



Consolidated Appropriations Act, 2020 - Businesses

As a year-end holiday gift, Congress included a number of individual and business friendly tax provisions in its year-end spending package that was signed into law by President Trump on December 20, 2019. The "Further Consolidated Appropriations Act, 2020" (2020 Act) brought back to life many deductions and credits that had expired at the end of 2017, as well as a few others that had either expired at the end of 2018 or were scheduled to expire at the end of 2019. In addition, substantial changes were made to retirement-related tax provisions, some of which may benefit your business. The funding for some of these changes will come from increases made to various penalty provisions - notably increases in the penalties for failing to timely file a tax or retirement plan return or timely pay taxes due.

To the extent that your business tax return for 2018 could have benefited from any of the resurrected 2017 tax provisions, we should file an amended return to claim any refunds your business may be due. The 2020 Act changes may also affect your business's 2019 tax liability.

The following is a recap of the provisions that expired at the end of 2017 but are now available for 2018 and future tax returns:

Special Expensing Rules for Film, TV, or Theatrical Productions

The owner of a qualified film or television production or a qualified live theatrical production that began after 2015 and before 2021 may elect to deduct production costs in the year the costs are paid or incurred in lieu of capitalizing the costs and recovering them through depreciation allowances.

Energy Efficient Home Credit

The credit for energy efficient homes is extended to 2018, 2019, and 2020 for homes acquired after December 31, 2017. The credit applies to contractors who construct or manufacture qualifying energy efficient homes in the year such homes are sold or leased for use as a residence. The credit is \$2,000 or \$1,000, depending on whether the home is constructed or manufactured and on the energy saving standards satisfied.



Alternative Fuel Refueling Property Credit

The credit under Code Sec. [30C](#) for alternative fuel refueling property is extended to property placed in service before January 1, 2021. The credit is equal to 30 percent of the cost of any qualified alternative fuel vehicle refueling property placed in service by the taxpayer during the tax year.

Qualified Fuel Cell Motor Vehicles Credit

The alternative motor vehicle fuel credit is extended to motor vehicles purchased before 2021. The credit applies to vehicles propelled by chemically combining oxygen with hydrogen and creating electricity (i.e., fuel cell vehicles). The base credit is \$4,000 for vehicles weighing 8,500 pounds or less. Heavier vehicles can get up to a \$40,000 credit, depending on their weight. An additional \$1,000 to \$4,000 credit is available to cars and light trucks to the extent their fuel economy exceeds the 2002 base fuel economy set forth in the Code.

Two-Wheeled Plug-In Electric Vehicle Credit

The credit applicable for the acquisition of a qualified two-wheeled plug-in electric drive motor vehicle has been extended and now applies to vehicles acquired before January 1, 2021.

Credit for Electricity Produced from Certain Renewable Resources

The credit for electricity produced from certain renewable resources at qualified facilities is extended through 2020. In addition, (1) the election to treat qualified facilities as energy property is available through 2020; (2) a wind facility under construction, where the construction of the facility begins before January 1, 2021, is a qualified facility for purposes of the credit; and (3) for purposes of the phaseout of the credit for wind facilities, the credit amount is 40 percent for any facility the construction of which begins after December 31, 2019, and before January 1, 2021.

Biodiesel and Renewable Diesel Incentives

The credit for certain biodiesel or renewable diesel used or sold as fuel in a trade or business is extended through 2022. There are five components to this credit: (1) the biodiesel credit; (2) the renewable diesel credit; (3) the biodiesel mixture credit; (4) the renewable diesel mixture credit; and (5) the small agri-biodiesel producer credit. In addition,



the credit for alcohol fuel, biodiesel, and alternative fuel mixtures is extended to any sale or use for any period before January 1, 2023.

Energy Efficient Commercial Buildings Deduction

The deduction available for the cost of energy efficient commercial building property is extended to property placed in service before 2021. The deduction is limited to the excess (if any) of (1) the product of \$1.80 and the square footage of the building, over (2) the aggregate amount of the energy efficient commercial property deductions allowed with respect to the building for all prior tax years.

Classification of Certain Race Horses as 3-Year Property

The three-year depreciation period now applies to any race horse placed in service before 2021.

Classification of Motorsports Entertainment Complexes as 7-Year Property

The seven-year depreciation period for certain motorsports entertainment complex now applies to any such property placed in service before January 1, 2021.

Accelerated Depreciation Deduction for Business Property on Indian Reservations

The accelerated depreciation deduction for qualified Indian reservation property now applies to property placed in service before January 1, 2021.

Indian Employment Credit

Under the Indian employment credit, employers are allowed a credit for a percentage of the wages and health insurance costs paid to employees who are American Indians. This credit is now available through the end of 2020. However, the total amount of wages and health insurance costs that may be taken into account for any qualified employee for a tax year is limited to \$20,000.

Other deductions and credits which were scheduled to expire but have been extended include the following:



Work Opportunity Credit

The work opportunity credit, which was scheduled to expire at the end of 2019, is extended through 2020. An employer is generally allowed a 40 percent credit for qualified first-year wages paid or incurred during the tax year to individuals who are members of a targeted group of employees.

Employer Credit for Paid Family and Medical Leave

The paid family and medical leave credit, which was scheduled to expire at the end of 2019, is extended through 2020. The credit allows eligible employers to claim a general business credit equal to an applicable percent of the amount of wages paid to qualifying employees during any period in which such employees are on family and medical leave, provided that the rate of payment under the program is at least 50 percent of the wages normally paid to an employee.

New Markets Tax Credit

The New Markets credit, which was scheduled to expire at the end of 2019, is extended through 2020. The New Markets credit provides that a taxpayer is entitled to a credit for a percentage of the amount paid for a qualified equity investment in a qualified community development entity. In addition, if the tax credit limitation for any calendar year exceeds the aggregate amount allocated for such year, such limitation for the succeeding calendar year is increased by the amount of such excess.

Repeal of Increase in Unrelated Business Taxable Income for Certain Fringe Benefit Expenses

Of interest to nonprofits, the 2020 Act eliminates the increase in unrelated business taxable income of an organization for a deduction that was not allowable by reason of Code Sec. [274](#) and which was paid or incurred by such organization for any qualified transportation fringe, any parking facility used in connection with qualified parking, or any on-premises athletic facility.

As you are aware, providing excellent benefits to employees can make hiring and retaining talented employees much easier. A number of retirement-related tax provisions were enacted in the 2020 Act, including several that may affect your business or might make adopting certain retirement benefits for employees more attractive.



Tax Credit Increase for Small Employer Pension Plan Startup Costs

An eligible small employer may qualify for a nonrefundable income tax credit for qualified startup costs incurred in adopting a new qualified retirement plan, SIMPLE IRA plan, or SEP (i.e., an eligible employer plan), provided that the plan covers at least one non-highly compensated employee. Qualified startup costs are expenses connected with the establishment or administration of the plan or retirement-related education for employees with respect to the plan. Before the 2020 Act, the credit was the lesser of (1) a flat dollar amount of \$500 per year, or (2) 50 percent of the qualified startup costs. Under the 2020 Act, the flat dollar amount for a tax year after 2019 is the greater of (1) \$500 or (2) the lesser of (a) \$250 multiplied by the number of nonhighly compensated employees of the eligible employer who are eligible to participate in the plan, or (b) \$5,000. As under present law, the credit applies for up to three years. You are considered an eligible small employer if, for the preceding year, your business had no more than 100 employees, each with compensation of \$5,000 or more.

Small Employer Automatic Enrollment Credit

For tax years beginning after 2019, an eligible employer is allowed a business tax credit of \$500 per year for up to three years for startup costs for new Section 401(k) plans and SIMPLE IRA plans that include automatic enrollment. This credit is in addition to the plan startup credit allowed under present law. An eligible employer is also allowed a credit of \$500 per year for up to three years if the employer converts an existing plan to an automatic enrollment design. The credit applies for up to three years beginning with the year the plan is first effective, or, at the election of the employer, with the year preceding the first plan year.

Qualified Cash or Deferred Arrangements Must Allow Part-Time Employees to Participate

The 2020 Act requires a Section 401(k) plan to allow an employee to make elective deferrals if the employee has worked at least 500 hours per year with the employer for at least three consecutive years and has met the age requirement (age 21) by the end of the three consecutive year period (for this purpose, an employee is referred to as a "long-term part-time employee" after having completed this period of service). Thus, if your business has a 401(k) plan, a long-term part-time employee cannot be excluded from the plan because the employee has not completed a year of service as defined under the prior-rule participation requirements (i.e., a 12-month period with at least 1,000 hours of service).



Penalty-Free Withdrawals from Retirement Plans for Individuals in Case of Birth of Child or Adoption

New parents can withdraw up to \$5,000 from a qualified employer retirement plan or individual retirement plan without any early withdrawal penalty for a qualified birth or adoption. A qualified birth or adoption distribution is a distribution from an applicable eligible retirement plan to an individual if made during the one-year period beginning on the date on which a child of the individual is born or on which the legal adoption by the individual of an eligible adoptee is finalized. An eligible adoptee means any individual (other than a child of the taxpayer's spouse) who has not attained age 18 or is physically or mentally incapable of self-support.

Finally, the 2020 Act also made some taxpayer and business friendly changes with respect to disaster-related events.

Employee Retention Credit for Employers Affected by Qualified Disasters

The 2020 Act provides a credit of 40 percent of the qualified wages (up to a maximum of \$6,000 in qualified wages per employee) paid by an eligible employer to an eligible employee. You are an "eligible employer" if you (1) conducted an active trade or business in a qualified disaster zone at any time during the incident period of the qualified disaster with respect to such qualified disaster zone, and (2) if your trade or business is inoperable at any time during the period beginning on the first day of the incident period of such qualified disaster and ending on December 20, 2019, as a result of damage sustained by reason of such qualified disaster.

Automatic Extension of Filing Deadlines for Businesses Affected by Federally Declared Disasters

The 2020 Act provides that, in the case of a federally declared disaster, a qualified taxpayer is entitled to a mandatory 60-day extension with respect to filing returns and paying tax due. The 60-day period begins on the earliest incident date specified in the declaration of the relevant disaster and ends on the date which is 60 days after the latest incident date so specified.

As you can see, the provisions in the 2020 Act are quite extensive. Please call me at your earliest convenience so we can discuss how to best leverage these provisions to the advantage of your business.