



**TAXPAYER CERTAINTY AND
DISASTER TAX RELIEF ACT OF 2020 – Section by Section**

TITLE I –EXTENSION OF CERTAIN PROVISIONS

Subtitle A - Certain Provisions Made Permanent

Sec. 101. Reduction in medical expense deduction floor. Between 2013 and 2017, individuals under 65 years old could claim an itemized deduction for unreimbursed medical expenses to the extent that such expenses exceeded 10 percent of AGI, while for individuals 65 or older, the threshold was 7.5 percent of AGI. Prior to this period, the 7.5 percent threshold generally applied regardless of age. The provision makes permanent the lower threshold of 7.5 percent for all taxpayers, originally restored for 2017 and 2018 and then extended for 2019 and 2020.

Sec. 102. Energy efficient commercial buildings deduction. The provision makes permanent the deduction for energy efficiency improvements to building envelope, lighting, heating, cooling, ventilation, and hot water systems of commercial buildings. The provision updates the ASHRAE Reference Standard 90.1 from the 2007 standard to the most recent standard as of two years before the start of construction. The most recent Reference Standard 90.1 is the most recent standard published and affirmed by the Secretary of the Treasury, after consultation with the Secretary of Energy. The provision additionally indexes to inflation the amount of the \$1.80-per-square-foot limitation.

Sec. 103. Benefits provided to volunteer firefighters and emergency medical responders. The provision makes permanent the exclusions for qualified state or local tax benefits and qualified reimbursement payments provided to members of qualified volunteer emergency response organizations and increases the exclusion for qualified reimbursement payments to \$50 for each month during which a volunteer performs services. This provision was originally reinstated for 2020 in the SECURE Act.

Sec. 104. Transition from deduction for qualified tuition and related expenses to increased income limitation for lifetime learning credit. The qualified tuition deduction is capped at \$4,000 for an individual whose AGI does not exceed \$65,000 (\$130,000 for joint filers) or \$2,000 for an individual whose AGI does not exceed \$80,000 (\$160,000 for joint filers). After 2020, the provision repeals the qualified tuition deduction and replaces it by increasing the phase-

out limits on the Lifetime Learning credit from \$58,000 (\$116,000 for joint filers) to \$80,000 (\$160,000 for joint filers). In the vast majority of circumstances, these increased phase-out limits hold harmless those taxpayers who would have otherwise benefited from this deduction.

Sec. 105. Railroad track maintenance credit. The provision makes permanent the credit for qualified railroad track maintenance. The credit is equal to 40 percent of expenditures paid or incurred by an eligible taxpayer on maintenance of certain railroad track. For expenditures prior to January 1, 2023, the credit is equal to 50 percent of such expenditures. The credit cannot exceed the product of \$3,500 times the number of miles of railroad track owned or leased by (or assigned to) the eligible taxpayer as of the close of the taxable year.

Sec. 106. Certain provisions related to beer, wine, and distilled spirits. The provision makes permanent the reduction of certain excise taxes and simplified record-keeping requirements related to the taxation of beer, wine, and distilled spirits. The provision also modifies certain requirements for in-bond transfers of bottled distilled spirits.

Sec. 107. Refunds in lieu of reduced rates for certain alcohol produced outside the United States. The provision provides that, starting in 2023, reduced rates for imports will be administered as refunds by the Treasury Department, rather than determined upon entry by Customs and Border Protection. The refunds shall be paid at least quarterly. The provision also determines how interest will be applied to the amount of the refund.

Sec. 108. Reduced rates not allowed for smuggled or illegally produced beer, wine, and spirits. The provision clarifies that reduced rates for beer, wine, and spirits are not allowed for smuggled or illegally produced products.

Sec. 109. Minimum processing requirements for reduced distilled spirits rates. The provision modifies the definition of processing for purposes of determining the volume limitations on reduced rates. The provision disregards mere bottling of distilled spirits in determining whose controlled group is relevant for purposes of the limitations.

Sec. 110. Modification of single taxpayer rules. The provision makes certain modifications to single taxpayer rules for beer, wine, and distilled spirits.

Subtitle B - Certain Provisions Extended Through 2025

Sec. 111. Look-thru rule for related controlled foreign corporations. The provision extends, through 2025, look-thru treatment for payments of dividends, interest, rents, and royalties between related controlled foreign corporations.

Sec. 112. New Markets Tax Credit. The provision extends annual \$5 billion allocations of the New Markets Tax Credit for years 2021 through 2025. The provision also extends through 2030 the carryover period for unused New Markets Tax Credits.

Sec. 113. Work Opportunity Tax Credit. The provision extends, through 2025, an elective general business credit to employers hiring individuals who are members of one or more of ten targeted groups under the Work Opportunity Tax Credit program.

Sec. 114. Exclusion from gross income of discharge of qualified principal residence indebtedness. The provision extends, through 2025, the exclusion from gross income for a discharge of qualified principal residence indebtedness. The provision reduces the maximum amount that may be excluded from \$2,000,000 to \$750,000. Generally, indebtedness must be the result of acquisition, construction, or substantial improvement of primary residence.

Sec. 115. 7-year recovery period for motorsports entertainment complexes. The provision extends, through 2025, a 7-year recovery period for motorsports entertainment complexes. A motorsports entertainment complex is defined as a racing track facility that is permanently situated on land and that hosts one or more racing events within 36 months of the month it is placed in service.

Sec. 116. Expensing rules for certain productions. The provision extends, through 2025, a deduction for qualified film, television, and theatrical productions of up to \$15 million of the aggregate cost (\$20 million for certain areas) of a qualifying film, television, or theatrical production in the year the expenditure was incurred.

Sec. 117. Oil spill liability trust fund rate. The provision extends, through 2025, the excise tax of \$0.09 per barrel on crude oil received at a refinery and petroleum products entered into the United States which is deposited into the Oil Spill Liability Trust Fund.

Sec. 118. Empowerment zone tax incentives. The provision extends, through 2025, tax benefits for certain businesses and employers operating in empowerment zones. The provision modifies the tax incentives available by terminating the increased expensing on qualifying equipment under section 179 and the deferral of capital gains tax on the sale of certain qualified assets, effective for taxable years beginning after December 31, 2020.

Sec. 119. Employer tax credit for paid family and medical leave. The provision extends, through 2025, the employer credit for paid family and medical leave, which permits eligible employers to claim an elective general business credit based on eligible wages paid to qualifying employees with respect to family and medical leave. The credit is equal to 12.5 percent of eligible wages if the rate of payment is 50 percent of such wages, and is increased by 0.25 percentage points (but not above 25 percent) for each percentage point that the rate of payment exceeds 50 percent. The maximum amount of family and medical leave that may be taken into account with respect to any qualifying employee is 12 weeks per taxable year.

Sec. 120. Exclusion for certain employer payments of student loans. The provision extends, through 2025, the allowance for employers to provide a student loan repayment benefit to employees on a tax-free basis. Under the provision, an employer may contribute up to \$5,250 annually toward an employee's student loans, and such payment would be excluded from the

employee's income. The \$5,250 cap applies to both the student loan repayment benefit as well as other educational assistance (e.g., tuition, fees, books) provided by the employer under current law. The provision applies to any student loan payments made by an employer on behalf of an employee through 2025.

Sec. 121. Extension of carbon oxide sequestration credit. The provision extends the carbon oxide sequestration credit for facilities that begin construction by the end of 2025.

Subtitle C – Extension of Certain Other Provisions

Sec. 131. Credit for electricity produced from certain renewable resources. The provision extends the production tax credit for renewable power facilities that begin construction by the end of 2021. For wind facilities that begin construction by the end of 2021, the credit continues to be reduced by 40 percent.

Sec. 132. Extension and phaseout of energy credit. The provision extends the current 26 percent investment tax credit for solar energy property, fiber-optic solar equipment, fuel cell property, and small wind energy property that begin construction by the end of 2022, and at a 22 percent rate for property that begin construction by the end of 2023, after which the credit is reduced to 10 or zero percent. The provision extends the 10 percent investment credit for microturbine property, geothermal heat pumps, and combined heat and power property that begins construction through 2023.

Sec. 133. Treatment of mortgage insurance premiums as qualified residence interest. The provision extends, through 2021, a rule treating qualified mortgage insurance premiums as interest for purposes of the mortgage interest deduction. This deduction phases out for taxpayers with adjusted gross income (AGI) over \$100,000 (\$50,000 if married filing separately).

Sec. 134. Credit for health insurance costs of eligible individuals. The provision extends, through 2021, a refundable credit (commonly referred to as the health coverage tax credit or "HCTC") equal to 72.5 percent of the premiums paid by certain individuals for coverage of the individual and qualifying family members under qualified health insurance.

Sec. 135. Indian employment credit. The provision extends, through 2021, a credit on the first \$20,000 of qualified wages and qualified employee health insurance costs paid to or incurred by the employer with respect to each qualified employee who works on an Indian reservation. The credit is equal to 20 percent of the excess of eligible employee qualified wages and health insurance costs incurred during the current year over the amount of such wages and costs incurred by the employer during 1993.

Sec. 136. Mine rescue team training credit. The provision extends, through 2021, a 20 percent credit (capped at \$10,000) on the training program costs incurred with respect to the training program costs of each qualified mine rescue team employee.

Sec. 137. Classification of certain race horses as 3-year property. The provision assigns a 3-year recovery period to race horses two years old or younger placed in service through 2021.

Sec. 138. Accelerated depreciation for business property on Indian reservations. The provision extends, through 2021, accelerated depreciation for qualified Indian reservation property. To qualify, property must be predominantly used for business purposes within a reservation, owned by someone unrelated to the previous owner, and unrelated to gaming practices. The depreciation deduction allowed also extends to the alternative minimum tax.

Sec. 139. American Samoa economic development credit. The provision extends, through 2021, a credit to certain corporations in American Samoa equal to the sum of certain percentages of a domestic corporation's employee wages, employee fringe benefit expenses, and tangible property depreciation allowances for the taxable year in respect of the active conduct of a trade or business in American Samoa.

Sec. 140. Second generation biofuel producer credit. The provision extends, through 2021, the \$1.01-per-gallon nonrefundable income tax credit for second generation biofuel sold at retail into the fuel tank of a buyer's vehicle, or second generation biofuel mixtures sold or used as a fuel.

Sec. 141. Nonbusiness energy property. The provision extends through 2021, a credit for purchases of nonbusiness energy property. The provision allows a credit of 10 percent of the amounts paid or incurred by the taxpayer for qualified energy improvements to the building envelope (windows, doors, skylights, and roofs) of principal residences. The provision allows credits of fixed dollar amounts ranging from \$50 to \$300 for energy-efficient property including furnaces, boilers, biomass stoves, heat pumps, water heaters, central air conditioners, and circulating fans, and is subject to a lifetime cap of \$500.

Sec. 142. Qualified fuel cell motor vehicles. The provision extends, through 2021, a credit for purchases of new qualified fuel cell motor vehicles. The provision allows a credit of between \$4,000 and \$40,000, depending on the weight of the vehicle.

Sec. 143. Alternative fuel refueling property credit. The provision extends, through 2021, a credit for the installation of alternative fuel vehicle refueling property, which includes property that dispenses alternative fuels including ethanol, biodiesel, natural gas, hydrogen, and electricity. The credit is capped at \$30,000 per location for business property and \$1,000 for property installed at a principal residence.

Sec. 144. 2-wheeled plug-in electric vehicle credit. The provision extends, through 2021, a 10-percent credit for highway-capable, two-wheeled plug-in electric vehicles. The credit is capped at \$2,500. Battery capacity within the vehicles must be greater than or equal to 2.5 kilowatt-hours.

Sec. 145. Production credit for Indian coal facilities. The provision extends, through 2021, a \$2 per ton production tax credit for coal produced on land owned by an Indian tribe. Adjusted for inflation, the effective credit rate was \$2.525 per ton for 2019.

Sec. 146. Energy efficient homes credit. The provision extends, through 2021, the credit of up to \$2,000 for qualified new energy efficient homes.

Sec. 147. Extension of excise tax credits relating to alternative fuels. The provision extends, through 2021, the \$0.50-per-gallon excise-tax credit or payment for alternative fuel and \$0.50-per-gallon credit for alternative fuel mixtures.

Sec. 148. Extension of residential energy-efficient property credit and inclusion of biomass fuel property expenditures. The provision extends, through 2022, the credit for residential energy efficiency property at the current 26 percent rate for property placed in service through 2022, with the rate reduced to 22 percent for property placed in service in 2023. Starting in 2021, the provision expands the definition of eligible property to include qualified energy efficient biomass fuel property with a thermal efficiency rating of at least 75 percent. Correspondingly, biomass stoves will no longer qualify under section 25C, to prevent a double benefit.

Sec. 149. Black lung disability trust fund excise tax. The provision extends, through 2021, the rates of 1.10 per ton for coal from underground mines and 55 cents per ton for coal from surface mines for the excise tax that funds the Black Lung Disability Trust Fund. Both rates are limited to a maximum of 4.4 percent of the coal's selling price. Under the provision, the coal excise tax rates are scheduled to decline to 50 cents per ton for underground mines and 25 cents per ton for surface mines (both limited to two percent of the coal's selling price) on the earlier of January 1, 2022 or the first January 1 after which there is no balance of repayable advances from the General Fund that have been made to the Trust Fund and no unpaid interest on previous such advances.

TITLE II - OTHER PROVISIONS

Sec. 201. Minimum low-income housing tax credit rate. This provision provides a permanent 4 percent rate floor for calculating credits related to certain acquisitions and housing bond-financed developments for purposes of the low-income housing credit.

Sec. 202. Depreciation of certain residential rental property over 30-year period. The provision provides that the recovery period applicable to residential rental property placed in service before January 1, 2018, and held by an electing real property trade or business (as defined in section 163(j)(7)(B)) is 30 years. This provision applies only if the alternative depreciation system did not apply with respect to such property prior to January 1, 2018.

Sec. 203. Waste energy recovery property eligible for energy credit. This provision makes waste energy recovery property eligible for the energy investment tax credit. Waste energy

property that begins construction after 2021 or 2022 is eligible for a 26 percent credit, and property that begins construction in 2023 is eligible for a 22 percent credit. Waste energy recovery property generates electricity solely from heat (such as exhaust heat) from buildings or equipment the primary purpose of which is not the generation of electricity and is capped at a maximum capacity of 50 MW. If property would qualify as both waste energy recovery property and combined heat and power property, the taxpayer may elect to treat the property as waste energy recovery property rather than combined heat and power property.

Sec. 204. Extension of energy credit for offshore wind facilities. The provision extends the investment tax credit for electing offshore wind facilities that begin construction through 2025. Additionally, offshore wind facilities that begin construction during 2017 to 2025 are not subject to the onshore-wind facilities phase-out rates and are eligible for the full credit amount.

Sec. 205. Minimum rate of interest for certain determinations related to life insurance contracts. To qualify as life insurance contracts for tax purposes, permanent life insurance policies must meet several requirements under Internal Revenue Code section 7702. These requirements include two interest rate assumptions for determining the premiums that can be used to fund the contracts. The interest rate assumptions were set by statute at 4 percent and 6 percent when the requirements were put in place in 1984. This legislation updates section 7702 to reflect the interest rate environment that has been exacerbated by the current crisis, and ensures that the rates will continue to appropriately reflect economic conditions, by tying the rates to either a floating rate prescribed in the National Association of Insurance Commissioners' Standard Valuation Law or a floating rate based on the average applicable Federal mid-term rates over a 60-month period.

Secs. 206 & 207. Employee retention tax credit modifications. The provision extends and expands the CARES Act employee retention tax credit (ERTC). It also contains technical corrections to the CARES Act.

Beginning on January 1, 2021 and through June 30, 2021, the provision:

- Increases the credit rate from 50 percent to 70 percent of qualified wages;
- Expands eligibility for the credit by reducing the required year-over-year gross receipts decline from 50 percent to 20 percent and provides a safe harbor allowing employers to use prior quarter gross receipts to determine eligibility;
- Increases the limit on per-employee creditable wages from \$10,000 for the year to \$10,000 for each quarter;
- Increases the 100-employee delineation for determining the relevant qualified wage base to employers with 500 or fewer employees;
- Allows certain public instrumentalities to claim the credit;
- Removes the 30-day wage limitation, allowing employers to, for example, claim the credit for bonus pay to essential workers;

- Allows businesses with 500 or fewer employees to advance the credit at any point during the quarter based on wages paid in the same quarter in a previous year;
- Provides rules to allow new employers who were not in existence for all or part of 2019 to be able to claim the credit; and
- Provides for a small business public awareness campaign regarding availability of the credit to be conducted by the Secretary of the Treasury in coordination with the Administrator of the Small Business Administration.

Retroactive to the effective date included in section 2301 of the CARES Act, the provision:

- Clarifies the determination of gross receipts for certain tax exempt organizations;
- Clarifies that group health plan expenses can be considered qualified wages even when no other wages are paid to the employee, consistent with IRS guidance; and
- Provides that employers who receive Paycheck Protection Program (PPP) loans may still qualify for the ERTC with respect to wages that are not paid for with forgiven PPP proceeds.

Sec. 208. Minimum Age for Distributions During Working Retirement. The provision amends the Internal Revenue Code to allow employees in the building and construction industry who have attained age 55 and are not separated from employment to make distributions from certain tax-exempt multiemployer pension plans if they were participants in such plan on or before April 30, 2013.

Sec. 209. Temporary Rule Preventing Partial Plan Termination. The layoff of a significant number of employees could cause a plan to incur a partial plan termination, even in cases where it is expected that many employees may be rehired once the economy recovers. The provision modifies the current partial plan termination rules to ensure such termination does not occur if the active participant count as of March 31, 2021 is at least 80 percent of the number of active participants covered by the plan on March 13, 2020.

Sec. 210. Temporary allowance of full deduction for business meals. The provision provides a 100-percent deduction for business meal food and beverage expenses, including any carry-out or delivery meals, provided by a restaurant that are paid or incurred in 2021 and 2022. Currently, the deduction is available for only 50 percent of such expenses.

Sec. 211. Temporary special rule for determination of earned income. The provision allows taxpayers to refer to earned income from the immediately preceding year for purposes of determining the Earned Income Tax Credit (EITC) and the Additional Child Tax Credit (ACTC) in tax year 2020.

Sec. 212. Certain charitable contributions deductible by non-itemizers. This provision extends and modifies the non-itemizer charitable deduction for 2021. The provision increases the maximum amount that may be deducted such that married couples filing a joint return may deduct

up to \$600 (while non-married filers or married filers who file separately are limited to \$300). Additionally, the provision restructures the deduction such that, although it may be claimed only by non-itemizers, the deduction does not reduce adjusted gross income.

Sec. 213. Modification of limitations on charitable contributions. This provision extends for one year the increased limit from the CARES Act on deductible charitable contributions for corporations and taxpayers who itemize.

Sec. 214. Temporary FSA rule. The provision:

- Allows plans to permit health and dependent care flexible spending arrangements (FSAs) to carryover unused benefits up to the full annual amount from 2020 to 2021 and 2021 to 2022;
- Allows plans to permit a 12-month grace period for unused benefits or contributions in health and dependent care FSAs for plan years ending in 2020 or 2021;
- Allows plans to extend the maximum age of eligible dependents from 12 to 13 for dependent care FSAs for the 2020 plan year and unused amounts from the 2020 plan year carried over into the 2021 plan year; and
- Allows plans to permit a prospective change in election amounts for health and dependent care FSAs for plan years ending in 2021.

TITLE III – DISASTER TAX RELIEF

Sec. 301. Definitions. The provision provides tax relief for individuals and businesses in Presidentially declared disaster areas for major disasters declared on or after January 1, 2020, through 60 days after the date of enactment. The relief generally applies to incident periods beginning on or after December 28, 2019. The title does not apply to areas for which a major disaster has been so declared only by reason of COVID-19.

Sec. 302. Special disaster related rules for use of retirement funds. The provision provides an exception to the 10 percent early retirement plan withdrawal penalty for qualified disaster relief distributions (not to exceed \$100,000 in qualified disaster distributions cumulatively). Amounts withdrawn are included in income ratably over 3 years or may be recontributed to a retirement plan to avoid taxable income and restore savings. It also allows for the re-contribution of retirement plan withdrawals for home purchases cancelled due to eligible disasters, and provides flexibility for loans from retirement plans for qualified disaster relief.

Sec. 303. Employee retention credit for employers affected by qualified disasters. The provision provides a tax credit for 40 percent of wages (up to \$6,000 per employee) paid by a disaster-affected employer to a qualified employee. The credit applies to wages paid without regard to whether services associated with those wages were performed. Certain tax-exempt entities are provided the option to claim the credit against payroll taxes.

Sec. 304. Other disaster related tax relief provisions.

(a) Temporary suspension of limitations on charitable contributions. The provision temporarily suspends limitations on the deduction for charitable contributions associated with qualified disaster relief.

(b) Special rules for qualified disaster-related personal casualty losses. With respect to uncompensated losses arising in the disaster area, the provision eliminates the current law requirements that personal casualty losses must exceed 10 percent of adjusted gross income to qualify for deduction. The provision would also eliminate the current law requirement that taxpayers must itemize deductions to access this tax relief.

Sec. 305. Low-income housing tax credit. The provision increases the 2021 and 2022 state ceilings for 9-percent low-income housing tax credit allocations for allocations to qualified disaster zones. The maximum increase across 2021 and 2022 is equal to \$3.50 multiplied by the number of state residents in disaster zones and is capped at 65 percent of the state's 2020 low-income housing tax credit ceiling. The provision also allows an additional year for properties provided disaster allocations to place buildings in service.

Sec. 306. Treatment of possessions. The provision provides the Secretary of the Treasury the authority to make payments to the territories of the United States equal to the losses the territories would incur by reason of the application of the disaster relief provisions.

