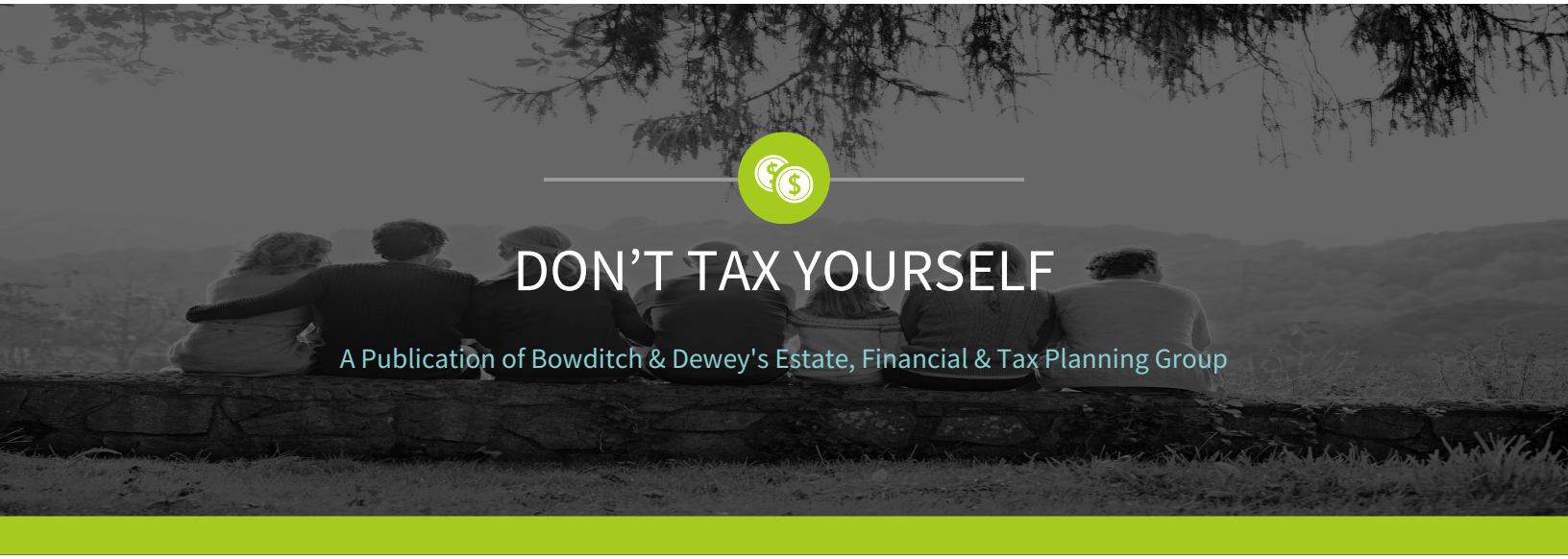

DON'T TAX YOURSELF

A Publication of Bowditch & Dewey's Estate, Financial & Tax Planning Group

2020 End of Year Tax Planning for Businesses

BY BOWDITCH & DEWEY • OCTOBER 28, 2020

As the 2020 year draws to a close, businesses should review the tax-related provisions adopted in the CARES Act and related IRS guidance with their tax advisers:

EMPLOYER REFUNDABLE CREDIT AND PAYROLL TAX DEFERRAL:

- Under the CARES Act, certain businesses and non-profit organizations receive a refundable credit against employment taxes equal to 50% of "qualified wages" paid to their employees during the COVID-19 crisis. To qualify, the business or non-profit must have experienced at least a partial suspension of operations or significant decline in gross income during the crisis as a result of government limitations. Businesses should have filed for this credit on Form 941, Employer's Quarterly Federal Tax Return. The maximum credit amount per employee is $5,000. Those employers who participate in the CARES Act Payroll Protection Loan Program cannot also receive the refundable employment tax credit.

- Employers can defer payment of payroll taxes owing for the "payroll tax deferral period" (between March 27, 2020 and January 1, 2021). Employers can defer payment of 50% of such payroll taxes until December 31, 2021. They can defer payment of the remaining 50% of payroll taxes until December 31, 2022. Self-employed individuals can defer a corresponding 50% of self-employment taxes until December 31, 2021 and December 31, 2022 in the same proportions. Those employers whose Payroll Protection Loans are forgiven, however, cannot defer their payroll taxes.

RELAXED LIMITATION ON LOSSES AND DEDUCTIONS

- The CARES Act temporarily reduced limitations on a company's use of losses. The Act provided that a net operating loss ("NOL") arising in a tax year beginning in 2018, 2019, or 2020 can be carried back for five years. In addition, taxpayers can offset historic net operating losses against income without limitation in those tax years. Companies may amend prior year returns to obtain the Act's net operating loss tax benefits.

- The CARES Act increased the limitation on the business interest expense deduction for the 2019 and 2020 tax years from 30% of adjusted taxable income to 50% of adjusted taxable income (calculated with certain adjustments).

©2026 Bowditch & Dewey LLP. All Rights Reserved.

FEDERALLY DECLARED DISASTER RELIEF

- Section 165(i) of the Internal Revenue Code separately allows a taxpayer to deduct any loss occurring in a "disaster area" and attributable to a "federally declared disaster" in either the year when the disaster occurred *or* the preceding taxable year. President Trump issued an emergency declaration in response to the COVID-19 pandemic that made the crisis a qualifying federally declared disaster. Therefore, any sustained losses from the COVID-19 crisis can be deducted on a company's 2019 tax return to provide the business with a possible tax refund.

QUALIFIED OPPORTUNITY FUNDS

- On June 4, 2020, the IRS issued Notice 2020-39 providing relief for taxpayers investing or considering investing in Qualified Opportunity Funds ("QOFs"). Under section 1400Z-2, taxpayers have 180 days to reinvest gains from the sale of property in a QOF and defer gains from income tax. Notice 2020-39 allows taxpayers who sold property and realized gains between October 1, 2019 and March 31, 2020 to reinvest such gains in a QOF by December 31, 2020 and benefit from the provision's tax deferral. The Notice also waives certain QOF requirements for the 2020 tax year.

DEDUCTIONS FOR PPP RELATED EXPENSES

- The Paycheck Protection Program (PPP) provided a lifeline to a multitude of small businesses during the early days of the Coronavirus pandemic. PPP loans were used to cover payroll expenses and other enumerated operating costs (e.g., rent, utilities) that can be forgiven if the borrower meets certain payroll and employment retention criteria. According to IRS Notice 2020-32, business expenses that would normally be deductible in computing taxable income may not be deductible if the taxpayer uses funds from a forgiven loan to pay such expenses. Consult with your tax adviser before accounting for any business expenses made with PPP Loan proceeds on your 2020 tax return.

©2026 Bowditch & Dewey LLP. All Rights Reserved.