

Summary of Title II – Subtitle B – Rebates and Other Individual Provisions

Section 2201 – 2020 recovery rebates for individuals

- Eligible individuals with adjusted gross income up to \$75,000 (\$150,000 in case of a joint return and \$112,500 in case of head of household) will receive a rebate payment of \$1200 (\$2400 for individuals filing jointly) plus \$500 for each dependent child of the taxpayer under the age of 17.
- Rebate payments phase out at a 5% rate above the income thresholds.
- Eligible individuals are anyone other than (1) nonresident alien individuals, (2) any individual whom a deduction under section 151 is allowable to another taxpayer, and (3) estates or trusts.
- The amount of such rebate payment will be based on the taxpayer's filed 2019 tax return or, if the 2019 tax return has not yet been filed, the taxpayer's 2018 return.
- Eligible individuals who do not receive the full rebate because their income was higher in 2019 or 2018 than in 2020 will be eligible for a credit against income up to the full rebate amount on their 2020 tax return.
- There is no claw back of rebates for individuals who receive a rebate based on income in 2019 or 2018 but who exceed the thresholds in 2020.

Section 2202 – Special rules for use of retirement funds

- Individuals may make penalty-free coronavirus related distributions from an eligible retirement plan (as defined in IRC section 402(c)(8)(B)) of up to \$100,000 during the 2020 tax year.
- A coronavirus related distribution is one made to an individual who is (1) diagnosed with coronavirus, (ii) who's spouse or dependent is diagnosed with coronavirus, or (3) who experiences adverse financial consequences as a result of being quarantined, furloughed or laid off, having work hours reduced, is unable to work due to lack of childcare, closing or reducing hours of a business owned or operated by the individual, or any other factors determined by the Secretary of the Treasury due to coronavirus.
- Any amount required to be included in income can be included ratably over the 3 taxable year period beginning in 2020.
- The amount of the coronavirus related distribution can be recontributed within 3 years without regard to the cap on contributions.
- Increase in the cap on loans from eligible retirement plans from \$50,000 to \$100,000.

Section 2203 – Temporary waiver of required minimum distribution rules for certain retirement plans and accounts

- Waives the required minimum distribution rules for certain defined contribution plans and IRAs for calendar year 2020.

Section 2204 – Allowance of partial above the line deduction for charitable contributions

- Allows individuals to take a deduction of up to \$300 of cash contributions to churches and charitable organizations in 2020 regardless of whether they itemize their deductions.

Section 2205 – Modification of limitations on charitable contributions during 2020

- The limitation that prevents individuals from deducting more than 60% of their adjusted gross income for charitable contributions is suspended in 2020.
- The limitation that prevents corporations from deduction more than 10% of taxable income for charitable contributions is increased to 25% in 2020.
- The limitation on corporate deductions for contributions of food inventory is increased from 15% to 25%.

Section 2206 – Exclusion for certain employer payments of student loans

- Employers may contribute up to \$5250 annually toward an employee's student loans or to other educational assistance (e.g. tuition, fees, books) without including this amount in the employee's income.
- This provision applies to payments made prior to January 1, 2021.

Summary of Title II – Subtitle C – Business Provisions***Section 2301 – Employee retention credit for employers subject to closure due to COVID-19.***

- Provides a refundable payroll tax credit to qualifying employers on a dollar for dollar basis equal to 50% of qualifying wages paid by such employers to employees during the COVID-19 crisis, resulting in a potential net credit of \$5,000 per employee.
- The credit is available to employers whose (i) operations were fully or partially suspended due to a COVID-19-related government shutdown order (and only during periods in which its operations are fully or partially suspended), or (ii) gross receipts for a given quarter beginning after December 31, 2019 declined by more than 50 percent when compared to the same quarter in the prior year.
- The credit is based on qualified wages paid to the employee. Qualified wages include an allocable share of health benefits paid by an employer on behalf of the employee.
- Any wages taken into account under Sections 7001 or 7003 of the Families First Coronavirus Response Act (which reimburses employers for certain amounts paid to employees who take emergency paid sick leave or emergency family and medical leave for specified reasons related to COVID-19) do not count as qualified wages for purposes of this credit.
- For employers who had an average of more than 100 FTEs during 2019, qualified wages are wages paid to employees when those employees are not providing services to the employer due to the COVID-19-related circumstances described above (i.e. (i) and (ii) in the second bullet).

- For eligible employers who had an average of 100 or fewer FTEs during 2019, qualified wages are all wages paid to employees during the periods (i.e. (i) and (ii) in the second bullet) due to the COVID-19 related circumstances, whether the employer is open for business or subject to a shut-down order.
- The credit is provided for wages paid or incurred from March 13, 2020 through December 31, 2020.

Section 2302 – Delay of payment of employer payroll taxes.

- Allows employers and self-employed individuals to defer payment of the employer share of the Social Security tax they otherwise are responsible for paying to the federal government with respect to their employees.
- Employers generally are responsible for paying a 6.2-percent Social Security tax on employee wages.
- Employers can defer the tax due from the date of enactment of the Act through December 31, 2020.
- The provision requires that the deferred employment tax be paid over the following two years, with half of the amount required to be paid by December 31, 2021 and the other half by December 31, 2022.
- The Social Security Trust Funds will be held harmless under this provision.

Section 2303 – Modification of Net Operating Losses

- The TCJA's 80% of taxable income limit on NOL carryovers is suspended for 3 years, so that the limit would not apply to tax years beginning in 2018, 2019 and 2020; the 80% limitation is reinstated (with some modifications) for tax years beginning in 2021
- 5-year carryback for NOLs incurred by taxpayer in 2018, 2019 and 2020 taxable years
 - Income includible under section 965 (the deemed repatriation provision enacted in the TCJA) is effectively excluded from income that may be offset by NOLs that are carried back
 - This provision does not apply to REITs; NOLs for REIT years cannot be carried back, and NOLs for non-REIT years cannot be carried back to REIT years

Section 2304 – Modification of Limitation on Losses for Taxpayers Other Than Corporations

- Retroactively suspends the excess business loss provision of Code section 461(l)(1) (which disallows business losses in excess of \$200,000 for a single taxpayer and \$500,000 for a married couple filing jointly) for tax years beginning in 2018, 2019 and 2020

Section 2305 – Modification of credit for prior year minimum tax liability of corporations.

- The corporate alternative minimum tax (AMT) was repealed as part of the Tax Cuts and Jobs Act, but corporate AMT credits were made available as refundable credits over several years, ending in 2021.
- The provision accelerates the ability of companies to recover those AMT credits, permitting companies to claim a refund now and obtain additional cash flow during the COVID-19 emergency.

Section 2306 – Modification of Limitation on Losses for Taxpayers Other Than Corporations

- Retroactively increases the section 163(j) limitation on business interest expense deductions from 30% of adjusted taxable income to 50% for tax years beginning in 2019 and 2020
- Taxpayers may elect out of the increase; once the election is made it cannot be revoked without the Secretary's consent
- Taxpayers may elect to substitute their adjusted taxable income from their 2019 tax year for their adjusted taxable income in 2020
- Special rules exist for partnerships
 - The increase in the limitation will only apply to partners in partnerships for tax years beginning in 2020.
 - For partners that don't elect out, any excess business interest of the partnership for any tax year beginning in 2019 that is allocated to the partner will be treated as follows: (i) 50% of the excess business interest will be treated as paid or accrued by the partner in the partner's first tax year beginning in 2020 and isn't subject to any limits in 2020; and (ii) 50% of the excess business interest will remain suspended until the partnership allocates excess taxable income or excess interest income to the partner (or the partnership is no longer subject to Code section 163(j)).

Section 2307 – Technical amendment regarding qualified improvement property.

- Enables businesses to write off immediately costs associated with improving facilities instead of having to depreciate those improvements over the 39-year life of the building.
- The provision, which corrects an error in the Tax Cuts and Jobs Act, not only increases companies' access to cash flow by allowing them to amend a prior year return, but also incentivizes them to continue to invest in improvements as the country recovers from the COVID-19 emergency.

Section 2308 – Temporary exception from excise tax for alcohol used to produce hand sanitizer.

- The provision waives the federal excise tax on any distilled spirits used for or contained in hand sanitizer that is produced and distributed in a manner consistent with guidance issued by the Food and Drug Administration and is effective for calendar year 2020.