deferral period won't be due before the applicable date. For required estimated tax payments applicable to any tax year which includes any part of the payroll tax deferral period, 50% of the self-employment taxes imposed for the payroll tax deferral period won't be treated as taxes to which estimated payments are required.

C. Temporary Repeal of Taxable Income Limitation for Net Operating Losses (NOLs).

1. Old Law. NOLs are currently subject to a taxable-income limitation and can't fully offset income. For any taxable year, the NOL deduction is generally limited to the lesser of (a) the

aggregate of the NOL carryovers and NOL carrybacks to such year or (b) 80% of taxable income computed without regard to the deduction allowable in this section.

2. New Law. The CARES Act temporarily removes the taxable income limitation to allow an NOL to fully offset income.

3. Effective Date. This provision applies to NOLs arising in tax years beginning after December 31, 2017 and which are carried back to tax years beginning on or before December 31, 2017.

D. Modification of Rules Relating to Net Operating Loss (NOL) Carrybacks.

1. Old Law. Except for farming losses and losses of property and casualty insurance companies, an NOL for any tax year is carried forward to each tax year following the tax year of the loss but isn't carried back to any tax year preceding the tax year of the loss.

2. New Law. The CARES Act provides that NOLs arising in a tax year beginning after December 31, 2018 and before January 1, 2021 can be carried back to each of the five tax years preceding the tax year of such loss.

3. Effective Date. This provision applies to NOLs arising in tax years beginning after December 31, 2017 and to tax years beginning before, on or after such date to which such NOLs are carried.

E. Modification of Limitation on Losses for Noncorporate Taxpayers.

1. Old Law. Noncorporate taxpayers generally may not deduct "excess business losses" for tax years beginning after December 31, 2017 and ending before January 1, 2026. Generally, an "excess business loss" is the excess of the (1) taxpayer's aggregate trade or business deductions for the tax year over (2) the sum of the taxpayer's aggregate trade or business gross income or gain plus $250,000 (as adjusted for inflation).

2. New Law. The CARES Act temporarily modifies the loss limitation for noncorporate taxpayers so they can deduct excess business losses arising in 2018, 2019, and 2020.

3. Effective Date. This provision applies to tax years beginning after December 31, 2017.

F. Corporate Minimum Tax Credit (MTC) is Accelerated. Corporations (for which the alternative minimum tax was repealed for tax years after 2017) may claim outstanding MTCs (subject to limits) for tax years before 2021, at which time any remaining MTC may be claimed as fully refundable. The CARES Act accelerates the use of the outstanding MTCs so that any remaining MTC will be fully refundable in 2019 rather than 2021. The CARES Act also provides for an election to take the entire refundable credit amount in 2018 by filing a claim for refund before December 31, 2020.

G. Deductibility of Interest Expense Temporarily Increased.

1. Increased Limitation. The Tax Cuts and Jobs Act of 2017 (the "TCJA") generally limited the amount of business interest allowed as a deduction to 30% of adjusted taxable income.

The CARES Act temporarily and retroactively increases the limitation on the deductibility of interest expense from 30% to 50% for tax years beginning in 2019 and 2020. Under a special rule for partnerships, the increase in the limitation will not apply to partners in partnerships for 2019 (it applies only in 2020). Taxpayers may elect out of the increase, for any tax year, in the time and manner the IRS prescribes. Once made, the election can be revoked only with IRS consent. For partnerships, the election must be made by the partnership and can be made only for tax years beginning in 2020.

2. Election to Calculate 2020 Interest Limitation using 2019 Adjusted Taxable Income. In addition, taxpayers can elect to calculate the interest limitation for their tax year beginning in 2020 using the adjusted taxable income for their last tax year beginning in 2019 as the relevant base. For partnerships, this election must be made by the partnership.

H. Bonus Depreciation Technical Correction for Qualified Improvement Property. The TCJA amended Code Sec. 168 to allow 100% additional first-year depreciation deductions ("100% Bonus Depreciation") for certain qualified property. The TCJA eliminated pre-existing definitions for (1) qualified leasehold improvement property, (2) qualified restaurant property, and (3) qualified retail improvement property. It replaced those definitions with one category called qualified improvement property ("QI Property"). A general 15-year recovery period was intended to have been provided for QI Property. However, that specific recovery period failed to be reflected in the statutory text of the TCJA. Thus, under the TCJA, QI Property falls into the 39-year recovery period for nonresidential rental property. That makes the QI Property category ineligible for 100% Bonus Depreciation. The CARES Act provides a technical correction to the TCJA, and specifically designates QI Property as 15-year property for depreciation purposes. This makes QI Property a category eligible for 100% Bonus Depreciation. The CARES Act contains a few additional tax provisions, including provisions on the non-taxability of certain loan forgiveness, advance refunding of certain credits and the suspension of certain aviation taxes. Checkpoint will provide information about these additional tax provisions in a future Federal Tax Update.

I. Modification of Limitations on Corporate Cash Charitable Contributions during 2020.

1. Background. A corporation's charitable deduction cannot exceed 10% of its taxable income, as computed with certain modifications. If a corporation's charitable contributions for a year exceed the 10% limitation, the excess is carried over and deducted for each of the five succeeding years in order of time, to the extent the sum of carryovers and contributions for each of those years does not exceed 10% of taxable income.

2. New Law. The CARES Act provides that (except as stated below) qualified contributions (see above) are disregarded in applying the 10% limit on charitable contributions of corporations and the rules on carryovers of excess contributions. Qualified contributions are allowed as a deduction only to the extent that the aggregate of those contributions does not exceed the excess of 25% of the corporation's taxable income over the amount of all other charitable contributions allowed to the corporation as deductions for the contribution year. If the aggregate amount of qualified contributions exceeds the limitation in the previous paragraph, the excess is taken into account under the carryover rule, subject to its limitations.

3. Effective Date. This provision applies to tax years beginning after December 31, 2019.

J. Forgiveness for Certain SBA-Guaranteed Loans.

1. Background. The reduction or cancellation of indebtedness generally results in cancellation of debt (COD) income to the debtor. An "identifiable event" determines when a debt has been reduced or canceled. An identifiable event includes a creditor accepting less than full payment as a complete discharge of a debt, the acquisition by a debtor of the debtor's own debt, and events or circumstances that remove the likelihood that a debt will be paid.

2. New Law. Under the CARES Act, an eligible recipient is eligible for forgiveness of indebtedness on a covered loan in an amount equal to the sum of the following costs incurred and payments made during the covered period: (1) payroll costs; (2) any interest payments on any covered mortgage obligation; (3) any payment for any covered rent obligation; (4) covered utility payments. The amount that would be includible in gross income of the eligible recipient by reason of such forgiveness shall be excluded from gross income. An eligible recipient seeking forgiveness of indebtedness on a covered loan must verify that the amount for which forgiveness is requested was used to retain employees, make interest payments on a covered mortgage obligation, make payments on a covered lease obligation or to make covered utility payments.

3. Requirements. Under the CARES Act, an eligible recipient is the recipient of a covered loan (the "borrower"). A covered loan is a loan guaranteed under Sec. 7(a)(36) of the Small Business Act (15 USC 636(a), as added by Sec. 1102 of the Cares Act). The covered period is the 8-week period beginning on the origination date of a covered loan. A covered rent obligation is rent paid under a lease agreement in force before February 15, 2020. A covered mortgage obligation is any indebtedness or debt instrument incurred in the ordinary course of business that (A) is the liability of the borrower; (B) is a mortgage on real or personal property; and (C) was incurred before February 15, 2020. Covered utility payments are payments for a service for the distribution of electricity, gas, water, transportation, telephone, or internet access for which service began before February 15, 2020.

4. Effective Date. These provisions apply to covered loans made during the period beginning on February 15, 2020 and ending on June 30, 2020.

K. Advance Refunding of Credits for Paid Sick Leave and Paid Family Leave.

1. Background. Under the recently-enacted Families First Coronavirus Response Act (the "FFCRA"), small employers (500 or fewer employees) whose employees receive paid sick or family leave required by the FFCRA are entitled to credits as follows:

a) Paid Sick Leave Credit. For an employee who is unable to work because of coronavirus quarantine or self-quarantine or has coronavirus symptoms and is seeking a medical diagnosis, eligible employers may receive a refundable sick leave credit for sick leave at the employee's regular rate of pay, up to $511 per day and $5,110 in the aggregate, for a total of 10 days. For an employee who is caring for someone with coronavirus, or is caring for a child because the child's school or child care facility is closed, or the child care provider is unavailable due to the coronavirus, eligible employers may claim a credit for two-thirds of the employee's regular rate of pay, up to $200 per day and $2,000 in the aggregate, for up to 10 days. Eligible employers are entitled to an additional tax credit determined based on costs to maintain health insurance coverage for the eligible employee during the leave period.

b) Child Care Leave Credit. In addition to the sick leave credit, for an employee who is unable to work because of a need to care for a child whose school or child care facility is closed or whose child care provider is unavailable due to the coronavirus, eligible employers may receive a refundable child care leave credit. This credit is equal to two-thirds of the employee's regular pay, capped at $200 per day or $10,000 in the aggregate. Up to 10 weeks of qualifying leave can be counted towards the child care leave credit. Eligible employers are entitled to an additional tax credit determined based on costs to maintain health insurance coverage for the eligible employee during the leave period.

2. New Law. The CARES Act provides for advance refunding of the credits for paid sick leave and paid family leave that were established under the FFCRA. In anticipation of the credits, including the refundable portion, the credit may be advanced, according to forms and instructions provided by the IRS. According to IRS guidance, when employers pay their employees, they are required to withhold from their employees' paychecks federal income taxes and the employees' share of Social Security and Medicare taxes. The employers then are required to deposit these federal taxes, along with their share of Social Security and Medicare taxes, with the IRS and file quarterly payroll tax returns (Form 941 series) with the IRS. Under guidance to be released by the IRS, eligible employers who pay qualifying sick or child care leave will be able to retain an amount of the payroll taxes equal to the amount of qualifying sick and child care leave that they paid, rather than deposit them with the IRS. The payroll taxes that are available for retention include withheld federal income taxes, the employee share of Social Security and Medicare taxes, and the employer share of Social Security and Medicare taxes with respect to all employees. If there are not sufficient payroll taxes to cover the cost of qualified sick and child care leave paid, employers will be able to file a request for an accelerated payment from the IRS. The IRS expects to process these requests in two weeks or less. The details of this new, expedited procedure will be announced by the IRS.

3. Effective Date. Under the FFCRA, the credits apply only to qualified sick and family leave wages paid for the period beginning on a date selected by the IRS (which may be no later than April 2, 2020), and ending on December 31, 2020.

II. INDIVIDUALS.

A. Individual Recovery Rebate/Credit.

1. Applicability of Credit. Under the CARES Act, an eligible individual is allowed an income tax credit for 2020 equal to the sum of: (1) $1,200 ($2,400 for eligible individuals filing a joint return) plus (2) $500 for each qualifying child of the taxpayer (as defined for purposes of the child tax credit). The credit is refundable. Individuals who have no income, as well as those whose income comes entirely from non-taxable means-tested benefit programs such as SSI benefits, are eligible for the credit and the advance rebate. For purposes of the credit, an "eligible individual" is any individual other than a nonresident alien or an individual for whom a dependency deduction is allowable to another taxpayer for the tax year. Children who are (or can be) claimed as

dependents by their parents aren't eligible individuals, even if they have enough income to have to file a return. It makes no difference if the parent chooses not to claim the child as a dependent, because the dependency deduction is still "allowable" to the parent. An individual who wasn't an eligible individual for 2019 may become one for 2020, e.g., where the individual was a dependent for 2019 but not for 2020. The IRS won't send an advance rebate to such an individual, because advance rebates are generally based on information on the 2019 return (see below). However, the individual will be able to claim the credit when filing the 2020 return.

2. Phase Out. The amount of the credit is reduced (but not below zero) by 5% of the taxpayer's adjusted gross income ("AGI") in excess of: (1) $150,000 for a joint return, (2) $112,500 for a head of household, and (3) $75,000 for all other taxpayers. Under these rules, the credit is completely phased-out for a single filer with AGI exceeding $99,000 and for joint filers with no children with AGI exceeding $198,000. For a head of household with one child, the credit is completely phased out when AGI exceeds $146,500.

3. Advance of Rebate Credit During 2020. Each individual who was an eligible individual for 2019 is treated as having made an income tax payment for 2019 equal to the advance refund amount for 2019. The "advance refund amount" is the amount that would have been allowed as a credit for 2019 had the credit provision been in effect for 2019. The IRS will refund or credit any resulting overpayment as rapidly as possible. No interest will be paid on the overpayment. If an individual hasn't yet filed a 2019 income tax return, the IRS will determine the amount of the rebate using information from the taxpayer's 2018 return. If no 2018 return has been filed, the IRS will use information from the individual's 2019 Form SSA-1099, Social Security Benefit Statement, or Form RRB-1099, Social Security Equivalent Benefit Statement. In other words, even though the credit is technically for 2020, the law treats it as an overpayment for 2019 that the IRS will rebate as soon as possible during 2020. Most eligible individuals won't have to take any action to receive an advance rebate from the IRS. This includes many low-income individuals who file a tax return to claim the refundable earned income credit and child tax credit. The IRS may make the rebate electronically to any account to which the payee authorized, on or after January 1, 2018, the delivery of a refund of federal taxes or of a federal payment. No later than 15 days after distributing a rebate payment, the IRS must mail a notice to the taxpayer's last known address indicating how the payment was made, the amount of the payment, and a phone number for reporting any failure to receive the payment to the IRS. No advance rebate will be made or allowed after December 31, 2020.

4. Advance Rebate Reduces Credit Allowed for 2020*.* The amount of credit that is allowable for 2020 must be reduced (but not below zero) by the aggregate advance rebates made or allowed to the taxpayer during 2020. If the taxpayer received an advance rebate during 2020 that was less than the credit to which the taxpayer is entitled for 2020, the taxpayer will be able to claim the balance of the credit when filing the 2020 return. If, on the other hand, the advance rebate received was greater than the credit to which the taxpayer is entitled, the taxpayer won't have to pay back the excess. That is because the 2020 credit can't be reduced below zero. If an advance rebate was made or allowed for a joint return, half of the rebate is treated as having been made or allowed to each spouse who filed the joint return. Thus, if taxpayers filed a joint return for 2019 and received an advance rebate, but were divorced or filed separate returns for 2020, each individual will take into account half of the advance rebate when reducing the credit allowed for 2020.

5. Regulations. The IRS is to prescribe regulations and other guidance as necessary to carry out the purposes of the credit provision, including appropriate measures to avoid allowing a taxpayer to receive multiple credits or rebates.

B. No 10% Additional Tax for Coronavirus-Related Retirement Plan Distributions.

1. In General. A distribution from a qualified retirement plan is generally subject to a 10% additional tax unless the distribution meets an exception under Code Sec. 72(t). The CARES Act provides that the 10% additional tax does not apply to any coronavirus-related distribution, up to $100,000. A coronavirus-related distribution is any distribution (subject to dollar limits discussed below), made on or after January 1, 2020, and before December 31, 2020, from an eligible retirement plan, made to a qualified individual. A qualified individual is an individual (1) who is diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019 (COVID-19) by a test approved by the Centers for Disease Control and Prevention (CDC), (2) whose spouse or dependent is diagnosed with such virus or disease by such a test, or (3) who experiences adverse financial consequences as a result of being quarantined, being furloughed or laid off or having work hours reduced due to such virus or disease, being unable to work due to lack of child care due to such virus or disease, closing or reducing hours of a business owned or operated by the individual due to such virus or disease, or other factors as determined by the Secretary of the Treasury.

2. Employee Certification. The administrator of an eligible retirement plan may rely on an employee's certification that the employee satisfies the above conditions in determining whether any distribution is a coronavirus-related distribution.

3. Limit on Distribution. The aggregate amount of distributions received by an individual which may be treated as coronavirus-related distributions for any tax year cannot exceed $100,000. If a distribution to an individual would (without regard to the $100,000 limit) be a coronavirus-related distribution, a plan is not treated as violating the Code merely because the plan treats such distribution as a coronavirus-related distribution, unless the aggregate amount of such distributions from all plans maintained by the employer (and any member of any controlled group which includes the employer) to such individual exceeds $100,000.

4. Distribution Can Be Contributed Back To Retirement Plan. Any individual who receives a coronavirus-related distribution may, at any time during the 3-year period beginning on the day after the date on which such distribution was received, make one or more contributions in an aggregate amount not to exceed the amount of such distribution to an eligible retirement plan of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under the Code. If a contribution is made from an eligible retirement plan other than an individual retirement plan, then the taxpayer is, to the extent of the amount of the contribution, treated as having received the coronavirus-related distribution in an eligible rollover distribution and as having transferred the amount to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution. If a contribution is made with respect to a coronavirus-related distribution from an individual retirement plan, then, to the extent of the amount of the contribution, the coronavirus-related distribution is treated as a distribution described in Code Sec. 408(d)(3) and as having been transferred to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

5. Distribution Can Be Included in Income Over Three Years. In the case of any coronavirus-related distribution, unless the taxpayer elects not to, any amount required to be included in gross income for such tax year will be so included ratably over the 3-tax year period beginning with such tax year.

6. Loans from Qualified Plans. The CARES Act provides flexibility for loans from certain retirement plans for coronavirus-related relief.

7. Effective Date. These provisions apply to distributions made on or after January 1, 2020, and before December 31, 2020.

C. Required Minimum Distributions Waived for 2020. In general, retirement plan or IRA owners are required to take required minimum distributions (RMDs) annually once the owner reaches age 72. The CARES Act provides that the RMD requirements do not apply for calendar year 2020 to: (1) a defined contribution plan; (2) a defined contribution plan which is an eligible deferred compensation in certain circumstanced; or (3) an individual retirement plan. The RMD requirements also do not apply to any distribution which is required to be made in calendar year 2020 by reason of: (1) a required beginning date occurring in calendar year 2020, and (2) such distribution not having been made before January 1, 2020. For purposes of the RMD rules: (1) the required beginning date with respect to any individual is determined without regard to the temporary RMD waiver rules of Code Sec. 401(a)(9)(I) for purposes of applying the RMD rules for calendar years after 2020; and (2) if the 5-year rule applies (in general requiring a retirement plan to distribute its assets within five years of the death of the employee), the 5-year period is determined without regard to calendar year 2020.

D. $300 Above-The-Line Charitable Contribution Deduction. The CARES Act adds a deduction to the calculation of gross income, in the case of tax years beginning in 2020, for the amount (not to exceed $300) of qualified charitable contributions made by an eligible individual during the tax year. For this purpose, the term “eligible individual” means any individual who does not elect to itemize deductions. Most charitable contributions will qualify other than contributions to a supporting organization or a donor-advised fund. This provision applies to tax years beginning after December 31, 2019.

E. Modification of Limitations on Individual Cash Charitable Contributions During 2020.

1. Background. Individuals are allowed a deduction for cash contributions to certain charitable organizations (such as churches, educational organizations, hospitals, and medical research organizations) up to 60% of their contribution base (generally, adjusted gross income (AGI)). If the aggregate amount of an individual’s cash contributions to these charities for the year exceeds 60% of the individual’s contribution base, then the excess is carried forward and is treated as a deductible charitable contribution in each of the five succeeding tax years.

2. New Law. The CARES Act provides that (except as stated below) qualified contributions are disregarded in applying the 60% limit on cash contributions of individuals and the rules on carryovers of excess contributions. Qualified contributions are allowed as a deduction only to the extent that the aggregate of those contributions does not exceed the excess of the individual’s contribution base over the amount of all other charitable contributions allowed as deductions for the contribution year. Qualified contributions are charitable contributions if (a) they are paid in cash during calendar year 2020 to an organization described in Code Sec. 170(b)(1)(A) (i.e., 501(c)(3) and certain other charitable organizations); and (b) the taxpayer has

elected to apply this provision with respect to the contribution. Note that contributions to a supporting organization or a donor advised fund are not qualified contributions. In the case of a partnership or S corporation, the election in item (b) above is made separately by each partner or shareholder. If the aggregate amount of qualified contributions exceeds the limitation set forth in the Care Act, the excess is added to the individual's carryover amount.

3. Effective Date. This provisions applies to tax years beginning after December 31, 2019.

F. Increase in Limits on Contributions of Food Inventory.

1. Background. A donation of food inventory to a charitable organization that will use it for the care of the ill, the needy, or infants is deductible in an amount up to basis plus half the gain that would be realized on the sale of the food (not to exceed twice the basis). In the case of a C corporation, the deduction cannot exceed 15% of the corporation's income. In the case of a taxpayer other than a C corporation, the deduction cannot exceed 15% of aggregate net income of the taxpayer for that tax year from all trades or businesses from which those contributions were made, computed without regard to the taxpayer's charitable deductions for the year.

2. New Law. In the case of any charitable contribution of food during 2020, the taxable income limits are 25% rather than 15%. (Act Sec. 2205(b))

3. Effective Date. This provision applies to tax years beginning after December 31, 2019.

G. Tax-Excluded Education Payments by an Employer Temporarily Include Student Loan Repayments.

1. Background. An employee's gross income doesn't include up to $5,250 per year of employer payments, in cash or kind, made under an educational assistance program for the employee's education (but not the education of spouses or dependents).

2. New Law. The CARES Act adds to the types of educational payments that are excluded from employee gross income "eligible student loan repayments" (below) made before January 1, 2021. The payments are subject to the overall $5,250 per employee limit for all educational payments. Eligible student loan repayments are payments by the employer, whether paid to the employee or a lender, of principal or interest on any qualified higher education loan for the education of the employee (but not of a spouse or dependent). To prevent a double benefit, student loan repayments for which the exclusion is allowable can't be deducted under Code Sec 221 (which allows the deduction of student loan interest subject to a dollar limit and a phase-out above specified taxpayer income levels.)

3. Effective Date. This provision applies to payments made after the date of enactment of the Act (March 27, 2020).

Summers Compton Wells LLC will continue to monitor these programs and will be available to answer questions and work closely with our clients and their accountants to better understand these programs. Please contact one of our attorneys if we can assist.