# COVID-19-RELATED TAX RELIEF ACT

The COVID-19-Related Tax Relief Act includes the extensions and expansions of tax-relief contained in the Families First Coronavirus Response Act and the CARES Act. It also includes some new provisions aimed at providing tax relief to taxpayers suffering medical and economic hardships due to the ongoing COVID-19 pandemic

***Recovery Rebates/Direct Stimulus Payments***

Just as with the CARES Act in March, the act includes a direct payment to taxpayers in an effort to stimulate a flagging economy. The provision was a late addition to the package, in response to demands from several lawmakers on both sides of the aisle.

Unlike the Economic Impact Payments (also known as Recovery Rebate Credits) provided in the CARES Act, these payments are only $600 per individual, where the earlier round in the spring provided a $1,200 payment per individual. However, families can claim the full $600 amount for child dependents, where the credit was limited to $500 for children in the previous round of payments.

Otherwise, the direct payments are generally structured as they were in the spring. The payment is actually a credit against 2020 taxes, and begins to phase out for individuals with adjusted gross income in 2019 in excess of $75,000 ($150,000 for joint filers). The amounts do phase out faster than the earlier payment, so fewer taxpayers will receive direct payments this time around

The phaseout of the $1,200 direct payments under the CARES Act was also calculated based on 2019 income. However, because that provision came into effect well before the extended July 15 filing deadline for 2019 taxes, the calculation could instead be based on 2018 returns where 2019 return information was not yet available. This new $600 payment does not make a similar concession. Thus, a taxpayer whose income increased from 2018 to 2019 may not be eligible for a proportionally similar payment of the second credit.

This new direct payment has an impact on joint filers where one of the married persons is a nonresident alien; taxpayers left out of the direct payment under the CARES Act. A provision makes such taxpayers eligible for the direct payments under this act, but also makes them retroactively eligible for payments under the CARES Act. Some other modifications were made in an effort to make the payments more widely inclusive.

This seemed to be the provision that had drawn the ire of President Trump more than any other, as he spent the week after the bill passed demanding that the payments be $2,000 rather than $600. Democrats in the House attempted to pass a bill increasing the amount by unanimous consent (a great majority of House members had left for the holiday), but it was blocked. A White House statement issued in conjunction with the signing stated that, much more money is coming. However, leaders have not indicated a forthcoming vote to increase the stimulus amount.

### *Deferred Payroll Taxes*

Pursuant to a memorandum issued by President Trump on August 8, employers were allowed to defer their employee's share of payroll taxes from the period beginning September 1, 2020 through December 31, 2020, paying them ratably after the deferral period through April 31, 2021. The act extends the payback period to December 31, 2021. Penalties and interest will begin to accrue on the deferred taxes on January 1, 2022.

### *Teacher Expenses*

The act requires that the Treasury issues regulations providing that personal protective equipment and other supplies used to prevent the spread of COVID-19 qualify for the above-the-line educator expense deduction.

### *PPP and Business Expenses*

The act includes a clarification of the treatment of business expenses by businesses that received PPP loans that were subsequently forgiven. In Notice 2020-32, the IRS determined that any business expenses paid with the proceeds of a forgiven PPP loan cannot be deducted. This is because the Code and Regulations prohibit the deduction of business expenses allocable to tax-exempt income, and a forgiven PPP loan is excluded from income (normally, a forgiven loan gives rise to taxable cancellation of debt income). However, the act expressly provides that the intent of the original legislation was that such expenses can give rise to a deduction.

### *Exclusions of Grants and Loan Forgiveness*

The act clarifies that certain financial aid received by college students under the CARES Act, as well forgiveness of Economic Injury Disaster Loans (EIDL) granted to small businesses under the CARES Act are excluded from income.

### *Tax Credits*

The employer credit for paid sick and family leave, originally part of the Families First Coronavirus Response Act, is extended. The credit was originally set to expire at the end of 2020, but the covered period is extended to March 31, 2021.

The act extends the employee retention tax credit to apply to compensation paid to a covered employee through June 30, 2021. The credit, originally part of the CARES Act, was set to expire with respect to compensation paid after December 31, 2020.

The act also makes a temporary change in the calculation of the earned income tax credit and the child tax credit. Under the provision, lower-income taxpayers can instead calculate the credits for the 2020 tax year using income information for the 2019 tax year. The calculation of both credits can result in a lower credit amount in a year where there is a reduction in income. The provision allows lower-income taxpayers who may have seen a reduction in wages in 2020 due to the pandemic to use 2019 income amounts (if higher) to calculate the amount of the credits for 2020.

***Coronavirus-Related Distributions from Retirement Plans***

Under the CARES Act, the 10-percent additional tax under Code Sec. 72(t) http://prod.resource.cch.com/resource/scion/citation/NON:+STB-IRC+S72(t)?cpid=WKUS-TAA-IC is waived for any qualified coronavirus-related distributions from a retirement plan. Eligible individuals who take such distributions can include them in gross income over a three-year span and have three years to repay the amount. The act clarifies that in the case of a money-purchase pension plan, a coronavirus-related distribution that is an in-service withdrawal will be treated as a qualified distribution.

***Farming Losses***

Under the CARES Act, net operating losses (NOLs) arising in tax years beginning in 2018, 2019, and 2020 have a five-year carryback period and an unlimited carryforward period. The provision limiting an NOL deduction attributable to NOLs arising in tax years beginning after 2017 to 80 percent of taxable income does not apply during these years. A technical correction concerning taxpayers with a 2017/2018 fiscal year clarifies that the elimination of the former two-year carryback period applies to tax years beginning after 2017 and not to tax years ending after 2017. The act allows taxpayers to waive the application of these rules to farming losses.

***Employers Covering Future Retiree Costs***

The act allows employers maintaining plans that made a qualified future transfer may elect to terminate the transfer, effective for any tax year after the election is made. The election must be made no later than December 31, 2021.