Further Consolidated Appropriations Act, 2020

HR 1865

On Dec. 20, 2019, the President signed the *Further Consolidated Appropriations Act, 2020* (H.R. 1865, PL 116-94), a $428 billion tax-cut plan that would restore a mixed bag of benefits known as extenders, modify rules for retirement plans, rescind several Obamacare taxes, offer breaks to victims of natural disasters and keep the federal government funded for the rest of the fiscal year.

The spending bill consists of two separate pieces of legislation most notable to taxpayers – the *Setting Every Community Up for Retirement Enhancement (SECURE) Act* and the *Taxpayer Certainty and Disaster Tax Relief Act of 2019.*

Setting Every Community Up for Retirement Enhancement (SECURE) Act–Division O

TITLE I – EXPANDING AND PRESERVING RETIREMENT SAVINGS

- Certain taxable non-tuition fellowship and stipend payments treated are as compensation for IRA purposes. The term "compensation" shall include any amount that is included in the individual's gross income and paid to the individual to aid in the pursuit of graduate or postdoctoral study. Effective for tax years beginning after Dec. 31, 2019.

- Repeal of maximum age for traditional IRA contributions. Contributions to a traditional IRA are now permitted for eligible taxpayers of any age. Effective for contributions made tax years beginning after Dec. 31, 2019.

- Qualified charitable distributions (QCDs) from an IRA can only be made after the taxpayer reaches age 70½. The amount of a taxpayer's QCDs that are not includible in gross income for a tax year is reduced (but not below zero) by the excess of:

    1. The total amount of IRA deductions allowed to the taxpayer for all tax years ending on or after the date the taxpayer attains age 70½, over

    2. The total amount of reductions for all tax years preceding the current tax year.

  Effective for distributions made for tax years beginning after Dec. 31, 2019.

- Qualified cash or deferred arrangements must allow long-term employees working more than 500 but less than 1,000 hours per year to participate. Generally applies to plan years beginning after Dec. 31, 2020.

- Penalty-free withdrawals from retirement plans for individuals in case of birth or adoption of child under the age of 18, or is physically or mentally incapable of self-support. Distributions shall not exceed $5,000. Effective for distributions made after Dec. 31, 2019.
- Increase in age for required minimum distributions from 70½ to 72. Effective for distributions required to be made after Dec. 31, 2019, with respect to individuals who attain age 70½ after that date.
- Taxpayers can elect to treat excluded difficulty of care payments as compensation for determining retirement contribution limitations. Apply to contributions after Dec. 20, 2019.

TITLE III – OTHER BENEFITS

- Exclusion of SALT benefits and qualified payments for volunteer emergency responders reinstated for 2020 only. The monthly limit on the exclusion for qualified payments is increased from $30 to $50.
- Section 529 plans are expanded to cover the cost for fees, books, supplies and equipment required for the designated beneficiary's participation in a registered apprenticeship program. In addition, tax-free distributions are allowed from 529 plans to pay principal or interest on a qualified education loan of the designated beneficiary or a sibling of the designated beneficiary up to a $10,000 lifetime limit. Effective for distributions made after Dec. 31, 2018.

TITLE IV – REVENUE PROVISIONS

- Modification of required distribution rules for designated beneficiaries. After an employee (or IRA owner) dies, the remaining account balance must be distributed to designated beneficiaries within 10 years after the date of death. This rule applies regardless of whether the employee (or IRA owner) dies before, on, or after the required beginning date, unless the designated beneficiary is an ***eligible*** designated beneficiary.

  An eligible designated beneficiary is an individual who, with respect to the employee or IRA owner, on the date of his or her death, is:

  - The surviving spouse of the employee or IRA owner.
  - A child of the employee or IRA owner who has not reached majority.
  - A chronically ill individual as specially defined in Code Sec. 401(a)(9)(E)(ii)(IV).
  - Any other individual who is not more than ten years younger than the employee or IRA owner.
- Increased failure to file penalty for tax returns due after Dec. 31, 2019 (including extensions). The failure to file penalty under §6651(a) is increased from $330 to $435.

TITLE V – TAX RELIEF FOR CERTAIN CHILDREN

- Kiddie tax changes for gold star children and other children. The kiddie tax provisions that were added by the TCJA are repealed. As a result, the unearned income of children is taxed under the pre-TCJA rules and not at trust/estate rates. This means a child will once again be taxed at the parents' rates on net unearned income if higher than the child's rates. This will particularly benefit gold star children who receive payments under the Survivor Benefits Plan (SBP), an insurance annuity provided by the Department of Defense. SBP payments are often assigned to a child by a surviving spouse who is receiving Dependency and Indemnity Compensation (DIC) from the Department of Veterans Affairs. Effective for tax years beginning after Dec. 31, 2019, but taxpayers can elect to apply it retroactively to tax years that begin in 2018, 2019, or both.

Taxpayer Certainty and Disaster Tax Relief Act of 2019–Division Q

TITLE I – EXTENSION OF CERTAIN EXPIRING PROVISIONS

Subtitle A – Tax Relief and Support for Families and Individuals

- Exclusion from gross income of discharge of qualified personal residence indebtedness. Discharges of up to $2 million of mortgage debt on taxpayer's main home are excluded from income. This provision expired for tax years ending before Jan. 1, 2018, and is retroactively extended through Dec. 31, 2020.
- Treatment of mortgage insurance premiums as qualified residence interest. Premiums paid or accrued for qualified mortgage insurance connection with acquisition indebtedness with respect to a qualified residence of the taxpayer is treated qualified residence interest. This provision expired for tax years ending before Jan. 1, 2018, and is retroactively extended through Dec. 31, 2020.
- Reduction in medical expense deduction floor. The reduction in the medical expense deduction floor from 10% to 7.5% expired for tax years ending before Jan. 1, 2019. This provision is extended through Dec. 31, 2020.
- Deduction for qualified tuition and related expenses. The deduction for qualified tuition and related expenses is retroactively extended through Dec. 31, 2020. The deduction is up to $4,000 for taxpayers whose adjusted gross income does not exceed $65,000 ($130,000 in the case of a joint return); and up to $2,000 for taxpayers whose adjusted gross income does not exceed $80,000 ($160,000 in the case of a joint return). The deduction is $0 for all others.

Subtitle B – Incentives for Employment, Economic Growth and Community Development

- Indian Employment Credit – retroactively extended through Dec. 31, 2020.
- Railroad Track Maintenance Credit – retroactively extended through Dec. 31, 2022.
- Mine Rescue Training Team Credit – retroactively extended through Dec. 31, 2019.
- Certain Race Horses Classified as 3-Year Property – retroactively extended for any horse placed in service before Jan. 1, 2021, and placed in service after Dec. 31, 2020, and is more than 2 years old.
- Seven-Year Recovery Period for Motorsports Entertainment Complexes – retroactively extended through Dec. 31, 2020.
- Accelerated Depreciation for Business Property on Indian Reservations – retroactively extended though Dec. 31, 2020.
- Election to Treat Certain Qualified Film, Television and Live Theatrical Production Costs as Expenses – retroactively extended through Dec. 31, 2020.
- Empowerment Zone Tax Incentives – designated empowerment zones remain in effect retroactively through Dec. 31, 2020.

Subtitle C – Incentives for Energy Production, Efficiency, and Green Economy

- Biodiesel and renewable diesel. Section 40A(g) provides a $1.00-per-gallon tax credit for biodiesel and biodiesel mixtures, and the small agri-biodiesel producer credit of 10 cents per gallon. The credit is extended for two years for production before Jan. 1, 2021.
- Nonbusiness energy property. Retroactively extended for property placed in service after Dec. 31, 2017, and before Jan. 1, 2021.
- Two-wheeled plug-in electric vehicle credit. Retroactively extended to vehicles acquired before Jan. 1, 2021.
- Credit for electricity produced from certain renewable resources. Construction of a qualifying facility must begin before Jan. 1, 2021.
- Energy efficient homes credit for manufacturers of new homes acquired before Jan. 1, 2021.
- The deduction for energy efficiency improvements to lighting, heating, cooling, ventilation, and hot water systems of commercial buildings retroactively extended to property placed in service before Jan. 1, 2021.

Subtitle D – Certain Provisions Expiring at the End of 2019

- New markets tax credit. Carryover extended through 2025.
- Employer tax credit for paid family leave. Extended through 2020.
- Work opportunity tax credit. Extended through 2020.
- Health coverage tax credit (HCTC). Extended through 2020.

TITLE II – DISASTER TAX RELIEF

Definitions for purposes of this title

The term "qualified disaster area" means any area with respect to which a major disaster was declared beginning Jan. 1, 2018, and ending on Feb. 19, 2020, (60 days after enactment) by the President under section 401 of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act* if the incident period of the disaster with respect to which such declaration is made begins on or before the date of the enactment of this act. Such term shall not include the California wildfire disaster area.

The term "qualified disaster zone" means that portion of any qualified disaster area that was determined by the President, during the period beginning on Jan. 1, 2018, and ending on Feb. 19, 2020, to warrant individual or individual and public assistance from the federal government under the *Robert T. Stafford Disaster Relief and Emergency Assistance Act* by reason of the qualified disaster with respect to such disaster area.

The term "qualified disaster" means, with respect to any qualified disaster area, the disaster by reason of which a major disaster was declared with respect to such area.

The term "incident period" means, with respect to any qualified disaster, the period specified by the Federal Emergency Management Agency as the period during which such disaster occurred (except that for purposes of this title such period shall not be treated as beginning before Jan. 1, 2018, or ending on Jan. 20, 2020.

- Allowance of qualified disaster distributions for up to $100,000 from qualified plans if made by June 18, 2020 (180 days after date of enactment). Repayments can be made ratably over a three-year period.

- Special disaster-related rules for use of retirement funds. New exception to the 10% early retirement plan withdrawal penalty for qualified disaster relief distributions (not to exceed $100,000 in qualified hurricane distributions cumulatively). The new rule allows for the re-contribution of retirement plan withdrawals for home purchases canceled due to eligible disasters and provides flexibility for loans from retirement plans for qualified hurricane relief.
- Employee retention credit for employers affected by qualified disasters of 40% of wages (up to $6,000 per employee) paid by affected employer to employees from a core disaster area.
- Special rule for determining earned income that allows taxpayers in designated disaster areas to refer to earned income from the immediately preceding year for purposes of determining the Earned Income Tax Credit (EITC) and Child Tax Credit (CTC) in tax year 2018.
- Elimination of the current law requirements that personal casualty losses must exceed 10% of adjusted gross income to qualify for deduction. Also eliminated is the current law requirement that taxpayers must itemize deductions to access this tax relief.
- Temporarily suspension of the limitations on the deduction for charitable contributions associated with qualified disaster relief.
- Automatic extension of filing deadline. Any individual with a principal place of abode or any taxpayer with a principal place of business in a disaster area is granted an automatic 60-day extension with regard to any tax filing. This applies to federally declared disasters declared after Dec. 20, 2019.