



**COVID LEGISLATION, TAX UPDATE,
AND WHERE WE GO FROM HERE**

Valerie K. Brennan, CPA, PFS

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Presentation Overview

Families First Coronavirus Response Act (FFCRA)

- Enacted March 18, 2020
- Short-term employee protection

Coronavirus Aid, Relief, and Economic Security (CARES) Act

- Enacted March 27, 2020
- Financial relief and economic stimulus

Paycheck Protection Plan Flexibility Act of 2020

- Enacted June 5, 2020
- Modified the Paycheck Protection Program



Presentation Overview

Consolidated Appropriations Act

- Enacted December 27, 2020
- COVID-Related Tax Relief Act of 2020 (CRTRA)
- Taxpayer Certainty and Disaster Tax Relief Act of 2020 (TCDTRA)

American Rescue Plan Act of 2021

- Enacted March 11, 2021
- COVID-19 relief act

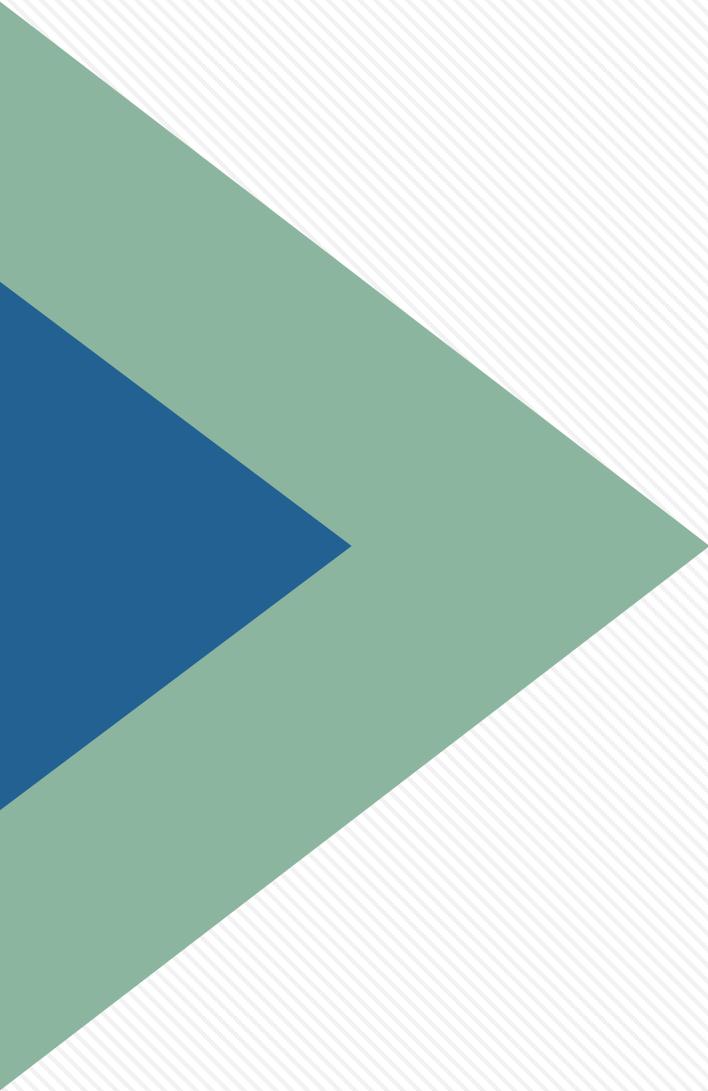


Presentation Overview

Tax Outlook Under President Biden

- “Build Back Better”
- American Jobs Plan
- American Families Plan
- Other Proposals





Families First Coronavirus Response Act



Families First Coronavirus Response Act

Provided and expanded tax credits to employers

- Encouraged employers to retain and pay employees unable to work due to illness, closures, care-giving needs
- Payroll tax credit kept cash in employer hands and allowed them to continue payroll



Families First Coronavirus Response Act

Emergency Paid Sick Leave (EPSL) Credit

- Available to employers with less than 500 employees
- Credit is claimed by employer against payroll tax liability
- Effectively reimburses employers for employee compensation up to 80 hours of paid leave



Families First Coronavirus Response Act

Expanded Family & Medical Leave Act (FMLA) Credit

- Available to employers with less than 500 Employees
- Credit is for up to 10 weeks of qualifying leave
- 10 weeks is in addition to 2 weeks of Emergency Paid Sick Leave (12 total)
- Counts toward total of 12 weeks available under regular FMLA



CARES Act

Coronavirus Aid, Relief, and Economic Security Act of 2020

- Impact on Individuals
- Impact on Businesses
- SBA Loans





Impact on Individuals



Impact on Individuals

Expanded Unemployment Benefits

- Extra \$600 per week to individuals receiving full unemployment
- Expanded eligibility and flexibility
- *Up to \$10,200 excluded from taxable income under ARP of 2021
- *\$300 benefit extended through September 2021 under ARP



Impact on Individuals

Individual Stimulus Payments

- Payment of \$1,200 (\$2,400 for joint taxpayers)
- Increased by \$500 for each qualifying child
- Phased out beginning at adjusted gross income in excess of \$75,000 (\$150,000 joint)
- Phased out entirely at \$99,000 (\$198,000 for joint taxpayers)
- Can be claimed on 2020 return if previously ineligible due to income limitation



Impact on Individuals

Special Rules for use of Retirement Funds and Temporary Waiver of Required Minimum Distribution

- Special Rules for Retirement Funds
 - Coronavirus related distribution of up to \$100,000
 - Must have been taken by 12/31/20
 - Not subject to 10% early withdrawal penalty
 - Spread tax over 3 years or avoid tax by repaying the distribution to the retirement plan within 3 years
 - Indiana is now conforming to this provision

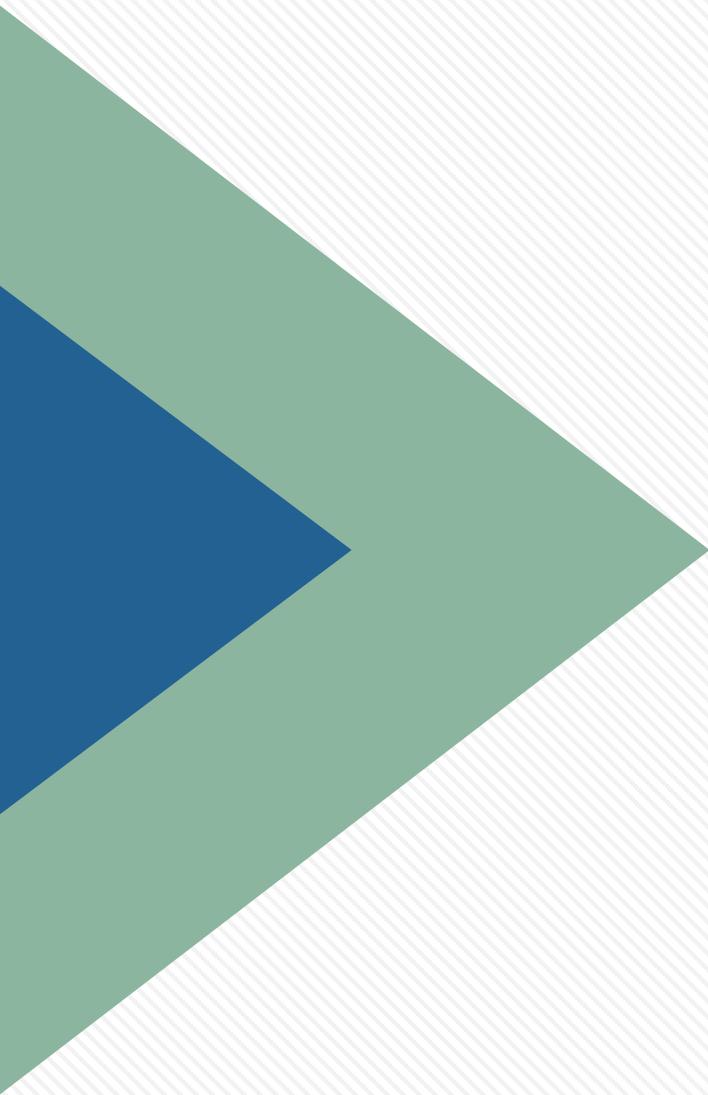


Impact on Individuals

Special Rules for use of Retirement Funds and Temporary Waiver of Required Minimum Distribution (cont.)

- Loans from Qualified Plans
 - Loan taken within 180 days of the enactment of the CARES Act.
 - Maximum amount allowed borrowed = \$100,000
 - Based on 100% of accrued benefit instead of 50%
 - 6 years to pay back instead of 5
- Required Minimum Distributions
 - Waived for calendar year 2020 / No "Catch Up" Requirement





Impact on Businesses



Impact on Businesses

Qualified Improvement Property

- Fixes “The Retail Glitch”
- Technical Correction of 2017 TCJA
- Non-structural interior improvements to non-residential real estate
 - Applies to retail, office, industrial, etc.
- Depreciable Life is 15 years (not 39 years)
- Eligible for Bonus Depreciation



Impact on Businesses

Business Interest Expense Limitation

- 2017 TCJA Limits business interest expense to 30% of Adjusted Taxable Income (NOI)
- CARES Act increases limitation to 50% of ATI for 2019 and 2020
- BIE limitations do not apply for businesses with revenue under \$25 million



Impact on Businesses

Modification for Limitation on losses for Taxpayers other than Corporations

- “Excess Business Losses” - \$500,000 limit established by TCJA
- Repealed for farm losses for 2018 – 2025
- Repealed for non-farm losses for 2018 – 2020
- More flexible calculations
- Consider impact on NOL



Impact on Businesses

Modification for Net Operating Losses

- 80% limitation temporarily repealed for losses generated in 2018, 2019, and 2020
- Five year carryback for losses generated in 2018, 2019, and 2020
- Indefinite carryforward of losses generated in 2018, 2019, and 2020



Impact on Businesses

Employee Retention/Payroll Tax Credit

- 50% of qualified wages
- \$5,000 max credit per employee
- Eligible business
 - Fully or partially closed due to governmental decree, or
 - Quarterly gross receipts fall by more than 50% over prior year
- Offsets required payroll tax deposits



Impact on Businesses

Employee Retention/Payroll Tax Credit

- Partially refundable
- No “double dipping”
- Not available for employers receiving PPP Loans
- Not available for FMLA wages subject to credits
- *Expanded and extended by CAA and ARP





SBA Loans



SBA Loans

Paycheck Protection Program (PPP) – Overview

- Eligible Employers
 - Less than 500 employees (affiliated service group rules apply)
 - Restaurants and Hotels – Based on less than 500 employees per location
- Maximum amount of loan is the lesser of:
 - \$10 million
 - 2.5 times the average monthly payroll costs during the 1-year period before loan was made (2019)
- May qualify for forgiveness (very likely, assuming used as intended)



SBA Loans

PPP – Loan Forgiveness

- Equal to costs incurred and payment made for:
 - Payroll costs
 - Actual W-2 payroll not “allocated payroll burden” or contractors
 - Eligible operating costs (Mortgages, Rent, Utility Payments, Etc.)
- Reduced for employee cuts or reductions in salaries
 - Based on headcount and expenditures
- Debt forgiveness is excluded from gross income



SBA Loans

Economic Impact Disaster Loans

- To meet financial obligations and operating expenses that could have been met had the disaster not occurred
- Originally had advance/grant of up to \$10,000
- Loan amount up to \$150,000 (now \$500,000)
- Interest of rate of 3.75% (2.75% for non-profits)
- Longer repayment terms up to a maximum of 30 years
- Deferral of first payment for 12 months (now 24 months)





Paycheck Protection Plan Flexibility Act of 2020



PPP Flexibility Act of 2020

Increased Flexibility on Use of Loan Proceeds

- Increases likelihood of forgiveness

Covered Period Extended to up to 24 Weeks

- Longer period to utilize funds

Reduced Threshold for Payroll Spending

- At least 60% of funds must be used for payroll costs



PPP Flexibility Act of 2020

Extension of Time to Rehire Employees

- Increased “good faith” exemptions

Extended Deferral and Repayment Periods

- More flexibility on repayment of non-forgiven loans

Interplay with Employment Tax Deferrals / Credits

- PPP eligibility linked to other tax credit opportunities





Consolidated Appropriations Act



Consolidated Appropriations Act

Includes Several Relief Provisions

- COVID-Related Tax Relief Act of 2020 (CRTRA)
 - Provides additional recovery rebates
- Taxpayer Certainty and Disaster Relief Act of 2020 (TCDRA)
 - Adds / extends various provisions for individuals and businesses
- Additional provisions
 - “Second Draw” on PPP Loans
 - Expansion of Employee Retention Credit
 - Additional spending and stimulus earmarks



Consolidated Appropriations Act

- **Second round of stimulus payments:**
 - \$600 for individuals / \$1,200 for couples
 - \$600 per qualifying child
 - Eligibility based on 2020 return, but advanced based on 2019
 - Advanced rebates not required to be repaid
 - Phase-out begins with adjusted gross income in excess of \$75,000 (\$150,000 joint)



Consolidated Appropriations Act

• Other Provisions

- 7.5% floor for medical expense deduction is made permanent
- Exclusion of discharge of indebtedness income on personal residence
 - Up to \$750,000 of debt forgiveness excluded from income
 - Extended through 2025
 - Not contingent on COVID, but reduces tax bills for those who lose their homes during COVID downturn
- Mortgage insurance premium deduction
 - Extended through 2021



Consolidated Appropriations Act

• Other Provisions

- Increased income threshold for education tax credits
 - Lifetime Learning / American Opportunity Credit
 - Phased out after \$90,000 / \$180,000 of AGI
 - Encourages those who lose their jobs to pursue education
- \$300 charitable deduction for non-itemizers
- 60% AGI limitation on charitable deductions suspended for 2021



Consolidated Appropriations Act

- **Extends and expands Employee Retention Credit (ERC)**
 - Refundable tax credit
 - Refund of payroll taxes
 - Up to 70% of qualified wages
 - Originally 50% of qualified wages
 - \$10,000 wage cap per employee per quarter
 - Originally \$10,000 wage cap per year



Consolidated Appropriations Act

- **Extends and expands Employee Retention Credit (ERC)**
 - Eligible employers
 - Operations suspended due to COVID-19
 - Experienced 20% decline in quarterly gross receipts
 - Originally a 50% decline
 - Interplay with other provisions
 - Cannot “double dip” on PPP loan funds
 - Special rules for seasonal employers



Consolidated Appropriations Act

- **Second round of Paycheck Protection Program loans**
 - 300 employees or less
 - Experienced 25% decline in quarterly revenues during 2020
 - As compared to same quarter in prior year
 - Up to 2.5 times average monthly payroll costs
 - \$2 million maximum loan amount
 - Loan forgiven if utilized for qualified expenses
 - Confirms deductibility of expenses funded by forgiven loan





American Rescue Plan Act of 2021



American Rescue Plan

- **Third round of stimulus payments**
 - \$1,400 per person
 - Eligibility based on 2020 return, or 2019 if 2020 not filed
 - Phase-out begins with adjusted gross income in excess of \$75,000 (\$150,000 joint)
- **Extension of federal unemployment supplement**
 - \$300 weekly benefit extended through September 6, 2021
 - Up to \$10,200 of unemployment benefits are exempt from income tax
- **Extends Employee Retention Credit (ERC) through 12/31/21**



American Rescue Plan

- **Expansion of child tax credit**

- Refundable credit
- \$3,000 per child (\$3,600 if under age 6)
- Phases-out with household AGI in excess of \$112,500 (\$150,000 MFJ)

- **Expansion of child and dependent care tax credit**

- Refundable credit
- 50% of eligible costs
- Maximum credit \$2,000 per child (\$4,000 maximum)
- Begins phase-out with household AGI in excess of \$125,000



American Rescue Plan

- **Additional Provisions**

- Expanded Earned Income Tax Credit for childless workers for 2021
- Additional \$7.25 billion to PPP program
- Increased COBRA subsidies
- Additional Economic Injury Disaster Loan funding
- Forgiven student loan debt is non-taxable through 2026
- Excess Business Loss limitation repealed through 2026





Tax Roadmap under President Biden “Build Back Better”



American Jobs Plan

- **Made In America Tax Plan**

- Increase the federal corporate tax rate from 21% to 28%
- Raise the tax on Global Intangible Low Tax Income (GILTI) to 21% and make other adjustments to the calculation for U.S. multinational corporations.
- Impose a 15% minimum tax on corporate book income for firms with revenue over \$100 million
- Repeal the Foreign-Derived Intangible Income deduction to incentivize companies to move intellectual property into the U.S.
- Eliminate tax preferences for fossil fuels
- Additional funding for the IRS



American Families Plan

- **Highlights of Tax Benefits**

- Extend expanded ACA premium tax credits in the American Rescue Plan
- Extend the Child Tax Credit increases in the American Rescue Plan through 2025 and make the CTC permanently fully refundable
- Permanently increase Child and Dependent Care Credits (up to \$4,000 for one child and \$8,000 for two or more children) and ensure it continues to be fully refundable
- Make the Earned Income Tax Credit expansion for childless workers permanent



American Families Plan

- **Highlights of Tax Increases**

- Increase in top income tax rate from 37% to 39.6%
- Increase long-term capital gains rate from 20% to 39.6% for taxpayers making over \$1 million
- Eliminate “stepped-up basis” on inherited property
- Eliminate carried interest tax break that benefits investment-fund managers (taxed at ordinary rates instead of long-term capital gain rates)
- Eliminate like-kind exchange option for gains greater than \$500,000
- Increased IRS enforcement



Tax Roadmap under President Biden

- **Potential Individual Tax Proposals**

- Deductions

- Limit deductions to 28% benefit / Eliminate up to 80% of deductions
 - Households above \$400,000 of income
 - Repeal \$10,000 SALT deduction cap

- Social Security Taxes

- Lift cap on social security wages above \$400,000
 - Additional 12.4% tax on wages (and S/E income) above \$400,000

- Qualified Plans / IRAs

- Change qualified plan deduction to flat 28% credit
 - Create automatic 401(k) enrollment for uncovered employees



Tax Roadmap under President Biden

- **Potential Estate and Gift Tax Proposals**

- Estate Taxes

- Reduce estate tax exemption from \$11.58 million to \$3.5 million
- Increase estate tax rate to 45%

- Estate Planning

- Curtail use of discounted valuations
- Reduce / eliminate gifting opportunities during lifetime
- Grantor trusts would be included in grantor's estate



Tax Roadmap under President Biden

- **Potential Estate and Gift Tax Proposals**

- Income Tax on Appreciated Assets Upon Death

- Alternative to repealing basis step-up

- Wealth Taxes

- 2% annual tax on net worth in excess of \$50 million (3% above \$1 billion)



Tax Roadmap under President Biden

- **For the 99.5% Act**

- Introduced by Senator Sanders in the Senate
- Companion legislation just introduced in the House
- Key provisions include:
 - Annual exclusion limit of \$10,000 per person and maximum per year of \$20,000
 - Estate and GST exemption of \$3.5 million
 - \$1 million lifetime gift tax exemption
 - No minority discounts on gifts of family-controlled business interests
 - No marketability discounts on gifts of passive assets
 - Estate tax rate increases to a range of 45% to 65%



Where Do We Go From Here?

- **Keep clients informed**
 - Rate differentials on capital gains
 - Rate increases on ordinary income
 - Estate and gift law changes
- **Nudge clients into action**
 - Timing may be critical
 - Inaction can cost \$\$\$
- **Follow up to ensure completion**



CONTACT US

Valerie K. Brennan, CPA, PFS
Somerset CPAs and Advisors
vbrennan@somersetcpas.com
317-472-2266

Thank you for attending!

800.469.7206
somersetcpas.com

