



IRS Nationwide Tax Forum | 2021

Highlights of the Tax Provisions of the Consolidated Appropriations Act of 2021 Wednesday, August 4, 2021

Start Time: 2:00pm Eastern / 1:00pm Central
12:00 Noon Mountain / 11:00am Pacific

Note: You should be hearing music while waiting for webinar to start.

Having Technical Issues?

View the “Technical Issues” troubleshooting guide in the Materials drop-down menu on the left side of this page



Learning Objectives of Today's Presentation

- This course provides **Tax Professionals** with an up to the minute view of the most recent updates of the “**Consolidated Appropriations Act of 2021**”. The Legislation provides the Federal Income Tax provisions which have been *extended and expanded* as well as new provisions for both individual and business taxpayers. The session discusses the following topics:
 - ✓ Second Round **PPP Loans (PPP2)**
 - ✓ Extension and Expansion of the **CARES Act Provisions**
 - ✓ Extension of the **Emergency Paid Sick Leave Act** and **Emergency Family and Medical Leave Expansion Act** under the **FFCRA**
 - ✓ Extension and Expansion of the Employee Retention Credit (**ERC**)

Learning Objectives of Today's Presentation

- ✓ Extension of Unemployment Benefits
- ✓ Extension of Various Individual and Business Provisions
- ✓ Much, Much More
- At the conclusion of this session, **Tax Professionals** will have a better understanding of the **expansion** and **extension** of tax provisions that they will need for preparing 2020 Federal Income tax returns and beyond
- In addition, **Tax Professionals** will have a broader and deeper knowledge which will be needed to advise their clients in achieving their tax goals

Individual Tax Provisions of CCA of 2021

- **§6428A**: New Recovery Rebate Credit **\$600**
- **§6428(c)(1)** Amendments to **CARES Act** Economic Impact Payments
- **§62(a)(D)(ii)** Educator Expense Deduction now includes Personal Protective Equipment (**PPE**)
- **§6306(d)(3)** Disclosures to Prevent Certain Taxpayers from being Subject to Private Debt Collection
- **§24 CTC** and **§32 EITC**: Look-back Period **Election** for Earned Income
- **§170(p)** Certain Charitable Contributions for **2021**
- **§125** Flexible Spending Arrangement **modifications**

§6428A: New Recovery Rebate Credit

- Additional **2020 Recovery Rebate** for “Eligible Individuals” **\$600**
- “Eligible Family Members” spouse and “qualifying child” *under* **age 17**
- Phase-out based on filing status *beginning at* **AGI greater than:**
 - ✓ Single and married Separate: **\$75,000**
 - ✓ Married joint: **\$150,000**
 - ✓ Head of Household: **\$112,500**
- **Advanced EIP:** based on **2019 AGI** with reconciliation on **2020** filed return
- Taxpayer had to be alive on **January 1, 2020**

§6428 Amendments to CARES Act

- Valid Identification Number: **VIN**
- **Social Security Number** for Taxpayer, Spouse and “qualifying child”
- Allowed a taxpayer whose spouse did not have a **VIN** to claim the Recovery Rebate Credit for themselves on the **2020** reconciled return

§62(a)(2)(D)(ii) Educator Expense Deduction

- Eligible Educator Deduction: **\$250**
- Post **March 12, 2020** costs include **PPE**, disinfectant and “other supplies used” for the prevention of COVID-19
- IRS issued **IR-2021-28** on **February 4, 2021**
 - ✓ Face masks, disinfectant for use against COVID-19, hand soap
 - ✓ Hand sanitizer, disposable gloves
 - ✓ Tape, paint or chalk to guide social distancing, physical barriers (plexiglass)
 - ✓ Air purifiers
 - ✓ Other items recommended by the **CDC** to be used for the prevention of the spread of COVID-19



§6306 Disclosures: Private Debt Collection Issues

- **§6306(d)(3)**: excludes **SSI** and **SSDI** beneficiaries from being pursued by IRS private debt collection program effective **January 1, 2021**
- **IRS** and **SSA** now have statutory authority to share information in order to determine which taxpayers are **SSI** and **SSDI** beneficiaries and eligible for *exclusion from* the IRS private debt collection program



§24 CTC & §32 EITC Look-back Period

- For purposes of determining the refundable **§24 CTC** and **§32 EITC** taxpayers may *elect* for tax year **2020**, to substitute the “earned income” of the “preceding tax year” **(2019)** *if* that amount of “earned income” is *greater than* the taxpayer’s “earned income” for **2020** (possible amended return issues)
- For purposes of a **joint return** in **2020**, the **sum** of the “earned income” of **each spouse** must be determined for the “preceding tax year” **(2019)** although they did **not** file a joint return in **2019**.

§170(p): Charitable Contribution in 2021

- **Charitable contributions by non-itemizers:** the **\$300** amount from 2020 is *extended* to **2021**
- Married couples filing joint: **\$600**
- Contribution deducted *after* determining **AGI** for **2021**

§125 FSA Temporary Special Rules

- **§125 FSA** provides for pre-tax contributions to designated plans for healthcare and dependent care
- Annual *contribution limitations* indexed to inflation with a “use it or lose it” provision with a *limited carryforward amount* (**\$550 for 2020**) into the next tax year for the first 3 months (grace period)
- **CCA of 2021 Legislation** *expands* the carryover period for **2020** and **2021** and allows employers to *extend* the grace period to **12 months** for any unused benefits and contributions
- For dependents who have “aged out” (children *older than 12* years old) will be treated *as if still 12* years old in the **subsequent** year

Business Provisions of the Consolidated Appropriations Act of 2021

- Clarification of Tax Treatment of Loan **Forgiveness**
- Clarification of Tax Treatment of **Use of Funds**
- **§6050P** Authority of Treasury to Waive Certain Information Reporting: IRS **Form 1099-C** will not be issued for forgiveness of **PPP** loans, **EIDL** loans or other assistance
- **§172** Net Operating Loss issues for Farmers
- **§274(n) 100%** Business Deduction for meals “provided by restaurants”

Clarification of Tax Treatment of PPP Covered Loan Forgiveness

- **CARES Act** Sec.1102 provides that a recipient of a **PPP** loan may have the debt **forgiven** *if* the use of the proceeds pay for:
 - ✓ Covered payroll costs
 - ✓ Certain employee benefits relating to healthcare
 - ✓ Interest on mortgage obligations whether real estate or personal property
 - ✓ Rent, utilities
- **CCA of 2021** clarifies that the taxpayer whose **PPP** loans are forgiven are allowed tax deductions
- **CCA of 2021** provides that the tax basis and other attributes of the borrower's assets will **not** be reduced as a result of the forgiveness

Tax Treatment of Other Loan Forgiveness and Assistance in the CARES Act

- * **CARES Act** expanded access to Economic Injury Disaster Loans (**EDIL**) and established an emergency **Grant** for up to **\$10,000** as an advance
- * **CAA of 2021** clarifies that gross income does not include forgiveness of **EDIL** loans, emergency grants and certain repayment assistance
- * The **proceeds** from the loans, grants and assistance are allowed as a deduction for ordinary and necessary trade or business expenses
- * The **tax basis** and other tax attributes will not be reduced as a result of the amounts being *excluded* from gross income
- * Retroactive *as if* in the **CARES Act**

§172 Farmers' Net Operating Loss Changes

- **TCJA:** for **post-2017** NOLs Farmers had a **2 year** carryback period with *election* to forgo
- **CARES Act:** Changed **post-2017** provision and Farmers had a **5 year** carryback period with *election* to forgo
- **CAA of 2021:** Provides that those who used the **2 year** carryback period do **not** have to change to **5 year** carryback period and can **retain 2 year** carryback period
- **CAA of 2021:** also provides that those who *elected to forgo* the **2 year** carryback period can now **use the 2 year** carryback period provision

§274(n)(2)(D) 100% Business Meal Deduction

- Food and beverages “provided by a restaurant” that are paid or incurred *after* **December 31, 2020** and *before* **January 1, 2023** are fully deductible
- **Restaurant defined:** a business that prepares and sells food or beverages to *retail* customers for immediate consumption, *regardless* of whether the food or beverages are consumed on the business premises
- **Restaurant does not include:** a business that primarily sells pre-packaged food or beverages **not** for immediate consumption such as a grocery store, specialty food store, beer, wine or liquor store, newsstand, or a vending machine or kiosk

CAA of 2021 Includes Extender Legislation

- Permanent provisions
- 1 year extensions
- 5 year extensions to December 31, 2025
- **Permanent Extensions** include:
 - ✓ **§213** Medical deduction **7 ½%** AGI test
 - ✓ **§25A** Lifetime Learning Credit phase-out threshold increased to same levels as **§25A** American Opportunity Tax Credit with **repeal** of **§222** Deduction for Tuition and Fees **after** 2020. Therefore eliminating **Form 8917 after 2020**
 - ✓ **§139B** Exclusion for *volunteer* firefighters and emergency medical responders

5 Year Extender Provisions

- **§51** Work Opportunity Credit: 10 Targeted Groups **40%** of *first \$6,000* of “qualifying wages”
- **§108(a)(1)(E)** Exclusion for discharge of “qualified principal residence indebtedness” with **new limitation** of **\$750,000** (**\$375,000** married separate)
- **§45S** Credit for employers providing paid family and medical leave
 - ✓ At least **50%** of normal wages generates a **12 ½% credit** with a maximum credit of **25%**
 - ✓ Maximum of **12 weeks** annually
- **§127** Exclusion for employer paid student loan debt *up to \$5,250* annually

Paycheck Protection Program Update

- Second Draw Loans up through **March 31, 2021** (Note: the “Paycheck Protection Program Act of 2021”, enacted March 30, 2021 extended it to June 30, 2021)
- Employ **300 or fewer** employees per physical location
- Used up **all** of first round **PPP** funds
- Demonstrated that experienced a **25%** reduction in gross receipts in quarters 1, 2, or 3 relative to same quarter in **2019**
- **\$2M** maximum loan amount with a limit of *up to* **2.5 times** the average monthly salary (**3.5 times** salary for **NAICS Code 72**)
- Retains **60%** for covered payroll costs

Additional and Expanded PPP Eligible Expenses

- **Covered Operations Expenditures:** includes payments for software, cloud computing and other human resources and accounting needs
- **Covered Property Damage:** costs incurred related to property damage due to the riots that occurred during 2020 that are **not** covered by insurance
- **Covered Supplier Costs:** expenditures to a supplier pursuant to a contract in affect prior to taking out the **PPP** loan that were essential to the operations
- **Covered Worker Protection Expenditures (PPE):** investments to help comply with health and safety guidelines for costs from **March 1, 2020** to the end of the national emergency declaration

Expansion and Extension of Employee Retention Credit (ERC) on Form 941

- Available through **June 30, 2021** (**Note: ARPA of 2021 extends through December 31, 2021**)
- Increased *from* a **50%** credit to a **70%** credit
- Reduces required year-over-year gross receipts decline *from* **50%** to **20%**
- Increases the limit on *per employee* creditable wages *from* **\$10,000 annually** to **\$10,000 per quarter**



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Expansion and Extension of Employee Retention Credit (ERC) on Form 941

- Increases the *large employer designation* from more than **100** to *more than 500*
- Reaffirms prior IRS guidance that “group health plan expenses” can be considered “qualified wages” *even though* no other wages are paid to employees
- Provides that employers who receive a **PPP** loan may still qualify for the employee retention credit (**ERC**) on **Form 941** for wages that are **not** paid for with **forgiven PPP** proceeds

Extension of Paid Sick and Family Leave Credits

- Removal of mandatory provision that employers pay for no work performed
- Extension of employer credits on **Form 941** through **March 31, 2021** (**Note: ARPA of 2021 extends through September 30, 2021**)
- Adjustments to provisions for self-employed for income back to **2019** instead of **2020** *as if* in **FFCRA**

Continued Assistance for Unemployed

- Extended unemployment through **March 14, 2021 (Note: ARPA of 2021 extends to September 6, 2021)**
- Additional **\$300** federal subsidy
- Federal government continues to subsidize **50%** of State benefits
- Extended for rail workers



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