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Consolidated Appropriations Act of 2021

After months of deliberation and a chaotic few days of last minute negotiations before a government shutdown, another coronavirus relief package and program funding bill is passed into law

Financial & Estate Planning Department
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With the COVID-19 pandemic still at large and the coronavirus vaccine not yet available to the masses, Congress has passed a $900 billion relief package and government funding bill just days before 2020's year-end. This bill, as signed into law by President Donald Trump on December 28th, 2020, provides emergency relief to individuals and businesses by granting additional funding and extended timeframes to several provisions provided for in the CARES Act and other previously passed bills.

ECONOMIC IMPACT PAYMENTS

As many had hoped, the relief bill includes another round of economic impact payments, although at a lesser amount than provided for in the CARES Act. Similar to the $1,200 stimulus payments, checks up to $600 will be issued to qualifying individuals as early as this week (12/28/2020). This includes both adults and children, meaning a family of four could receive up to $2,400. The amount received will be based on the taxpayer's 2019 tax return. For social security recipients where a 2019 return was not filed, the rebate will be based on the individual's 2019 social security information pulled from Form SSA-1099 or Form RRB-1099, in the case of railroad retirement benefit recipients. As was the case in the first round of payments, the $600 payment will be reduced by 5 percent of the taxpayer's adjusted gross income that exceeds $150,000 for joint returns, $112,500 for head of household returns, and $75,000 for single returns. Therefore, the payment is fully phased out at an AGI of $174,000 or more for married filers and $87,000 or more for single filers. Upon the filing of the 2020 income tax returns, the payment amount will be recalculated based on the taxpayer's 2020 adjusted gross income. Based on guidance issued by the Internal Revenue Service, if the calculated amount on the 2020 tax return is less than the amount already received, there will be no requirement to pay back the difference. If, however, the recalculated payment based on 2020 income is larger than the amount previously received, the difference may be claimed as a recovery rebate credit. The credit is refundable and therefore, no minimum level of income or minimum tax liability is required to receive the full credit. The bill also included a retroactive provision where the direct payments, including those provided in the CARES Act, will be provided to mixed-status households. This is especially important to a lot of families since the first round of payments was initially restricted to American citizens or resident aliens. Therefore, many spouses and dependents were denied their payments as they were immigrants without a Green Card. This provision allows many immigrant families across the country to receive the financial support they need.

CHARITABLE CONTRIBUTIONS

In an effort to encourage donations to various organizations that may have an increased need for funds, the CARES Act made temporary changes on the deductibility of charitable contributions. These provisions were all set to expire at the end of 2020; however, the Consolidated Appropriations Act of 2021 extended these through 2021. Individuals who cannot itemize may take an above the line deduction for charitable cash contributions made to section 501(c)(3) organizations on their 2021 tax return, not to exceed $300. Typically, if an individual does not itemize, it is due to the standard deduction being higher than their combined charitable contributions, mortgage interest, medical expenses, etc. For those that have these larger expenses and can itemize on their 2021 return, the 60 percent adjusted gross income limitation for cash charitable contribution deductions is suspended, therefore allowing a deduction equal to 100 percent of their 2021 adjusted gross income. The corporate deduction limitation is increased from 10 percent to 25 percent and the business deduction limitation for donations of food inventory is increased from 15 percent to 25 percent. The act also makes mention that the allowable above the line deduction for joint returns is $600 for tax years beginning in 2021. There was no mention of the 2020 tax year, however, so taxpayers should await further guidance regarding whether or not the $600 amount for joint filers applies to 2020 as well.

UNEMPLOYMENT BENEFITS

Included in the CARES Act were several unemployment assistance programs which have since expired, or are scheduled to expire at the end of 2020. The Pandemic Unemployment Assistance (PUA) program provided payments to impacted self-employed individuals and independent contractors – those not traditionally eligible for unemployment benefits. Additionally, the Pandemic Emergency Unemployment Compensation (PEUC) program provided an additional 13 weeks of payments to individuals who had exhausted their regular state unemployment. Both benefits had been set to expire at the end of the year; however, the Consolidated Appropriations Act of 2021 has extended both programs to March 14th, 2021. The CARES Act also created the Federal Pandemic Unemployment Compensation (FPUC) program which provided an additional $600 unemployment payment per week and expired at the end of July. This program is reinstated starting December 26th at $300 per week for an additional 11 weeks and is therefore, now scheduled to expire on March 14th, 2021. As a reminder, this is a benefit provided at the federal level and may be supplemented with benefits at the state level.

THE PAYCHECK PROTECTION PROGRAM

The Paycheck Protection Program (PPP) is a cash-flow assistance program which provides federally guaranteed loans to small businesses. The program was introduced in the CARES Act, which was passed in March of 2020, and was initially funded with $349 billion. The allocated funds were quickly exhausted and subsequently, the program was reauthorized for a second round of funding totaling $310 billion under the Paycheck Protection Program and Health Care Enhancement Act (PPPHCEA). The program prevented many struggling small businesses from having to close permanently. The Consolidated Appropriations Act of 2021 has allocated an additional $284 billion to the Small Business Administration, allowing smaller businesses to a receive a second forgivable PPP loan up to $2 million. These newly allocated funds are limited to small businesses with 300 or fewer employees. The business also must have sustained a 25 percent loss of revenue in any 2020 calendar quarter compared to the corresponding 2019 calendar quarter.

Not unlike the loans previously provided under the PPP, these loans will be forgiven to the extent the funds are used for qualified expenses. The Consolidated Appropriations Act of 2021 expanded the forgivable expenses to include operations expenditures, property damage costs, supplier costs and investments in facility modifications and personal protective equipment to operate safely. This is in addition to payroll costs, mortgage interest, rent, and utilities which were already covered under the program and applies to PPP loans previously received, but not yet forgiven. Most importantly, not only will the forgiven loans be excluded from taxable income, but all qualified expenses paid for with the loan proceeds will be deductible. Their deductibility was previously disallowed by the Internal Revenue Service in their administrative guidance; however, the Act confirms that Congress' intent was to allow the double benefit when initially creating the program. Additionally, while the Act provides a simplified forgiveness application for those receiving $150,000 or less, a more rigorous substantiation process, including a nine-page questionnaire, is required for those who received $2 million or more in loan proceeds.

NEW BENEFITS

The Consolidated Appropriations Act of 2021 has also created a special lookback provision for the Earned Income Tax Credit (EITC) and the Child Tax Credit for the 2020 tax year. In calculating these credits for the 2020 tax year, taxpayers can utilize their higher, 2019 earned income as opposed to 2020, as it may allow for a larger credit amount.

The Act has also temporarily reinstated the increased business deduction for meals, which was previously limited by the Tax Reform Act of 1986. The act allows businesses to deduct 100 percent of the cost of meals and beverages provided by a restaurant for tax years 2021 and 2022.

The CARES Act provided an additional cash-flow opportunity by waiving the 10 percent penalty on early retirement plan distributions provided for in code section 72(t) on 2020 coronavirus-related distributions (CRDs) up to $100,000. The Consolidated Appropriations Act of 2021 clarifies that money purchase pension plans are included in the eligible retirement plans qualifying for these rules, which are scheduled to expire on December 30th, 2020.

Additionally, significant relief has been provided to those with unused Dependent Care FSAs (Flexible Spending Accounts) and Health FSAs. Employers can adopt a 12-month grace period, which would allow employees to carry forward any unused 2020 balances to 2021, and any 2021 balances to 2022.

OTHER EXTENDED BENEFITS

On August 8th, 2020, President Trump signed an executive order allowing employers to defer the withholding and payment of certain payroll taxes, putting more money in American's pockets in light of the ongoing coronavirus pandemic. Starting September 1st and ending December 31st, employers were allowed to defer the withholding of the employee's share of payroll tax for those with bi-weekly pay below $4,000. The deferred tax was originally required to be repaid by April 30th; however, the bill extends the payback period to December 31st, 2021. Any portion of the tax left unpaid will now accrue interest and penalties beginning January 1st, 2022.

As part of the Families First Coronavirus Response Act issued March 18th, 2020, employers are eligible for a refundable credit against the employer portion of the payroll tax on the qualified paid sick and family leave. This provision has been extended through March 31st, 2021.

The refundable Employee Retention Tax Credit, which was outlined in the CARES Act, has been expanded to increase the credit rate from 50 to 70 percent on qualified wages and has extended the time period for which the wages qualify from December 31st, 2020 to June 30th, 2021. The bill also increases the per employee wage limitation from $10,000 per year to $10,000 per quarter and reduces the eligibility restrictions for employers.

The CARES Act also allowed employers to provide up to $5,250 of annual tax-free education assistance to pay principal or interest on an employee's qualified student debt for 2020 only. The Consolidated Appropriations Act of 2021 has extended this program through 2025.

The Act has also permanently changed several tax benefits provided in previous, non-coronavirus related tax bills. The medical expense deduction floor is permanently decreased from 10 percent to 7.5 percent for tax years after December 31st, 2020. Additionally, the deduction for qualified tuition and related expenses is permanently repealed beginning in 2021, while the income limitations for the phaseouts of the Lifetime Learning Credit and American Opportunity Credit are increased.

Finally, the bill allocated a portion of the $900 billion budget to various other industries and relief programs, including food, transportation, health care, community development and education assistance. $20 billion has been set aside for new Economic Injury Disaster Loan (EIDL) grants for businesses in low-income communities. Another $15 billion has been directed to fund live venues, independent movie theaters and cultural institutions, as many have had to close operations due to the government mandated restrictions.

Rumors have circulated regarding the extension of other CARES Act provisions, such as the RMD waiver and the deferral of student loan payments (see below). These were not included in the Consolidated Appropriations Act of 2021 and therefore, taxpayers will need to stay alert to any additional relief bills passed in 2021. While the Act did not provide for all the rumored provisions that many had hoped for, it did provide additional support that many businesses and individuals will need to stay afloat. A full copy of the bill can be found on Congress.gov.