

H.R. 748 FEDERAL CARES ACT, AS AMENDED BY SENATE
MARCH 26, 2020

Subtitle B—Rebates and Other Individual Provisions

Sec. 2201. 2020 recovery rebates for individuals. I.R.C. § 6428.

- Income tax credit against 2020 tax year, treated as refundable. Not included in gross income.
- \$1200 (\$2400 joint filers) per eligible individual. Eligible individual means any individual except:
 - Nonresident aliens.
 - Dependents of other taxpayers.
 - Estates and trusts.
- \$500 per qualifying child of the taxpayer. Qualifying child means:
 - A child under the age of 17.
 - A child who is not a U.S. citizen or national does not qualify unless the child is a U.S. resident. I.R.C. §§ 24(c), 152(b)(3)(A).
- Income limits and phase-out
 - Adjusted gross income limits by filing status:
 - Single: \$75,000
 - Head of household: \$112,500
 - Joint: \$150,000
 - Phase-out: the credit is reduced by 5% of so much of the taxpayer's AGI as exceeds the limit; which is \$5 for each \$100 that a taxpayer's income exceeds the phase-out threshold.
- Timing & manner of payments
 - Treasury is directed to make payments "as rapidly as possible;" credit is not allowed after Dec. 31, 2020.
 - Delivery of payments allowed to any account to which the taxpayer has authorized tax payments or refunds on or after Jan. 1, 2018.
 - No interest allowed on an overpayment.
 - If taxpayer has not yet filed their return for tax year 2019, then Treasury may use the tax year 2018 return. If a return has not been filed for 2018, Treasury may use information filed on Form SSA-1099, Social Security Benefit Statement, or Form RRB-1099, Social Security Equivalent Benefit Statement.
 - Treasury must notify taxpayer by mail of payment method, amount, and IRS phone number to report failure to receive payment.
- Social Security Numbers must be reported on returns for all taxpayers (exception for members of Armed Forces).
- Treasury must make rules or guidance, including how to avoid taxpayers receiving multiple credits; Treasury must conduct education and outreach with other agencies on availability of credit, including for taxpayer who have not filed a return in tax year 2018 or 2019.
- No federal offset allowed against credit
- Immediate appropriation authorized to pay for credit

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Sec. 2202. Special rules for use of retirement funds.

- No early withdrawal penalty applies to coronavirus-related distributions from retirement plans, up to \$100,000. Under I.R.C. § 72(t), penalty is 10%.
- Corona-virus distributions are:
 - distributions from eligible retirement plans (IRAs, individual retirement annuities, qualified trusts, 403(a) annuity plans, 457 deferred compensation plans, annuity contracts)
 - made between Jan. 1, 2020 and Dec. 31, 2020
 - made to an individual
 - diagnosed with SARS-CoV-2 or COVID-19;
 - whose spouse or dependent is diagnosed with SARS-CoV-2 or COVID-19; or
 - who experiences adverse financial consequences as a result of being quarantined, being furloughed or laid off or having work hours reduced due to such virus or disease, being unable to work due to lack of child care due to such virus or disease, closing or reducing hours of a business owned or operated by the individual due to such virus or disease, or other factors as determined by the Treasury.
- Distributions are included ratably in gross income over a 3-year period (unless taxpayer elects not to have this apply).
- Distributions may be repaid up to the amount withdrawn at any time during 3-year period without penalty.
- Increases limit on loans from qualified employer retirement plans to qualified individuals for coronavirus-related relief, and delays payment deadlines.

Sec. 2203. Temporary waiver of required minimum distribution rules for certain retirement plans and accounts.

- Waives required minimum distribution rules for certain defined contribution plans and IRAs for calendar year 2020. This provision provides relief to individuals who would otherwise be required to withdraw funds

Sec. 2204. Allowance of partial above the line deduction for charitable contributions.

- Creates new charitable deduction up to \$300 for taxpayers who take the standard deduction and who make cash contributions to certain charitable organizations (not 509(a)(3) supporting organizations), available starting in tax year 2020.

Sec. 2205. Modification of limitations on charitable contributions during 2020.

- Temporary suspension of percentage and carryover limits on cash charitable contributions made in 2020. Increase in limits on contributions of food inventory made in 2020.

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Sec. 2206. Exclusion for certain employer payments of student loans.

- Excludes from an employee's gross income the first \$5,250 paid by the employer to the employee or to a lender for the principal or interest owed on any qualified education loan incurred by the employee for their higher education costs. The exclusion applies to payments made after enactment and before Jan. 1, 2021. The amount excluded for loan repayment reduces the student loan interest deduction allowed under I.R.C. § 221.

Subtitle C—Business Provisions

Sec. 2301. Employee retention credit for employers subject to closure due to COVID-19.

- Eligible employers may take a refundable credit against their employment taxes for 50% of qualified wages paid to each employee, up to \$10,000 of wages, including qualified health plan expenses, paid per employee.
- Available for wages paid March 13, 2020 through Dec. 31, 2020.
- Eligible employers are those:
 - carrying on a trade or business in calendar year 2020 that was fully or partially suspended due to COVID-19 governmental orders limiting commerce, travel, or group meetings; or
 - whose gross receipts declined by more than 50% compared to the same calendar quarter in the prior year. The employer is no longer eligible when gross receipts are greater than 80% of gross receipts for the same calendar quarter in the prior year.
 - Eligible employers include 501(c) tax exempt organizations
 - Government employers are not eligible.
 - Employers who take a covered small business interruption loan are not eligible for the credit.
- Qualified wages are:
 - for employers with more than 100 full-time employees, wages paid to employees when they are not providing services because of COVID-19-related closure or significant decline in gross receipts.
 - for employers with 100 or fewer full-time employees, all employee wages qualify for the credit, whether the employer is open for business or subject to a shut-down order.

Sec. 2302. Delay of payment of employer payroll taxes.

- Employers and self-employed may defer payment of social security tax over 2 years, with half due by Dec. 31, 2021 and the other half by Dec. 31, 2022.
- Employers who have had loans forgiven under the CARES are not eligible for deferral.
- Appropriations are made to hold the social security trust funds harmless.

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Sec. 2303. Modifications for net operating losses.

- Allows a 5-year carryback for losses in tax years 2018, 2019, or 2020.
- Temporary suspension of taxable income limit to NOL deduction.

Sec. 2304. Modification of limitation on losses for taxpayers other than corporations.

- For all non-corporate taxpayers (passthrough entities, sole proprietors, etc.), losses limitations are expanded.

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

- Allows corporations to apply refundable credits immediately for payments made to alternative minimum tax, which was repealed in the Tax Cuts and obs Act.

Sec. 2306. Modifications of limitation on business interest.

- Temporary increase in amount of interest expenses that a business can deduct, from a limit of 30% of taxable income to 50% of taxable income in tax years 2019 and 2020.

Sec. 2307. Technical amendments regarding qualified improvement property.

- Accelerates depreciation of qualified improvement property to enable businesses to write off costs of improving property immediately.

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

- No federal alcohol excise tax will apply to distilled spirits removed after Dec. 31, 2019 and before Jan. 1, 2021 to use in FDA-approved methods of producing hand sanitizer.
- No labelling or bulk sales requirements apply to distilled spirits for use in producing hand sanitizer.

Miscellaneous. Sec. 1106(i).

- Forgiveness of indebtedness on a covered loan guaranteed under the Small Business Act is excluded from gross income.