COVID-19 Relief Guidance

Consolidated Appropriations Act (CAA)

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Individual and Small Business Highlights and Provisions

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Dear KSDT Clients, Friends and Colleagues;

First, I would like to wish each of you and your families a very Happy New Year. With 2020 behind us, we optimistically wish for a healthy 2021.

Throughout 2020, KSDT CPA followed the latest guidelines and regulations to keep our staff safe while providing you with the best and most accurate information including the Families First Act, available financing such as the Pay- check Protection Program and SBA Loans and changes to the tax rules that were part of the CARES Act.

We would like to thank each and every one of you for entrusting us with your business as we worked through the year together.

As we move into 2021, we will continue to provide relevant information as it becomes available. The enclosed guidebook is based upon the most recent economic relief package signed into law on 12/27/2020 and guidance issued through January 8, 2021.

KSDT is here to help you and your business so please reach out to our professionals to help you on your journey.

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The following summary is intended to provide guidance to those businesses affected by COVID-19 and is not intended to provide legal advice. The details enclosed are based upon the most current information at the time of this publication (1/8/2021) but are subject to change.

Sources:
Congress.gov, US Chamber of Congress

Overview

Consolidated Appropriations Act (CAA)

12/27/2020 President Trump Signs $900 Billion Aid Package to aid in the financial recovery from COVID-19

> The legislation adds a few new tax breaks for businesses and extends a bevy of other business breaks that were set to expire at the end of 2020.
>
> *Note: The tax changes explained in this guide are found in sections of the CAA, which are called the Taxpayer Certainty and Disaster Tax Relief Act (TCDTRA) and the COVID-Related Tax Relief Act (COVIDTRA). and considered current as of 1/8/2021- Subject to change.*

Key Topics and Highlights for Businesses

PAYCHECK PROTECTION PROGRAM 2

The PPP program has re- opened for entities who have not already used this funding option.

For entities who have already utilized the original PPP program the CAA created a brand new "Second Draw" [PPP2] program for small businesses, non-profits, sole proprietors, and independent contractors who have exhausted their initial PPP loan.

The program will make new loans through March 31, 2021 or until the funding is exhausted, and has funds set aside for loans made by community development financial institutions and minority depository institutions.

HOW MUCH CAN I BORROW?

Loans can be up to **2.5X** the borrower's average monthly payroll costs, not to exceed $2 million.

Accommodations and food services companies (NAICS code 72) may receive loans of up to 3.5 times average monthly payroll costs.

HOW DO I APPLY?

Loans are made through SBA approved lending institutions. Please reach out to your professional lending institution for application instructions.

‘PPP2’ FAQS

1. How Do New Changes Impact My Existing PPP Loan?

Tax Treatment:
The new law overturns an IRS ruling and provides that business expenses properly paid for with PPP loan proceeds shall be deductible for tax purposes (applies to past and future loans). This means that if you spent the money on approved expenses, you can get both forgiveness of the debt AND a tax deduction, as Congress originally intended .

Expanded List of Expenses Qualifying for Forgiveness:
The list of expenses that PPP funds can be used for that qualify for loan forgiveness has been expanded to include:

- **“covered operations expenses”** defined as payments for business software or cloud computing services that facilitate business operations, product or service delivery or human resources , sales and/or accounting

- **“covered supplier costs”** defined as payments to a supplier for goods that are essential to the operations of the borrower pursuant to a contract or purchase order. For non-perishable goods, the contract or purchase order must be in effect before the PPP funding is received;

- **“covered worker protection expenses”** defined as operating or capital expenditures to comply with public health guidance related to COVID-19, including things like drive-through windows, sneeze guards, air pressure ventilation or filtration systems, and the purchase of personal protective equipment (PPE); and

- **“covered property damage costs”** defined as costs related to uninsured property damage or looting due to public disturbances I that occurred during 2020.

Remember: It is still the case that not more than 40% of the forgiven amount can be for non-payroll costs, which may limit how much of your loan can be forgiven.

Loan Forgiveness:
If you also received an EIDL grant, your PPP loan forgiveness will no longer be reduced by the amount of the grant.

Loan Forgiveness Period:
The period for which expenses count toward loan forgiveness will begin on the date of loan origination and end on a date of your choosing that is between 8 and 24 weeks after origination.

Simplified Application:
If your loan was for less than $150,000, there will be a simplified one-page application for loan forgiveness. Note: This application is not yet available

‘PPP2’ FAQS

2. I Exhausted My Initial PPP Loan; How Does This Help Me?

The brand new “Second Draw” program is for small businesses, non-profits, sole proprietors, and independent contractors who have exhausted their initial PPP loan.

The program will make new loans through March 31, 2021 or until the new funding is exhausted.

Eligibility: You are eligible for a second draw loan if you have exhausted your first PPP loan and

(1) you have no more than 300 employees, (and 500 if you have more than one location)

(2) you have experienced a greater than 25% reduction in gross receipts during the first, second, third, or fourth quarter in 2020 relative to the same quarter in 2019.

- **Entities with significant ties to China are ineligible for a second draw loan.**

Loan Amount:

The maximum loan amount is the average monthly payroll costs for the entity during the 12 months prior to the loan or, at the election of the borrower, 2019 multiplied by 2.5 (or 3.5 for employers in the accommodation and food service industry).

Seasonal employers utilize average monthly payroll costs for a 12-week period between February 15, 2019 and February 15, 2020.

A loan may not exceed $2 million.

Loan Forgiveness: The amount of loan that can be forgiven is the lesser of:

(1) Costs incurred or expenditures made between the date of the origination of the loan and ending on a date of your choosing that is between 8 and 24 weeks after origination for: (a) payroll costs, (b) qualifying mortgage interest or rent obligations, (c) covered utility costs, (d) covered operations costs, (e) covered property damage, (f) covered supplier costs, and (g) covered worker protection expenditures; or

(2) Payroll costs for the same period multiplied by 0.60 (this serves as a cap on the total loan forgiveness to ensure that at least 60% of the total amount forgiven is for payroll costs).

Like original PPP loans, the amount of loan forgiveness can be reduced if the borrower has reduced

(1) the number of employees or
(2) employee salaries by more than 25%.

However, the same safe harbors that apply to original PPP loans apply to Second Draw loans.

‘PPP2’ FAQS

3. What If I Never Received a PPP Loan?

For new PPP applicants, the loan process will largely remain the same with a few major changes:

- **You cannot get a PPP Loan if your business was not operating on February 15, 2020**
- If you are a § 501(c)(6) exempt organization, a local news media organization, or a housing cooperative you may be newly eligible for a loan.
- You may qualify even if you took advantage of the Employee Retention Tax Credit.
- If you are a publicly traded company, you are now prohibited from receiving a loan.
- The maximum loan amount is now $2 million (was $10 million).
- Group insurance payments can be included in your payroll costs when determining your maximum loan amount (see Step 3 in our original Guide).
- If you are a seasonal employer, you have greater flexibility in picking the 12-week period between February 15, 2019 and February 15, 2020 used to determine your payroll costs and thus your maximum loan amount.

The PPP program is open through March 31, 2021 or until the new funding is exhausted.

New borrowers have until the end of the covered period of their loan (up to 24 weeks after origination) to restore a reduction in their number of employees or reduced wages in order to avoid having their loan forgiveness reduced.

Note: The safe harbors for when an employer cannot find qualified employees or where complying with COVID related safety measures prevents a return to February 2020 levels of business activity and staffing remain in effect.

Are there Other Programs That May Help My Business?

Employee Retention Tax Credit:

Employers can now receive both the Employee Retention Tax Credit and a PPP loan, just not to cover the same payroll expenses. This expansion applies to both 2020 and 2021. We expect there to be ways to claim the credit for 2020 without filing an amended return, but IRS guidance is needed.

The new law significantly expands the employee retention tax credit beginning on January 1, 2021. The credit expires on June 30, 2021. The prior credit was 50% on $10,000 in qualified wages for the whole year (or a maximum of $5,000 per employee). The new credit is **70%** on **$10,000 in wages per quarter** (or a maximum **$14,000** per employee through June 30th). Certain health insurance costs now qualify for the credit as well.

The new law also expands eligibility for the credit. Prior to the new law, the employee retention tax credit applied only to an employer who experienced a decline in gross receipts of more than 50% in a quarter compared to the same quarter in 2019. Eligibility is now expanded to include employers who experienced a decline of more than 20%.

In addition, the employee cap under which it is easier to claim the tax credit has been raised to 500 employees from 100 employees. Now, employers with 500 or fewer employees can claim the credit for wages to paid to employees irrespective of whether the employee is providing services.

EIDL Grants:

The new law reopens the $10,000 EIDL Grant program. Priority for the full amount of the EIDL grant will be given to small businesses with less than 300 employees, located in low-income neighbourhoods, who have experienced a 30% reduction in gross receipts during any 8-week period between March 2, and December 31, 2020 compared to a comparable 8-week period before March 2. If you received a grant of less than $10,000 during 2020 you may be reapply to receive the difference.

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Grants for Shuttered Venue Operators:

The law creates a new $15 billion grant program for eligible live venue operators or promoters, theatrical producers, live performing arts organization operators, museum operators, motion picture theatre operators, or talent representatives that have experienced at least a 25% drop in revenue.

Grants are equal to the lesser of $10 million or 45% of gross earned revenue in 2019. Grants must be used for specified expenses such as payroll costs, rent, utilities, and personal protective equipment.

If you receive a grant you may not apply for a new PPP loan.

Are there Other Programs That May Help My Business?

SBA Debt Relief Payments:

The new law resumes the government payment of monthly principal and interest on small business loans guaranteed by the SBA under the 7(a), 504, and Microloan programs. Borrowers with loans approved by the SBA prior to the CARES Act will receive an **additional three months of payments beginning in February of 2021.**

Those payments will be capped at $9,000 per borrower per month.

After that, the following borrowers will receive an additional five months of payments, including: borrowers with SBA microloans or 7(a) Community Advantage loans or borrowers with any 7(a) or 504 loan in hard hit sectors including educational services; arts, entertainment and recreation; food service and accommodation; apparel manufacturing; clothing and clothing accessories stores; sporting goods, hobby, book and music stores; scenic and sightseeing transportation; publishing industries; rental and leasing services; and personal and laundry services.

New SBA loans made or approved between December 22, 2020 and September 30, 2021 will receive six months of government payment of principal and interest, also capped at $9,000 per month.

Tax Treatment of CARES Act Financial Assistance

The COVIDTRA clarifies that federal income tax free treatment applies to forgiven PPP Loans, EIDLs, Shuttered Venue Loans and certain loan repayment assistance.

It also ensures that deductions and tax basis increases are allowed for expenditures paid for with forgiven amounts, and that no "tax attribute reductions" are required as a result of forgiven amounts.

Work Opportunity Tax Credit

Employers can claim the work opportunity tax credit (WOTC) for hiring members of 10 targeted groups. Before the CAA, the WOTC only applied to first-year wages paid to qualifying employees who were hired before 2021.

New law:
The TCDTRA extends the WOTC to cover first-year wages paid to qualifying employees who are hired in 2021-2025.

Tax Relief

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For Businesses:

Deduction for Business Meals at Restaurants

Taxpayers may deduct 100% of the cost of business-related food and beverage expenses provided by restaurants in 2021 and 2022. For earlier years, business meal deductions are generally limited to only 50% of the cost.

While some have decried this change as an unwarranted tax break for those who indulge in "three-martini lunches," it's intended to help restaurants survive.

Residential Rental Property

For tax years beginning after 2017, the Tax Cuts and Jobs Act (TCJA) imposed new limitation on deductions for business interest expense. However, real property businesses can elect out of this limitation by choosing to depreciate non-residential real property, qualified improvement property, and residential rental property straight-line under the alternative depreciation system (ADS).

New law:
The TCDTRA reduces the depreciation period for residential rental property that was placed in service before 2018 from 40 years to 30 years, if the property:

Was already being depreciated under ADS and is held by a real property business that elects out of the TCJA business interest expense limitations.

This change will reduce the taxable income of impacted businesses. It remains to be seen whether amended returns will be required for businesses this applies to, or whether the IRS will allow taxpayers who had not previously elected out of the interest expense limitations to do so now.

Other Considerations: Paid Family Leave and Paid Family Leave Credits Revisited

What are the Credits?

- **A dollar for dollar reduction of federal employment taxes for qualified sick/family leave wages paid.**
  - subject to dollar limits based on type of leave
  - increased by specific health plan expenses (e.g., employer-paid health plan premiums relate qualified sick leave wages).
  - increased by Medicare Tax paid on amounts paid pursuant to the Act.

Who gets a Credit?

Employers who pay continue to pay benefits that would have been required by the Emergency Family and Medical Leave Act or Emergency Paid Sick Leave Act

How are the Credits Claimed?

Businesses can reduce payroll tax deposits, including those for withheld income taxes, and both the employer and employee shares of Social Security and Medicare taxes.

FFCRA Leave Requirements for COVID-19

FFCRA Leave Requirements Expired Dec. 31, 2020

The Consolidated Appropriations Act (CAA), 2021, **extended employer tax credits for paid sick leave and expanded family and medical leave voluntarily provided to employees until March 31, 2021.**

However, the CAA did not extend employees' entitlement to FFCRA leave beyond Dec. 31, 2020, meaning employers are no longer be legally required to provide such leave.

How Can Businesses Help Their Employees?

Flexible Spending Account

An employer-sponsored healthcare Flexible Spending Account (FSA) plan can allow an employee to carry over up to $550 of his or her unused FSA balance into the following plan year. At the employer's option, a grace period can be offered, to give employees up to 2½ months after the plan's year end to submit qualifying expenses for reimbursement and thereby use up their FSA balances. Healthcare FSAs can normally offer either a carryover period or a grace period, but not both.

For dependent care FSAs, employers normally can't offer balance carry overs, but they can offer a grace period.

Employees who cease to participate in an FSA normally forfeit any unused balances in their accounts.

New law:
For plan years ending in 2020 and 2021, employers are allowed to extend healthcare FSA and dependent care FSA grace periods for up to 12 months into the following plan year. Both types of FSA plans can also apparently allow both a carry over and a grace period for these plan years. However, this isn't entirely clear. IRS guidance is needed.

The employer can also allow an employee who ceases to participate in a health care FSA during calendar year 2020 or 2021 to continue to receive reimbursements from unused balances through the end of the plan year in which an employee's participation ceased, including any grace period.

FSA Election Changes

For 2021, employers may allow employees to change their FSA elections without a qualifying event and provide extra time for the use of dependent care funds for certain children who turned 13.

Student Loan Payments

Employer-sponsored Section 127 educational assistance plans may pay up to $5,250 per employee for certain educational costs with no federal income tax for the employee. Employers can deduct the payments.

The CARES Act allowed payments of student loan debts (towards principal or interest) of participating employees between March 28, 2020, and December 31, 2020 to be considered educational assistance eligible for this treatment.

New law:
This break is extended to cover qualifying student loan debt payments made under Section 127 plans through December 31, 2025.

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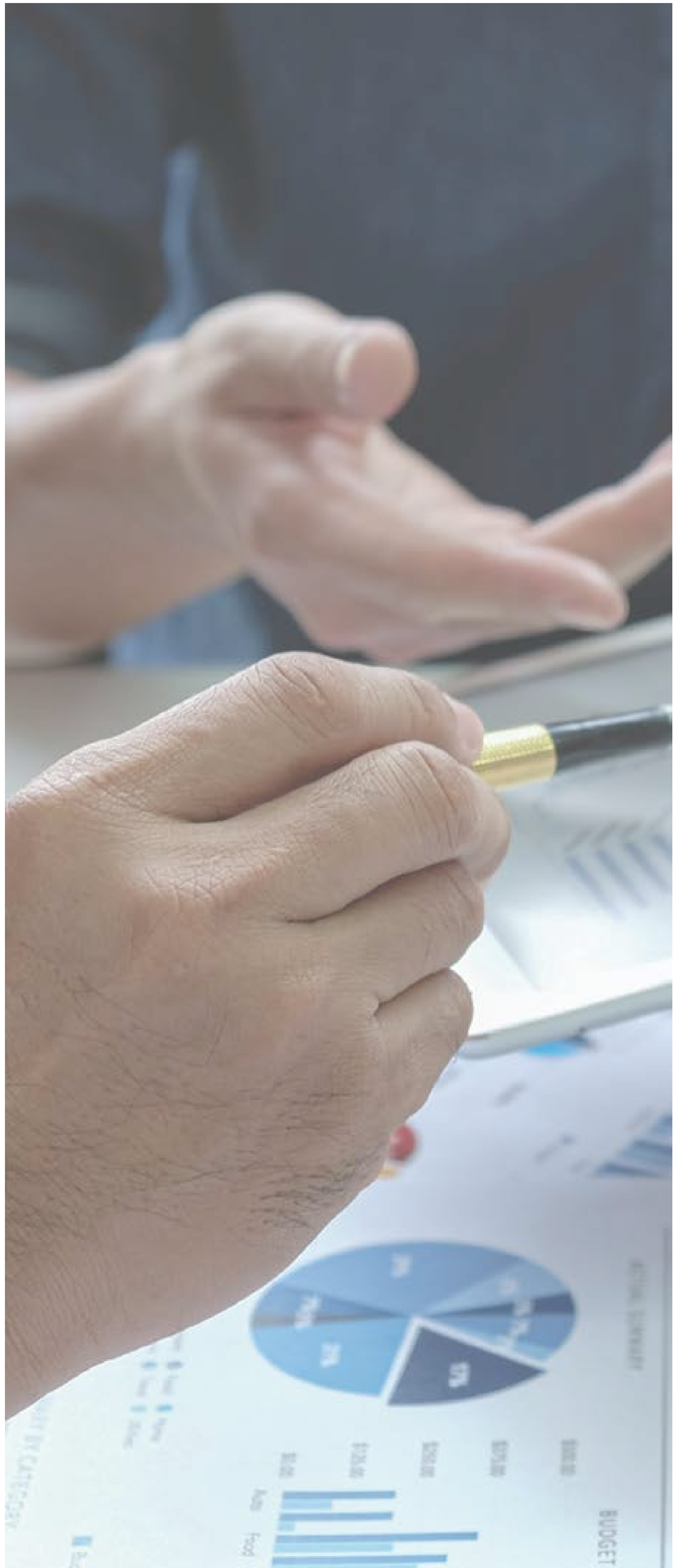
Key Topics and Highlights for Individuals



DIRECT PAYMENTS

Payments have started to be distributed as of 1/4/2021. The eligibility requirements are substantially the same as for the first stimulus direct payments made in the summer of 2020, and the law again provides for the U.S. Treasury to issue payments based on the information on 2019 tax returns.

Once significant change is that individuals who are married to a person who does not have a Social Security Number were not included in direct payments under the CARES Act. Those individuals may receive a stimulus payment under the CAA.

The new law provides for direct payments to eligible individuals (or a tax credit on 2020 tax returns) in the amount of $600 for each eligible individual ($1,200 for those married filing jointly), plus $600 per qualifying child. For example, a family of 4 eligible individuals would receive $2400

Qualifying group	Covered in final law
Individuals	An AGI of less than $87,000 (reduced amount if income over $75,000)
Head of household	An AGI of less than $124,500 (reduced amount if income over $112,,500)
Couple filing jointly	An AGI less than $174,000 (reduced amount if income over $150,000)_
Children under 17 years old	$600 apiece, no limit on number of children
Citizen with non-citizen spouse	Provided they meet other qualifications
US citizens living abroad	Yes, same as CARES
Citizens of US territories	Yes, same as CARES, with payments handled by each territory
SSDI and other tax non-filers	Yes, but may require an extra step to claim
Incarcerated people	Initially excluded by IRS interpretation, but now included by court order
People who owe child support	Excluded under CARES, but included in new bill

Eligible taxpayers who claimed their earlier stimulus payments by entering information through the non-filers tool on the IRS's website will also receive the additional payments, but no new website has been set up as of now.

People who do not receive payments but whose 2020 income is below the thresholds can claim a credit on their 2020 income tax returns.

People who receive payments but whose 2020 income exceeds the thresholds do not need to return the excess.

Congress is still debating increasing the payment amount from $600 to $2,000 per individual.

Tax Relief

For Individuals:

2020 Refundable Child Credit and Earned Income Tax Credit

Refundable tax credits are those that can be claimed even if a taxpayer has no federal income tax liability. Eligible taxpayers can claim a refundable Child Tax Credit (CTC) equal to 15% of earned income in excess of $2,500. The refundable Earned Income Tax Credit (EITC) equals the applicable percentage of an eligible taxpayer's earned income. Both of these credits are phased out for taxpayers whose income exceeds certain thresholds.

For taxpayers with income below the amount that would trigger a full phase out of the credits, more earned income can translate into bigger refundable credits, and less earned income can translate into smaller refundable credits. Obviously, lots of people had lower earned income in 2020 due to COVID-19, which could result in lower refundable credits for many cash-strapped workers.

New law:
For purposes of calculating allowable CTCs and EITCs for the 2020 tax year, the law allows taxpayers to use their 2019 earned income amount if that's more than the 2020 figure.

Itemized Medical Expense Deductions

The threshold for itemized medical expense deductions was set to increase from 7.5% to 10% of adjusted gross income (AGI) beginning in 2021, which would make it harder to claim a medical expense deduction.

New law:
The 7.5%-of-AGI threshold is now permanent .

Mortgage Insurance Premium Write-Off

Premiums for qualified mortgage insurance on debt to acquire, construct, or improve a first or second residence can be treated as deductible qualified residence interest. The deduction is phased out for higher-income individuals.

New law:
This tax break is extended through 2021.

Forgiveness of Qualified Principal Residence Indebtedness

Forgiveness of debt is generally included in taxable income. An exception for forgiveness of debt that was used to acquire a personal residence was set to expire in 2020.

The CAA extends this exclusion through 2025, but at a maximum amount of $750,000.

Tax Relief

For Individuals:

College Tuition Deduction and the Lifetime

Before the new law, there were three tax breaks available for qualified education expenses: The Tuition and Fees Deduction, the Lifetime Learning Credit and the American Opportunity Tax Credit.

For 2020, the Tuition and Fees Deduction could be up to $4,000 at lower income levels or up to $2,000 at middle income levels, regardless of whether you itemize deductions or not. Both the Lifetime Learning Credit and the American Opportunity Tax Limit are also subject to income limitations.

New law:
Before the new law, an unfavorable income phase-out rule applied to the Lifetime Learning Credit, which can be worth up to $2,000 per tax return annually. Beginning in 2021, the new law aligns the phase-out rule for the Lifetime Learning Credit with the more favorable phase-out rule for the American Opportunity Tax Credit, which can be worth up to $2,500 per student. In turn, the TCDTRA repeals the Tuition and Fees Deduction beginning in 2021. In effect, the law trades the old-law write-off for the more favorable new-law Lifetime Learning Credit phase-out rule.

Key Point:
Both the Lifetime Learning Credit and the American Opportunity Tax Credit are phased out beginning in 2021 for unmarried individuals with a MAGI between $80,001 and $90,000 ($160,001 and $180,000 for married couples filing jointly). Before the new law, the Lifetime Learning Credit was phased out for unmarried individuals with a MAGI between $59,001 and $69,000 ($118,001 and $138,000 married couples filing jointly).

Educator Expense Deductions

The cost of personal protective equipment (PPE), disinfectant, and other supplies used to prevent the spread of COVID-19 will count as allowable expenses for the $250 education deduction. This will apply to expenses paid or incurred after March 12, 2020.

Charitable Contributions

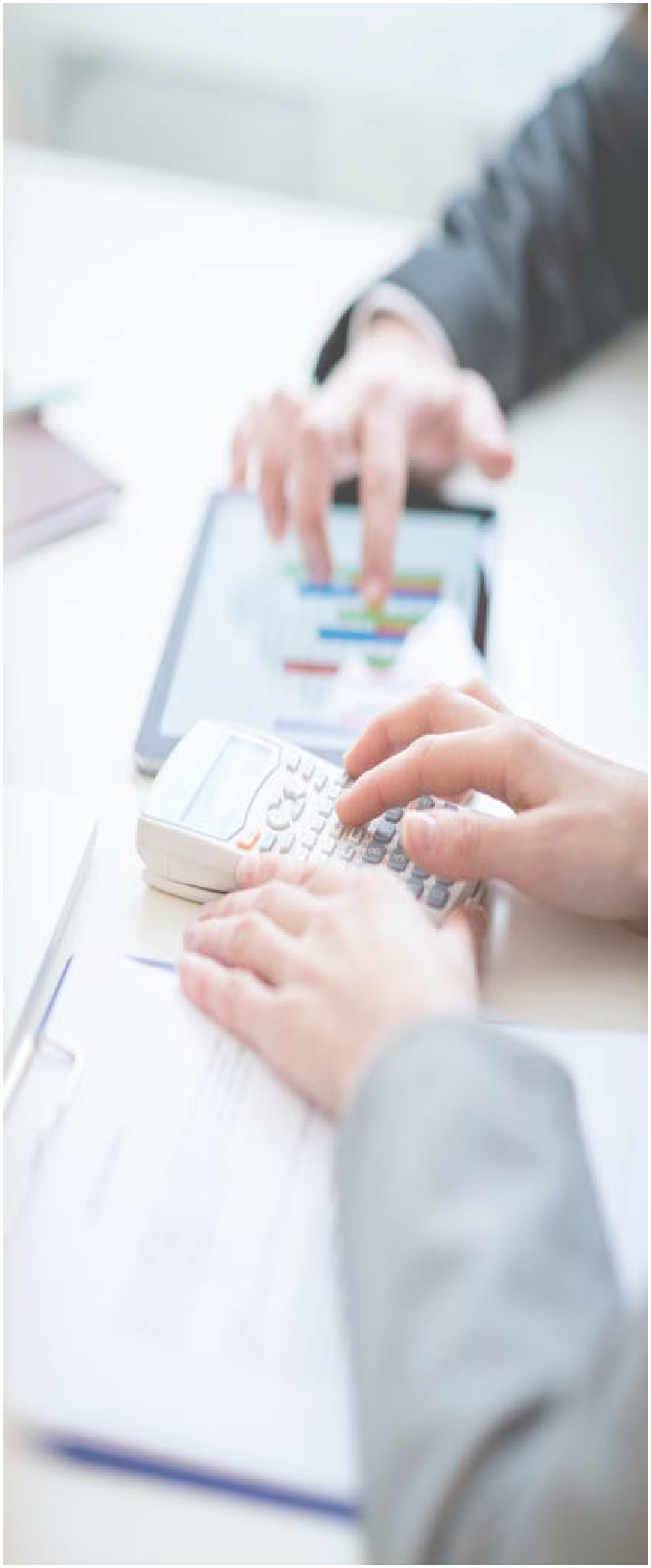
The CARES Act provided that for 2020, individual filers who don't itemize deductions can claim a federal income tax write-off for up to $300 of cash contributions to IRS approved charities. The same $300 limit applies to both unmarried taxpayers and married couples who are file joint returns.

It also allowed individuals who itemize deductions to deduct charitable contributions that exceed 50% of AGI for 2020.

New law:

Both the suspension of the AGI limitation and the ability to deduct $300 of cash contributions were extended to contributions made during 2021.

In addition, the COVIDTRA doubles the amount that can be deducted for cash contributions in 2021 without itemizing deductions, to $600 for married couples who file jointly.



Additional Topics

Additional Topics

Retirement Plans

The CAA includes tax relief for taxpayers in federally declared disaster areas for major disasters (not related to COVID-19) declared from January 1, 2020, through February 25, 2021.

This relief is similar to some of the relief afforded under the CARES Act. For example, it provides that residents of qualified disaster areas can take distributions or loans of up to $100,000 from retirement plans without the normal 10% early withdrawal penalty through June 25, 2021.

There are also special rules that allow the recontribution of retirement plan distributions applied to a home purchase in a qualified disaster area

Be aware that the CAA doesn't extend the CARES Act's temporary waiver of required minimum distributions. Affected taxpayers should plan on resuming those distributions for 2021.

New Markets Tax Credit

The New Markets Tax Credit can be claimed by both individual and corporate taxpayers. The credit equals 39% of the taxpayer's capital investment in a qualified entity that commits to the rules of the new markets tax credit program. In turn, the recipient entity must loan or invest substantially all of the invested capital in qualified businesses that operate in low-income communities. The program was scheduled to expire at the end of 2020, and unused credits could be claimed through 2025.

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New Law:
The TCDTRA includes $5 billion annual allocations made for 2021-2025. The TCDTRA also extends the carry over period for taxpayers to utilize unclaimed new markets tax credits through 2030.

Farming Losses

The COVIDTRA allows farming businesses that had previously elected to forego the carryback of net operating losses (NOLs) generated in years beginning in 2018 or 2019 to revoke the election and carry the NOL back for five years.

Farming businesses that did not elect to forego the carryback of NOLS generated in 2018 or 2019 can now choose a carryback period of either two or five years.

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