Corporate tax under COVID-19

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Plante Moran Presenters

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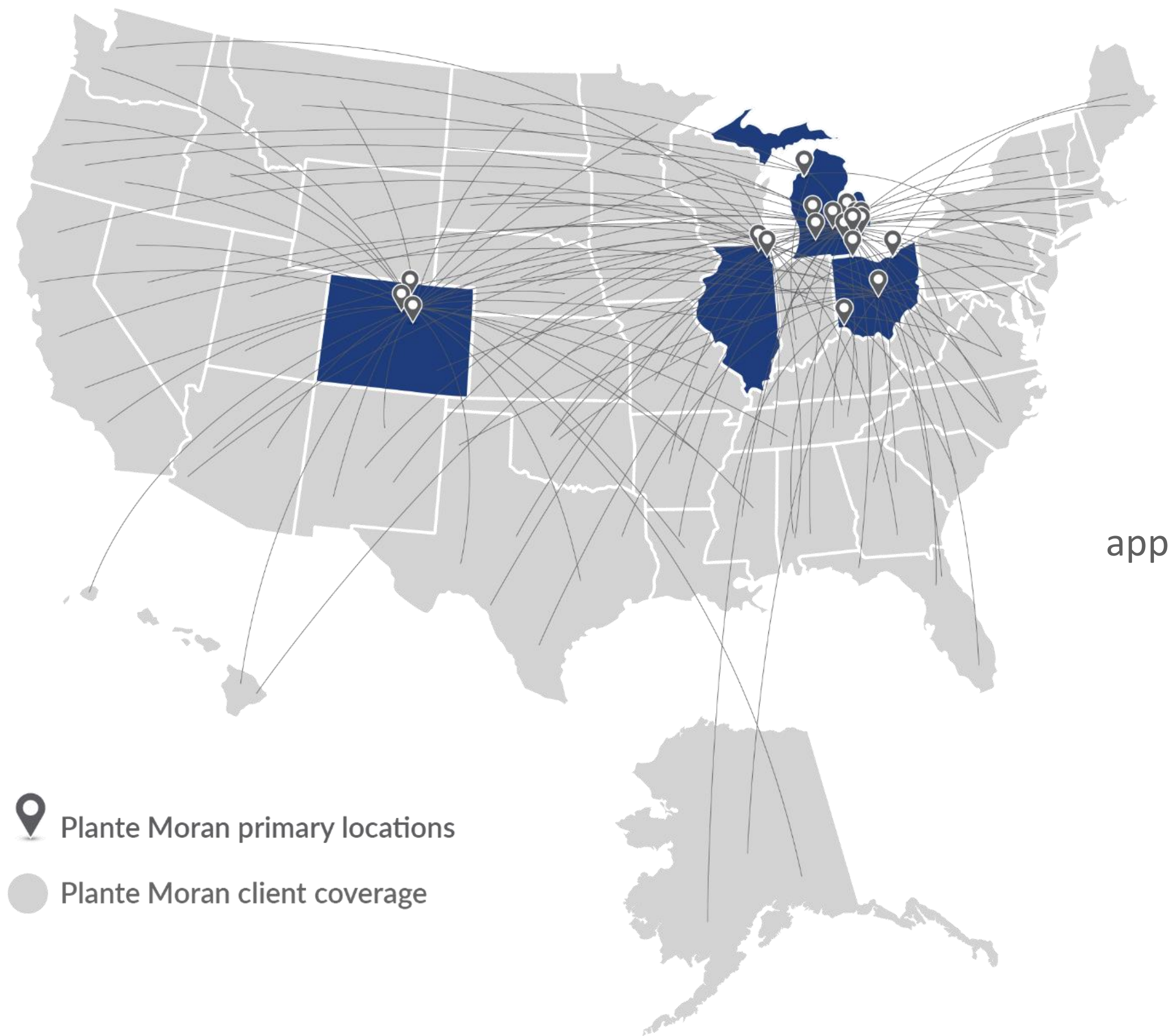
Plante Moran overview



1924 year founded

3,200+ total staff

350+ partners & affiliated entity members

approx. 1,300 number of CPAs

25 U.S. & global locations, including China, India, Japan, and Mexico

27 languages spoken

Webinar Agenda

- COVID-19 Relief – CARES Act
- COVID-19 – New Tax Issues
- Biden Business Tax Plan

COVID-19 Relief CARES Act

Net Operating Loss Carryback

- 2017 Tax Cuts and Jobs Act eliminated Net Operating Loss, but CARES Act reinstated for the 3 taxable years starting on 1/1/2018 to carryback 5 years
- For the tax year starting on or after 1/1/2018 and ending before 6/30/2019 will need to file Form 1139 within 18 months since the end of taxable year (Notice 2020-26). IRS accepts the Form 1139 via fax.
- For the tax year ending in 2018 (e.g. March 31, 2018) will have the opportunity to carryback 2 years due to the mistake in TCJA. Form 1139 can be filed by 7/27 (Notice 2020-24).

Employee Retention Credit

- If met some conditions (Business shut down full/partial due to COVID-19, 50% less sales, etc.), up to the 50% of the qualified wage can be refunded from the employer portion of quarterly payroll tax.
- The maximum refund is $5,000 per employee. The company who received PPP loan will not be eligible for this credit. The refund is claimed on Form 941 starting the 2nd quarter.
- The advance refund claim can be requested via Form 7200. The procedure/process needs to be confirmed with the payroll processing company.

Payroll Tax Deferral

- The employer can delay the payment of employer portion of social security tax after March 27, 2020 for the rest of 2020.
- The company with PPP loan can also utilize this payroll tax deferral. No restriction on industry.
- No special application for IRS is necessary. The company process this deferral using Form 941.

13b	Deferred amount of the employer share of social security tax	13b	.

- 50% of the deferred amount needs to be paid back to IRS by 12/31/2021 and the last 50% will be paid back by 12/31/2022. The deferral can be processed with Form 941 starting in 2nd quarter of 2020.

Section 163(j) Interest expense limitation

- Tax Cuts and Jobs Act changed this drastically.
- Tax Cuts and Jobs Act limits the deduction of interest expense up to 30% of the adjusted taxable income (ATI).
- The CARES Act modified this 163(j) for 2019 and 2020 taxable year and the limitation is now 50% of ATI.
- ATI for 2020 taxable year can be substituted with 2019 ATI.

COVID-19 – New Tax Issues

PPP Loan Forgiveness

- Tax treatment on the amount of PPP loan forgiven
  - The expenses paid with the PPP loan proceeds cannot be deducted on tax return if the loan is forgiven.
  - Small Business Expense Protection Act was submitted to Congress on May 6 to change this treatment.
  - IRS has not offered specific guidance on the treatment of these expenses if the loan proceeds are received in one tax year and the loan is forgiven in a subsequent year. Taxpayers who have used PPP loan proceeds to pay expenses during a taxable year and have not received a notice of forgiveness by the end of that taxable year should consult with their tax advisors on how to treat those amounts on their returns.
- Loan amount over $2M
  - Form 3509 – Loan Necessity Questionnaire will be sent to taxpayers who borrowed more than $2M after the forgiveness application is submitted.

Temporary Worker May Create State Nexus

COVID-19 created the situation that the significant number of employees are working (telecommuting) from their home.

- This created the situation where the employees are working from the state that is different from the one that their office is located.
- According to the survey by Bloomberg Tax, having between 1 and 6 telecommuting employees from a company based in another state is enough to trigger corporate income tax in 37 states including New York City.
  - 15 jurisdictions temporarily waived nexus for COVID-19 telework.

Biden Business Tax Plan

Biden corporate tax plan

- Corporate tax rate goes up from 21% to 28%
- Creates a minimum tax on corporations with book profits of $100M or higher
  - Structured as an alternative minimum tax – corporation will pay the greater of their regular corporate income tax or the 15% minimum tax on book profits
- 10% Biden Offshoring Tax Penalty surtax on 28% corporate tax rate
  - Profits of any production by US company overseas for sales back to US. 30.8% tax rate on any such profits.
  - This applies to call centers or services by an American company located overseas but serving the US.
  - Deny all deductions and expensing write-offs for moving jobs or production overseas.

Biden corporate tax plan (continued)

- 10% Biden "Made in America" Tax Credit
  - 10% advanceable tax credit for the companies making investments that will create jobs for America workers and accelerate economic recovery. The credit will be available for the following purposes:
    - Revitalizing existing closed or closing facilities
    - Retooling any facility to advance manufacturing competitiveness and employment
    - Reshoring job-creating production to the US
    - Expanding or broadening US facilities to grow employment in the US
    - Expanding manufacturing payroll
- Closing the Trump Offshoring Loopholes
  - Double the tax rate on GILTI (Global Intangible Low-Taxed Income) from 10.5% to 21% and impose it country by country

Biden corporate tax plan (continued)

- Unknowns
  - FDII (Foreign-Derived Intangible Income)
    - Export incentive - under review by OECD
    - Biden does not mention any change to FDII
    - FDII and GILTI are intended to operate together as a single system
  - Timing of all those changes from Biden tax plan
    - Election result for Senate – Democrats may not control Congress
- Revenue effect
  - Biden tax plan would increase federal tax revenue by $3.33 trillion between 2021 and 2030 compared to current law.
    - Tax rate increase from 21% to 28% would account for the largest revenue gain (about $1 trillion over 10 years).
    - Biden's tax plan on businesses account for about 46% of the total revenue gains

Q&A

Plante Moran

Founded in 1924

Supporting more than 180 Japanese owned businesses

Deep experience in audit/tax/consulting in manufacturing industry