

Congress Passes COVID-Related Tax Relief

By John Waters & Donna Hartl

On December 27, 2020, the President signed the Consolidated Appropriations Act, 2021 (“Act”). Within the Act’s 5,593 pages are two separate Acts that provide credits and other tax relief to taxpayers affected by the coronavirus: the “COVID-related Tax Relief Act of 2020” and “Taxpayer Certainty and Disaster Tax Relief Act of 2020.” While a full summary of the Act is beyond the scope of this alert, the following is a brief summary of some provisions of the Act directly relating to COVID tax relief.

Stimulus Payments. The Act provides for stimulus payments of up to \$600 per individual (\$1,200 for married filing jointly), plus \$600 per qualifying child. The amount of the stimulus payment is reduced by 5% of the taxpayer’s adjusted gross income over \$75,000 (for individuals), \$112,500 (for heads of household) and \$150,000 (in the case of a joint return or surviving spouse). Note that as of the time of this writing, the President has requested that the amount of the payment be increased to \$2,000 per individual, so additional stimulus may be provided in the future.

Deferral of the Employee’s Share of Payroll Taxes. The period for paying the employee’s share of social security taxes on wages paid from September 1, 2020 through December 31, 2020 has been extended to December 31, 2021, which is paid ratably by increasing withholding during the year. In addition, penalties and interest on the deferred tax liability would not accrue until January 1, 2022.

Educator Expense Deduction. The Act requires the Secretary of the Treasury to issue guidance by February 28, 2021 providing that personal protective equipment (PPE) and other COVID prevention supplies purchased by an educator on or after March 12, 2020 qualify for the educator expense deduction.

Tax Benefits Arising from PPP Loan and Other Loan Forgiveness and Certain Grants. The Act provides tax benefits to recipients of certain COVID relief (such as emergency EIDL grants, Targeted EIDL advances and Grants for Shuttered Venue Operators), Paycheck Protection Program (PPP) loan forgiveness and certain other CARES Act related loan forgiveness by clarifying, among other things, that such relief is not taxable income and that expenses paid with such tax-exempt income are deductible (assuming they are otherwise deductible expenditures). Generally, such relief is effective retroactive to March 27, 2020 (the date of enactment of the CARES Act), except that the tax treatment for Targeted EIDL advances and Grants for Shuttered Venue Operators will be effective for tax years ending after enactment of the Act. A more detailed explanation of these provisions is covered in a separate alert.

Authority to Waive Certain Information Reporting Requirements Relating to Forgiveness. The Act gives the Secretary of the Treasury authority to waive information filing requirements regarding PPP loan and other CARES Act loan forgiveness, and emergency financial aid grants and other business financial assistance under the CARES act that is excludable from income.

Exclusion of Emergency Financial Aid Grants from Student Income. For grants made after March 26, 2020, the Act excludes certain emergency financial aid grants under the CARES Act from the gross income of the recipient.

Application of Special Rules to Money Purchase Pension Plans. The Act amends Section 2202 of the CARES Act to temporarily allow participants in money purchase pension plans to make penalty-free withdrawals for coronavirus-related distributions. The provision applies retroactively as if included in Section 2202 of the CARES Act.

Extension of Refundable Credits for Paid Sick and Family Leave. Refundable payroll tax credits for paid sick and family leave provided for in the Families First Coronavirus Response Act (FFCRA) are extended through the end of March 2021, as if the corresponding employer mandates were extended through that date. This provision is effective as if included in the FFCRA.

Tax Benefit for Self-Employed Taxpayers. Individuals can elect to use their average daily self-employment income from 2019 to compute the credits for paid sick and family leave. This provision is effective as if included in FFCRA.

Itemized Deduction Threshold for Medical Expenses Made Permanent. The Act makes permanent the itemized deduction for unreimbursed medical expenses to the extent that such expenses exceeded 7.5% of adjusted gross income.

Employer Credit for Paid Family and Medical Leave Extended Through 2025. The Act extends through 2025 the credit under Code Section 45S (which is a function of the percentage of the applicable employee's wages paid) for up to 12 weeks of paid family and medical leave.

Exclusion for Certain Employer Payments of Employee Student Loans Extended Through 2025. Under Code Section 127, an employer can establish an educational assistance program for its employees, and payments by the employer of an employee's qualified education loans pursuant to that program are excluded from the employee's income (which exclusion is capped at \$5,250 for all employer education assistance).

The foregoing reflects just a few of the many tax changes in the Act. For more information on tax changes in the Act, please contact the authors or any of the listed Roetzel attorneys.

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