Updated October, 2017

Dear Client,

As our community works to recover from Hurricane Harvey, I'm writing to make you aware of extensions available for filing returns and paying taxes as well as significant tax relief measures that recently became law and from which you or your business may directly benefit.

These provisions include new employment-related tax credits, increased and more widely available tax deductions for personal casualty losses, favorable changes to the rules regarding early withdrawals from retirement plans, an increase in the amount of loans that may be taken from a retirement plan, and modifications to income requirements for the earned income tax credit and the child tax credit. In addition, increased deductions are available for charitable contributions made for hurricane relief.

What Areas Are Eligible for Hurricane Harvey Relief?

The following counties in Texas have been designated by FEMA as qualifying for disaster relief as a result of Hurricane Harvey: Aransas, Austin, Bastrop, Bee, Bexar, Brazoria, Burleson, Calhoun, Chambers, Colorado, Dallas, De Witt, Fayette, Fort Bend, Galveston, Goliad, Gonzales, Grimes, Hardin, Harris, Jackson, Jasper, Jefferson, Karnes, Kleberg, Lavaca, Lee, Liberty, Madison, Matagorda, Montgomery, Newton, Nueces, Orange, Polk, Refugio, Sabine, San Jacinto, San Patricio, Tarrant, Travis, Tyler, Victoria, Walker, Waller, Washington, and Wharton.

Extensions Available for Filing Tax Returns and Making Tax Payments

The IRS is granting individuals and businesses affected by Hurricane Harvey automatic extensions of time to file tax forms and make tax payments. The tax relief postpones various tax filing and payment deadlines that occurred on or after August 23, 2017, and before January 31, 2018. As a result, affected taxpayers have until January 31, 2018, to file most tax returns (including individual, corporate, and estate and trust income tax returns; partnership returns, S corporation returns, trust returns; estate, gift, and generation-skipping transfer tax returns; annual information returns of tax-exempt organizations; and employment and certain excise tax returns) and pay any taxes that were originally due during these periods. This includes the September 15, 2017, and January 16, 2018, deadlines for making quarterly estimated tax payments. For individual tax filers, it also includes 2016 income tax returns that received a tax-filing extension until October 16, 2017. However, because tax payments related to these 2016 returns were originally due on April 18, 2017, those payments are not eligible for relief.

The IRS is waiving late-deposit penalties for federal payroll and excise tax deposits normally due during the first 15 days of the disaster period. Penalties on payroll and excise tax deposits due on or after August 23, 2017, and before September 7, 2017, will be abated as long as the deposits were made by September 7, 2017.

The IRS will automatically provide filing and penalty relief to any taxpayer with an IRS address of record located in the Hurricane Harvey disaster area. Thus, there is no need for you to contact the IRS to get this relief. However, if you receive a late filing or late payment penalty notice from the IRS that has an original or extended filing, payment or deposit due date falling within the postponement period, you can call the number on the notice to have the penalty abated or contact our office and we will assist you.

Increased Casualty Loss Deductions

Special rules allow increased deductions relating to Hurricane Harvey if you suffered a net disaster loss, which is defined as the excess of a qualified disaster-related personal casualty losses over personal casualty gains. A qualified disaster-related personal casualty loss refers to losses that are not connected with a trade or business or a transaction entered into for profit, and that arose in the Hurricane Harvey disaster area on or after August 23, 2017, and which are attributable to Hurricane Harvey.

Unfortunately, the cost of protecting property against a casualty (e.g., boarding up a house ahead of the storm) is not part of a casualty loss. Nor is the cost cleaning up after the storm or the cost of repairing damaged property. However, if your property is business property, these expenses are deductible as business expenses.

Casualty Loss Deductions Are Available Regardless of Whether You Itemize

Normally, only taxpayers who itemized their deductions (as opposed to simply claiming the standard deduction) can claim a casualty loss. Special rules wave this requirement for casualty losses relating to Hurricane Harvey by allowing you to add the amount of such a loss to your standard deduction.

Timing of Casualty Loss Deductions

Normally, a casualty loss can only be deducted in the year in which the loss occurred. But when a loss happens in a federally declared disaster area, a special rule gives you the option of claiming the loss in the preceding tax year - in this case, 2016. If we determine that you would get a bigger tax benefit from claiming such a Harvey-related loss in 2016, we can file an amended return, if necessary.

Employee Retention Tax Credit Available to Businesses

If you are an eligible employer, you may be able to claim an employee retention credit of 40 percent of qualified wages with respect to each eligible employee for 2017. The amount of qualified wages which may be taken into account cannot exceed $6,000 paid to an eligible individual (making the maximum credit $2,400 per eligible employee). You are considered an eligible employer if you conducted an active trade or business on August 23, 2017, in the Hurricane Harvey disaster zone, and your trade or business was inoperable on any day after August 23, 2017, and before January 1, 2018, as a result of damage sustained by reason of Hurricane Harvey. An eligible employee means an employee whose principal place of employment on August 23, 2017, with such eligible employer was in the Hurricane Harvey disaster zone.

Retirement Plan Rules Relaxed

Both Congress and the IRS have eased the tax burden of using qualified retirement plans to help individuals recovering from Hurricane Harvey. Some of the tax relief provisions available to you include:

(1) The 10 percent early withdrawal penalty tax will not apply to any qualified hurricane distribution you receive from your qualified retirement plan. However, there is a limit on the amount of retirement plan distributions that qualify as a hurricane distribution. The aggregate amount of distributions you receive from your qualified retirement plan which may be treated as qualified hurricane distributions for any tax year cannot exceed the excess (if any) of $100,000 over the aggregate amounts treated as qualified hurricane distributions you received for all prior tax years.

(2) If a distribution you receive would (without regard to (1), above) be a qualified hurricane distribution, your retirement plan will not be treated as violating any tax code requirements merely because the plan treats such distribution as a qualified hurricane distribution, unless the aggregate amount of such distributions from all plans maintained by your employer (and any member of any controlled group which includes your employer) to you exceeds $100,000.

(3) The limit on loans you may receive from your plan that are not treated as taxable distributions is increased from $50,000 to $100,000, and the repayment of such loans may be delayed from the regular repayment term by an additional year.

(4) With respect to a qualified hurricane distribution, any amount required to be included in gross income for a tax year will be includible ratably over the three-tax-year period beginning with that tax year, unless you elect not to have this rule apply.

(5) Individuals who live outside the area affected by Hurricane Harvey can take out a retirement plan loan or hardship distribution and use it to assist a son, daughter, parent, grandparent or other dependent who lives or works in the Hurricane Harvey disaster area.

(6) Qualified retirement plans can make loans or hardship distributions before the plan is formally amended to provide for such features. In addition, the plan can ignore the reasons that normally apply to hardship distributions, thus allowing them, for example, to be used for food and shelter.

Modification of Earned Income for Purposes of the Earned Income Credit and Child Tax Credit

If you are eligible for the earned income credit and the child tax credit for 2017, and your earned income for the 2017 tax year is less than your earned income for 2016, the earned income credit and child tax credit may, at your election, be determined by substituting your 2016 earned income for your 2017 earned income.

Suspension of Limitations on Charitable Contributions

A temporary suspension of the limitations on charitable contributions applies with respect to qualified contributions, which are defined as those made between August 23, 2017, and December 31, 2017, to a charitable organization and made for relief efforts with respect to the hurricane disaster areas. The taxpayer must make an election to apply these rules. In the case of a partnership or S corporation, the election is made separately by each partner or shareholder.

If you'd like to discuss any of the tax relief measures mentioned in this letter, or if there's anything else I can do to help at this difficult time, please don't hesitate to call.

Sincerely,

Mark E. Hesse, CPA