Kevin R. Minkoff

Certified Public Accountant a Professional Corporation

Vol. 31 2021, No. 1 January 2021

PPP Alert: New Shot for Your Tax-Free Cash

Did you miss out on the first two opportunities to receive your tax-free Paycheck Protection Program (PPP) cash?

Many did miss out. Why? One reason: the word loan." Who wants a loan? No one. Well, almost no one. But who wants a cash gift, tax-free?

If you do, read on for the details. But first, you should know that the big picture works like this:

1. You obtain your PPP tax-free monies from a lender (it's called a "loan," but watch that word disappear as you read this article).

2. You spend all the PPP money on yourself if you are self-employed or operate as a partnership; on payroll (including pay to you, if that applies); and on other covered expenses such as rent, interest, utilities, operations, property damage, suppliers, and worker protection.

3. You apply for loan forgiveness and achieve 100 percent loan forgiveness, which is easy-peasy when you spend 60 percent or more of the money on payroll (and yourself if you are self- employed or a partner in a partnership).

4. You deduct the expenses that you paid with the PPP loan monies that were forgiven.

New Money on the Table

The new COVID-19 stimulus act sets aside $35 billion for first-time PPP applicants, with $15 billion of that made in loans for first-time applicants with 10 employees or fewer or made in amounts less than $250,000 to businesses in low-income areas.

New Deadline

The new deadline of March 31, 2021 replaces the expired deadline of August 8, 2020.

The monies available in this new round of PPP funding are on a first-come, first-served basis. Don't procrastinate. Get your application for your first-time PPP monies in place now.

First-Draw Rules

The first piece of good news is that the new, favorable PPP rules in the new stimulus law apply as if they were in the CARES Act that was enacted a little more than nine months ago, on March 27, 2020.

Not your ordinary bean counter!

12508 NE Halsey St. • Portland, OR 97230
503-252-3988 * Fax 255-2247 * kevin@nyobc.com

The second piece of good news is that myriad changes made by the Small Business Administration that affect the loan application and forgiveness process have been clarified during the past nine months.

The third piece of good news is that the lenders have a better idea of what they are doing, so you can spend less time applying for your free PPP money.

What's the Limit on My Cash Infusion?

You have a $10 million limit on your initial PPP loan. For most small businesses, that's not likely to come into play.

In general, the real limit is 2.5 times your business's defined or deemed 2019 payroll. The deemed payroll for a proprietorship is based on the owner's Schedule C net profit, on line 31 of the 2019 Schedule C. For partners, it is based on a more complicated calculation of 2019 self-employed income, as adjusted.

Update January 14, 2021: In the IFR issued on January 6, Treasury exercised its authority under section 1109 of the CARES Act to allow borrowers of first draw PPP loans to use 2019 or 2020 to calculate their maximum loan amount.

Example. Susan has a 2019 defined payroll for PPP purposes of $1,200,000, or $100,000 a month. She operates a dental practice. Her PPP cash infusion is $250,000 ($100,000 x 2.5).

Make sure to check the links above for your specific limits, as they vary for C corporations, S corporations, proprietorships, and partnerships.

Planning note. The PPP first-time loan process is not complicated. The lender applications make the process pretty clear.

What Do I Have to Spend the Money On?

Under the new rules, you pick a spending period between eight weeks from the origination date of the loan and 24 weeks from that date. To achieve 100 percent forgiveness, during this period you must use 60 percent or more of the monies for defined payroll.

Example. You obtain $100,000 in first-draw PPP monies. You spend the entire $100,000 during the 11 weeks immediately following the date you received the loan—$65,000 for payroll and $35,000 for other covered expenses. You qualify for 100 percent forgiveness.

In addition to payroll, covered expenses include the following:. Rent. Interest on mortgage obligations. Utilities. Operations expenditures. Property damage. Supplier costs. Worker protection

What If I Spend Less Than 60 Percent on Payroll?

Let's say you obtain a $100,000 loan but use only $48,000 (48 percent) for payroll. The PPP rules limit your total loan forgiveness to $80,000 ($48,000 ÷ 60 percent). That's still a great deal.

Takeaways

Keep the big picture in view. It works like this:

1. You obtain your PPP tax-free monies from a lender.

2. You spend all the PPP money on yourself if you are self-employed or operate as a partnership; on payroll (including pay to you, if that applies because you operate as a corporation); and on other covered expenses such as rent, interest, utilities, operations, property damage, suppliers, and worker protection.

3. You apply for loan forgiveness, and you achieve 100 percent loan forgiveness when you spend 60 percent or more of the money on payroll (including pay to yourself if you are self- employed or a partner in a partnership).

4. You deduct the expenses that you paid with the PPP loan monies that were forgiven.

You will not find a better deal than the PPP. If you are eligible for initial PPP monies, get your application in place now.

New PPP Forgiveness Rules for Past, Current, and New PPP Money

Good news.

The new Paycheck Protection Program (PPP) law enacted with the stimulus package adds dollars to your pockets if you have or had PPP money.

Further, if you are going to apply for PPP money for the first time, the favorable rules in this article apply to your newfound tax-free money.

Before we go further, please note the PPP money comes to you in what appears to be a loan. We say "appears" because you typically pay back a loan.

But done right the PPP loan is 100 percent forgiven. The word "loan" makes some businesses leery of this arrangement. Don't be. The PPP monetary arrangement is a true "have your cake and eat it too" deal.

And this remarkable deal applies to your past PPP loan, the PPP loan you have outstanding, and the PPP loan you are about to get if you have not had one before. Here are the details.

Loan Proceeds Are Not Taxable

The COVID-related Tax Relief Act of 2020 reiterates that your PPP loan forgiveness amount is not taxable income to you.

Expenses Paid with Forgiven Loan Money Are Tax-Deductible

As you may remember, the IRS took the position that expenses paid with PPP loan forgiveness monies were not deductible.

Lawmakers disagreed but were unable to get the IRS to change its position. The IRS essentially told lawmakers, "If you want the expenses paid with a PPP loan to be deductible, change the law."

And that's precisely what lawmakers did. The COVID-related Tax Relief Act of 2020 states that "no deduction shall be denied, no tax attribute shall be reduced, and no basis increase shall be denied, by reason of the exclusion from gross income."

In plain English, the expenses paid with monies from a forgiven PPP loan are now tax-deductible, and this change goes back to March 27, 2020, the date the Coronavirus Aid, Relief, and Economic Security (CARES) Act was enacted.

No Offset of PPP for EIDL Advance—Refunds Coming

Before this new law, if you had both an Economic Injury Disaster Loan (EIDL) advance and a PPP loan, your forgiveness amount was reduced by the EIDL advance.

Example. You had a $100,000 PPP loan. When you qualified for 100 percent forgiveness, the lender reduced your forgiveness by your $5,000 EIDL advance and you had to pay the $5,000 to the lender.

But the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act eliminates the offset rule for all PPP loans, even those previously forgiven, and

requires the Small Business Administration (SBA) to set in motion rules for the lenders to return the EIDL advance money to PPP borrowers who had the money deducted from their forgiveness.

Example. Let's go back to the $5,000 EIDL advance that offset the $100,000 PPP forgiveness. Under the new law, the SBA will create rules for the lender to refund your $5,000. Thus, your total forgiveness will be $105,000 ($100,000 + $5,000).

Further, the entire $105,000 is not taxable, and all expenses paid with the monies forgiven are deductible.

More Expenses Qualify for Forgiveness

The Paycheck Protection Program Flexibility Act of 2020 established that to achieve 100 percent forgiveness of your PPP loan, you had to spend the entire loan proceeds on covered expenses (defined as payroll, rent, interest, and utilities), and at least 60 percent on covered payroll.

The "at least 60 percent on payroll" rule continues to exist, as do the non-payroll covered expenses of defined rent, interest, and utilities, but the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act retroactively, as if included in the CARES Act, adds the following four covered expenses as eligible non-payroll costs.

1. Covered operations expenditures, which means payments for any business software or cloud computing service that facilitates business operations; product or service delivery; the processing, payment, or tracking of payroll expenses; human resources; sales and billing functions; or accounting or tracking of supplies, inventory, records, and expenses.

2. Covered property damage costs, which means costs related to property damage and vandalism or looting due to public disturbances that occurred during 2020 that were not covered by insurance or other compensation.

3. Covered supplier costs, which means expenditures made by an entity to a supplier of goods for the supply of goods that are essential to the operations of the entity at the time at which the expenditure is made, and that are made pursuant to a contract, order, or purchase order in effect at any time before the covered period with respect to the applicable covered loan—or with respect to perishable goods, in effect before or at any time during the covered period with respect to the applicable covered loan.

4. Covered worker protection expenditures, which means operating or capital expenditures related to the maintenance of standards for sanitation, social distancing, or any other worker or customer safety requirement related to COVID-19, to facilitate the adaptation of an entity's business activities to comply with requirements established or guidance issued by the Department of Health and Human Services, the Centers for Disease Control and Prevention, or the Occupational Safety and Health Administration, or any equivalent requirements established or guidance issued by a state or local government, during the period beginning March 1, 2020, and ending the date on which the national emergency declared by the president under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to COVID-19 expires.

Such covered worker protection expenses may include the purchase, maintenance, or renovation of assets (other than residential real or intangible property) that create or expand· a drive-through window facility;· an indoor, outdoor, or combined air or air pressure ventilation or filtration system;· a physical barrier such as a sneeze guard;· an expansion of additional indoor, outdoor, or combined business space;· an on-site or off-site health screening capability; or· other assets as determined by the departments of Health and Human Services and Labor.

For PPP Loans of $150,000 or Less, New One-Page Forgiveness Form

The new one-page forgiveness form for eligible loans of $150,000 or less that's mandated by the new law is (in our opinion) simply a smoke-and-mirrors exercise, because it does not change any rules. It simply forces the SBA to create a new one-page forgiveness form, with no requirements as to font size.

On this new form, which shall be no more than one page, the borrower must· describe the number of employees retained because of the covered loan;. estimate the covered loan amount spent on payroll costs;. note the total loan value; and attest that he, she, or it accurately provided the information and complied with the PPP loan expenditure requirements.

The new form, when it is ready for use, will join the following forms:

SBA Form 3508S for loans of $50,000 or less
SBA Form 3508EZ
SBA Form 3508

As we mentioned, the new form for loans of $150,000 or less appears to make things easier, but it does not change a single requirement and (in our view) could lead you to bad assumptions.

The SBA Form 3508S has the same baggage as the new form above. Don't put yourself at risk. Use either the 3508EZ or the 3508 when you apply for PPP loan forgiveness.

Takeaways

The PPP loan that's forgiven is not a loan. It's tax-free money.

To have all or part of the loan forgiven, you had to spend the money on covered expenses. Under the new law, and retroactive to inception of the original law, you can deduct the expenses that you pay with forgiven PPP monies.

The new law changes the treatment of EIDL advances that reduced the amount of your PPP loan forgiveness. First, for new loans, there is no reduction in forgiveness for the EIDL advance. Second, for prior loans that were forgiven and that suffered a reduction in forgiveness, the SBA is working on instructions that will tell the lenders to refund the EIDL advance money.(If you are due one of the upcoming refunds, set up a receivable for this money so you don't forget about it.) The new law adds four new categories of expenses that qualify as covered expenses for forgiveness:

1. Operating expenditures

2. Property damage costs

3. Supplier costs

4. Worker protection expenditures

But remember that to achieve 100 percent forgiveness, you must spend at least 60 percent of the loan on covered payroll costs. With 24 weeks at your disposal, you likely can spend the entire loan on payroll and not consider the other categories at all.

Round 2: Additional Tax-Free PPP Money for You?

Did you receive money from a lender under the existing Paycheck Protection Program (PPP)? If so, you may qualify for more tax-free money.

But first, let's clarify what's happening. When you think of the PPP program, do you think "tax-free money" or do you think "loan"?

Think "tax-free money." That's what it is. And it's easy.

Sure, it comes in the form of a loan, and you could be under the mistaken impression that you have to pay it back—but you don't. You must use 60 percent or more of it for defined or deemed payroll. That's good news part 1.

In good news part 2, the expenses you pay with the forgiven PPP monies are tax-deductible. It's the perfect deal. Take advantage if you can.

How Do You Qualify for the New Second-Draw PPP Money?

Planning note. This article is about "second-draw" PPP money. If you failed to apply for the PPP money during 2020. Lawmakers set aside $35 billion for those who had not previously received a PPP infusion of tax-free money.

Also, keep this in mind: If you obtain your first PPP money soon, you likely can spend that and then, if you qualify, obtain a second PPP cash infusion under the second-draw rules.

To qualify for the second-draw PPP money, you must

1. have 300 or fewer employees;

2. have suffered a 25 percent or greater loss in revenue during at least one quarter of 2020 when compared to 2019; and

3. have already used your original PPP money or be planning to use it soon.

Example. John had $1 million in quarterly revenue during the 2019 third quarter. In 2020, John's third quarter showed revenue of $700,000. John meets the "25 percent or greater loss in revenue" test.

For the business that did not operate during all of 2019, alternate tests are available, such as comparing the fourth quarter of 2019 to the first, second, or third quarter of 2020.

How Much Can You Get?

The mechanics of the second-draw PPP loan amount follow the basic rules that apply to the original (first-draw) PPP loan, with some modifications such as the following:·The loans are capped at $2 million or less.

If you are not a hotel or restaurant, i.e., North American Industry Classification System (NAICS) code 72,4 you identify your average monthly payroll for either 2019 or the trailing 12 months, and then multiply it by 2.5 to find your loan amount.

If you are a hotel or restaurant, you multiply by 3.5.

Update January 14, 2021: In the second draw IFR issued on January 6, Treasury exercised its authority under section 1109 of the CARES Act to allow borrowers of second draw PPP loans to use 2019, 2020, or the trailing 12 months to calculate their maximum loan amount.

Example. Sam has a 2019 defined payroll for PPP purposes of $1,200,000, or $100,000 a month. He operates a restaurant. His second-draw PPP loan is $350,000 ($100,000 x 3.5).

Planning point. It is your choice whether to use the 2019 or lagging-12-months payroll period, but often the lenders will want 2019 because that's easy to verify. But if your lagging-12-months period is best, fight for it.

What Can You Use the Money For?

During a period of your choice, beginning eight weeks from the origination date of the loan and ending 24 weeks from the origination date, you must use 60 percent or more of the monies for defined and/or deemed payroll to achieve 100 percent forgiveness.

Example. Wendy obtains $100,000 in second-draw PPP monies. She spends the entire $100,000 during the nine weeks following the date she received the loan, and of that, $65,000 was for payroll. She spent the remaining $35,000 on other covered expenses. Wendy qualifies for 100 percent loan forgiveness.

Other Covered Expenses

To obtain 100 percent forgiveness, you must spend all the PPP money on covered expenses and at least 60 percent of that on defined and/or deemed payroll.

In addition to payroll, covered expenses include the following:· Rent· Interest on mortgage obligations· Utilities· Operations expenditures· Property damage· Supplier costs· Worker protection

Example. Janet obtains a $100,000 loan but uses only $48,000 (48 percent) for payroll. The PPP rules limit Janet's total loan forgiveness to $80,000 ($48,000 ÷ 60 percent).

Expenses Are Deductible

Before the recent stimulus, the IRS took the position that expenses paid with PPP loan monies that were forgiven were not tax-deductible. Some lawmakers disagreed, but the IRS held firm and told those lawmakers that if they didn't like the IRS position, they should change the law. So they did.

Now, thanks to the new law, expenses paid with PPP loan monies that are forgiven are tax-deductible.

Act Fast

If you qualify for and want the tax-free money from PPP Round 2, don't procrastinate. When the allocated monies are gone, the funding is over.

Takeaways

If you received an initial PPP loan, you can qualify for a second round (called a "second draw") of PPP tax-free money.

To qualify for the second-draw PPP money, you must

1. have 300 or fewer employees;

2. have suffered a 25 percent or greater loss in revenue during at least one quarter of 2020 when compared to 2019; and

3. have already used your original PPP money (or be planning to use it soon).

The mechanics of the second-draw PPP loan amount follow the rules that apply to the original (first-draw) PPP loan, with some modifications. The overall limits work as follows: The loans are capped at $2 million or less.

If you are not a hotel or restaurant (NAICS code 72), you identify your average monthly payroll for either 2019 or the trailing 12 months, and then multiply it by 2.5 to find your loan amount. If you are a hotel or restaurant, you multiply by 3.5.

During a period of your choice, beginning eight weeks from the origination date of the loan and ending 24 weeks after the origination date, you must use 60 percent or more of the monies for defined payroll to achieve 100 percent forgiveness.

Expenses that can qualify for forgiveness include: Payroll. Rent. Interest on mortgage obligations. Utilities. Operations expenditures. Property damage. Supplier costs. Worker protection

And finally, keep these three thoughts in mind:

Act fast, because this money goes in a hurry.

2. The incoming PPP loan monies are tax-free.

3. Expenses paid with PPP loan monies that are forgiven are tax-deductible.

You will not find a better bargain.

Home-Office Deduction—Show Me the Proof!

Question. If you have an office outside your personal home—say, downtown—can you have a tax-deductible office inside your home for the same trade or business?

Answer. Yes.

Q. Who says that?

A. The IRS and lawmakers!

Q. Show me where they say that!

Have you ever been down this road with the office-in-the-home deduction? We have.

That's what prompted this article. We have had many requests from tax professionals and business owners demanding, "Show me where it says that!"

What IRS Publications Say

Let's start with some quotes from IRS publications that show you how the IRS views the office-in-the-home deduction when you also have an office outside the home for the same business.

Here's the basic rule that makes this work: the office inside the home is going to qualify for the home-office deduction when you make it an administrative office for your business.

And this is true regardless of how you operate your business—whether as a proprietorship, single-member LLC, partnership, or corporation.

Planning point. If you operate as a corporation, don't rent the office in your home to your corporation, because that gives you zero benefit.

Planning tip. The S corporation owner obtains maximum benefits from the home office when using the reimbursement technique.

IRS Publication 587

In IRS Publication 587, the IRS says this:

Your home office will qualify as your principal place of business if you meet the following requirements:

1. *You use it exclusively and regularly for administrative or management activities of your trade or business.*

2. *You have no other fixed location where you conduct substantial administrative or management activities of your trade or business.*

The quote above mirrors the law and the legislative history, as you will see below. Note the following points:. The administrative office is a "principal" office.. You must use this office exclusively for business..

You must use this office regularly for business.. You must do your administrative work in your home office.. You must not do your administrative work in the office outside the home.

Here is a second important quote from IRS Publication 587.

You can have more than one business location, including your home, for a single trade or business.

The IRS makes this rule very clear and straightforward: you may have more than one office for your business, including an office in your home.

What the Legislative History Says

The IRS does a good job in its publications of summarizing the tax-deductible home office. The IRS's overall approach in its publications is simply to reiterate what the law says, with care and precision.

What follows is the legislative history of this topic, from the Ways and Means Committee's report that accompanied passage of the new home office law in 1997 (effective in 1999). The first thing lawmakers looked at was the present law. Then they considered the reasons to make changes to that law. Finally, they looked at explanations of how the new law would work.

Present law (1997). *In Commissioner v. Soliman, 113 S.Ct. 701 (1993), the Supreme Court reversed lower court rulings and upheld an IRS interpretation of Section 280A that disallowed a home office deduction for a self-employed anesthesiologist who practiced at several hospitals but was not provided office space at the hospitals.*

Although the anesthesiologist used a room in his home exclusively to perform administrative and management activities for his profession (i.e., he spent two or three hours a day in his home office on bookkeeping, correspondence, reading medical journals, and communicating with surgeons, patients, and insurance companies), the Supreme Court upheld the IRS position that the "principal place of business" for the taxpayer was not the home office, because the taxpayer performed the "essence of the professional service" at the hospitals.

Reasons for change. *The [Ways and Means] Committee believes that the Supreme Court's decision in Soliman unfairly denies a home office deduction to a growing number of taxpayers who manage their business activities from their home.*

Thus, the statutory modification adopted by the Committee will reduce the present-law bias in favor of taxpayers who manage their business activities from outside their home, thereby enabling more taxpayers to work efficiently at home, save commuting time and expenses, and spend additional time with their families.

Moreover, the statutory modification is an appropriate response to the computer and information revolution, which has made it more practical for taxpayers to manage trade or business activities from a home office.

Explanation of provision. Section 280A is amended to specifically provide that a home office qualifies as the "principal place of business" if the office is used by the taxpayer to conduct administrative or management activities of a trade or business[,] and there is no other fixed location of the trade or business where the taxpayer conducts substantial administrative or management activities of the trade or business.

As under present law, deductions will be allowed for a home office meeting the above two-part test only if the office is exclusively used on a regular basis as a place of business by the taxpayer and, in the case of an employee, only if such exclusive use is for the convenience of the employer.

Thus, under the bill, a home office deduction is allowed (subject to the present-law "convenience of the employer" rule governing employees) if a portion of a taxpayer's home is exclusively and regularly used to conduct administrative or management activities for a trade or business of the taxpayer, who does not conduct substantial administrative or management activities at any other fixed location of the trade or business, regardless of whether administrative or management activities connected with his trade or business (e.g., billing activities) are performed by others at other locations.

If a taxpayer conducts some administrative or management activities at a fixed location of the business outside the home, the taxpayer still will be eligible to claim a deduction—so long as the administrative or management activities conducted at any fixed location of the business outside the home are not substantial (e.g., the taxpayer occasionally does minimal paperwork at another fixed location of the business).

In addition, a taxpayer's eligibility to claim a home office deduction under the bill will not be affected by the fact that the taxpayer conducts substantial non-administrative or non-management business activities at a fixed location of the business outside the home (e.g., meeting with, or providing services to, customers, clients, or patients at a fixed location of the business away from home).

If a taxpayer in fact does not perform substantial administrative or management activities at any fixed location of the business away from home, then the second part of the test will be satisfied, regardless of whether or not the taxpayer opted not to use an office away from home that was available for the conduct of such activities.

However, in the case of an employee, the question of whether an employee chose not to use suitable space made available by the employer for administrative activities is relevant to determining whether the present-law "convenience of the employer" test is satisfied.

What the Internal Revenue Code Says

The above background is used by the IRS and the courts to explain the law. The actual wording of the law appears below:

For purposes of [a home office] qualifying as a principal place of business, the term "principal place of business" includes a place of business which is used by the taxpayer for the administrative or management activities of any trade or business of the taxpayer if there is no other fixed location of such trade or business where the taxpayer conducts substantial administrative or management activities of such trade or business.

Takeaways

You can see that the law clearly authorizes the administrative office inside the home. The legislative history shows that the new law is a direct result of lawmakers finding that the *Soliman* case produced an unfair result.

Thus, the change in the law gives you the opportunity to do two things:

1. Create an office in the home as an administrative office.

2. Have an office outside the home for business activities other than your administrative activities.

And this one-two punch makes your office in the home your principal office for tax purposes, even if you work in the downtown office for many more hours than you work in the home office.

New Laws—COVID-19-Related Government Grants: Taxable or Not?

In an effort to stave off economic devastation caused by the COVID-19 pandemic, billions of dollars in grants are being handed out to individuals and businesses by the federal government and by state and local governments as well.

Are these grants taxable? Like most things in the world of taxes, it depends.

What Is a Grant?

This might seem like a dumb question, but we'll answer it anyway because there are no dumb tax questions.

A grant is money you don't have to pay back.

In contrast, you have to pay back a loan. For example, a Small Business Administration (SBA) Economic Injury Disaster Loan (EIDL) must be paid back. Loans that must be paid back are never taxable income to the borrower.

Some COVID-related loans (Paycheck Protection Program (PPP) loans, for example) can be forgiven by the government. When this occurs, the loan effectively becomes a grant.

General Rule: Grants Are Income

All income, from whatever source derived, is taxable income unless the tax law provides an exception. Since a government grant is income, it is taxable unless otherwise provided by law.

COVID-19-Related Grants to Individuals

Fortunately, the general rule that grants are taxable does not apply to COVID-19-related grants to individuals. The general welfare exclusion allows individual taxpayers to exclude from their taxable income payments made by government units in connection with a qualified disaster. These include payments for necessary personal, family, or living expenses—or, more broadly, payments to promote the general welfare.

The COVID-19 pandemic is a qualified disaster, so federal, state, and local government grants to individuals for COVID-19-related expenses are tax-free. This would include, for example, the $25 billion in new rental assistance authorized by the recent enactment of the new stimulus bill that was signed into law by the president on December 27, 2020.

COVID-Related Grants to Businesses

Payments to businesses do not qualify under the general welfare exclusion because they are not based on individual or family need. Thus, COVID-19-related government grants to businesses are taxable income unless Congress acts to specifically exempt them from tax.

For example, the CARES Act established the Coronavirus Relief Fund, which gave $150 billion to state and local governments to (among other things) establish grant programs to help businesses impacted by the

COVID-19 pandemic. The IRS has made clear that these state and local grants to businesses are taxable income.

State and local grants to businesses funded outside the CARES Act are also taxable income to the businesses.

But Congress has acted to make a few types of COVID-19-related government grants tax-free, as described below.

EIDL Emergency Advances Are Tax-Free

When Congress enacted the Coronavirus Aid, Relief, and Economic Security (CARES) Act, it made low-interest EIDLs available to businesses in all 50 states. Congress also established a new EIDL emergency advance program that gave EIDL applicants loan advances of $1,000 per employee, up to $10,000. Although they're called "advances," these payments are actually grants—they need not be paid back.

Applicants received the EIDL advance whether or not they went ahead and completed the process to obtain an EIDL loan. Unfortunately, due to funding issues, not all eligible businesses were paid the full $10,000 advance to which they were entitled. The EIDL advance program ended July 11 when the funding ran out.

$20 Billion in New EIDL Advance Money Targeted to Businesses in Low-Income Areas

The new COVID-19 stimulus bill signed into law on December 27, 2020, provides $20 billion for EIDLadvance grants of $10,000 for small businesses that· were in operation by January 31, 2020, with fewer than 300 employees;. were directly affected by COVID-19;

are located in low-income communities (census tracts with a 20 percent poverty rate or 80 percent of the statewide median income); and. have suffered a decline in gross receipts greater than 30 percent during an eight-week period between March 2, 2020, and December 31, 2021, relative to a comparable eight-week period immediately preceding March 2, 2020, or during 2019 (as far back as January 1, 2019).

In addition, the new law directs the SBA to create a process for those businesses described above that are existing EIDL advance grantees and received less than $10,000 to reapply for the difference between what they received and what they should have been paid.

No Offset of PPP for EIDL Advance—Refunds Coming

If you receive an EIDL advance and also a PPP loan, the CARES Act required the lender to deduct the advance from your PPP forgiveness, effectively denying you any benefit from the advance.

The new stimulus law repeals that requirement retroactively.

EIDL Advances Are Not Taxable; Expenses Paid Are Deductible

Most important, the new stimulus law provides that the EIDL advances are not taxable income. And otherwise deductible business expenses paid with EIDL advances are tax-deductible.

Grants for Shuttered Venue Operators Are Tax-Free

The new stimulus law also gives $15 billion to the SBA to make grants to live venue operators or promoters, theatrical producers, live performing arts organization operators, museum operators, motion picture theater operators, and talent representatives who demonstrate a 25 percent reduction in revenues due to the pandemic.

The SBA may make an initial grant of up to $10 million and a supplemental grant of up to 50 percent of the initial grant. The grants must be used for expenses such as payroll costs, rent, utilities, and personal protective equipment.

As with EIDL advances, these grants are tax-free, and expenses paid with the grants are tax-deductible.

Takeaways

Here are eight things to know from this article:

1. Government grants are taxable income to the recipient unless the tax law makes an exception.

2. COVID-19-related grants to individuals are tax-free under the general welfare exclusion.

3. COVID-19-related grants to businesses do not qualify as tax-free under the general welfare exclusion and are generally taxable, including state and local grants made under the CARES Act Coronavirus Relief Fund.

4. EIDL advances are not taxable, and expenses paid with such advances are tax-deductible.

5. Business in low-income areas that received EIDL advances of less than $10,000 will be able to apply for an increase in the prior advance to the $10,000 level.

6. The new law sets $20 billion for EIDL advances for businesses located in low-income areas.

7. EIDL advances will not offset PPP forgiveness, and any such prior offsets will be refunded.

8. SBA grants to shuttered venue operators are tax-free, and expenses paid with the monies are tax-deductible.

ABLE Accounts: A Great Deal for the Disabled and Their Families

Sixty-one million adults and over 12.6 million children in the United States have some type of disability.

If you have a disabled or blind child or other family member, or are disabled or blind yourself, you should know about ABLE accounts.

These tax-advantaged accounts for the disabled are relatively new (they first became available in 2015), and they remain little known. This is a shame.

The accounts can be a real game changer for the disabled because they allow disabled individuals to save a fair amount of money without losing government benefits.

Why It's Hard for the Disabled to Save Money

Many disabled individuals and their families rely on means-tested government benefits, such as Supplement Security Income (SSI), Social Security Disability Insurance (SSDI), food stamps (SNAP), Medicaid, and government housing vouchers. Some 8.5 million people receive disabled-worker benefits from Social Security.

The government benefits are ordinarily suspended if a disabled or blind person accumulates over $2,000 in cash or other countable assets. This can make it impossible for disabled people to save money for emergencies, to buy a house or car, or to take a vacation.

What Is an ABLE Account?

The Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014 (ABLE Act) is a federal law that authorizes the states to establish ABLE accounts.

An ABLE account is a tax-advantaged account, similar to a Section 529 qualified tuition program. Contributions are not tax-deductible for federal income tax purposes, but they are wholly or partly deductible in some states.

The money in an ABLE account grows tax-free, and withdrawals are tax-free without limit if made for "qualified disability expenses."

Most important, contributions to ABLE accounts up to certain levels are *not counted* for purposes of means-tested programs for the blind and disabled.

Who Can Have an ABLE Account?

To qualify to use an ABLE account, a person must have a disabling condition that began before age 26. This includes

- any person who became eligible to receive SSI or SSDI benefits before age 26 due to blindness or disability, or

- any person of any age who files a certificate providing that he or she has a pre-age-26 mental or physical impairment that (1) is medically provable, (2) results in severe functional limitations, (3) is expected to last at least 12 months or to result in death, and (4) is confirmed by a signed qualifying disability diagnosis from a qualified physician.

A blind or disabled individual need not be receiving disability benefits to open an ABLE account.

The age 26 cutoff prevents a majority of disabled individuals from opening ABLE accounts: of the 61 million Americans who are blind or disabled, about 10 percent are eligible. Legislation is pending to increase the age limit to 46, which would allow six million more eligible individuals to open ABLE accounts.

How to Establish an ABLE Account

A disabled person is permitted to have only one ABLE account. The account may be established by the disabled beneficiary or by a family member, a guardian, or a person with power of attorney.

ABLE accounts may be established for both minors and adults. If the beneficiary is a minor, an adult is named as an "authorized representative" on the account.

Adult beneficiaries can manage their own ABLE accounts. But if the designated beneficiary is incapable of managing or chooses not to manage the account, a person with signature authority can control the account.

The ABLE account program is run by states, not the federal government. Currently, 42 states and the District of Columbia have active ABLE programs. An out-of-state disabled person may set up an ABLE account in any state that allows out-of-state residents to do so.

Links to the ABLE account program websites of all participating states can be found at the ABLE National Resource Center website. This website also allows users to compare the ABLE programs of the various states.

How about investment options? As with 529 college savings plans, states offer multiple investment options for their ABLE accounts.

How Much Can You Contribute Each Year?

The disabled individual, family, friends, and anyone else may contribute an aggregate amount not to exceed the annual gift tax exclusion. For 2021, this amount is $15,000 (the amount is adjusted for inflation each year).

Example. John and Liz want to contribute to their brother's ABLE account. The total they may contribute along with all others is limited to $15,000 for 2021.

In addition, ABLE account beneficiaries who work may contribute the lesser of: their compensation, or

an amount equal to the poverty line for a one-person household, as determined for the calendar year preceding the calendar year in which the taxable year begins.

For 2021, the poverty limit is $12,760. The Tax Cuts and Jobs Act created the compensation rule to encourage the disabled to work by permitting them to save all or part of their earnings in an ABLE account. Unfortunately, the compensation rule expires after December 31, 2025.

There is an additional benefit for a disabled person who contributes money to an ABLE account: the disabled beneficiary may be eligible to collect the saver's tax credit of up to $1,000 ($2,000 if married). To qualify, the disabled person must have been born before January 2, 2003, must not be a full-time student, must not earn over $32,000 if single ($64,000 if married), and must not be claimed as a dependent.

The saver's credit is non-fundable, which means that the disabled person who owes nothing in taxes(excluding refundable credits) is not going to get the credit.

Rollovers from Section 529 Plans

Families may roll over funds tax-free from a Section 529 plan to another family member's ABLE account. Such rollovers count toward the annual ABLE account contribution limit.

The Section 529 rollovers can be extremely useful if a family member has funds remaining in a 529 plan after completing college.

Example. Art and Betty are brother and sister. Art is disabled, and Betty is not. Betty has finished college and has $15,000 left over in a 529 account established by her parents. Betty withdraws the $15,000 from her account and within 60 days deposits it into Art's ABLE account. The transaction is tax-free.

Planning point. Total contributions from all sources for the year to the ABLE account may not exceed $15,000, excluding the beneficiary's contribution from his or her earned income.

Lifetime Limit on Contributions

There is a lifetime limit on how much can be contributed to an ABLE account. The ABLE account limit is the same as the state's Section 529 qualified tuition program limit. In most states this is $300,000 to $500,000.

But disabled individuals who receive SSI cash benefits may have no more than $100,000 in an ABLE account or their benefits will be suspended. Other benefits are not affected, regardless of the amount saved in the account.

Tax-Free Withdrawals from ABLE Accounts

Withdrawals from an ABLE account are tax-free so long as the money is used for "qualified disability expenses."

Qualified disability expenses are very broadly defined. They include expenses for education, housing, transportation, employment training and support, assistive technology, personal support services (such as home health aides), health care expenses, financial management and administrative services, legal fees, and funeral expenses.

Withdrawals taken from an ABLE account for non-qualified purposes are subject to regular income tax plus a 10 percent penalty tax.

Medicaid Payback After Disabled Person Dies

When an ABLE account beneficiary dies, any state may file a "payback" claim for reimbursement of Medicaid benefits paid by the state after the ABLE account was established. This amount is paid to the state only after all qualified disability expenses are paid from the ABLE account. The payback amount is reduced by all premiums paid to a Medicaid Buy-In program under that state's Medicaid plan.

What About Special Needs Trusts?

Since the 1960s, the families of disabled individuals have been able to establish special needs trusts to pay for expenses not covered by government benefits. As with ABLE accounts, the money in a special needs trust doesn't count toward asset limits for benefit programs such as SSI and Medicaid.

ABLE accounts and special needs trusts are not mutually exclusive. An ABLE account can be set up in addition to a special needs trust.

One advantage ABLE accounts have over special needs trusts is that they are easier and cheaper to set up because they don't require that a trust document be drafted. Also, ABLE accounts are owned and controlled by the disabled beneficiary, not by a person or organization serving as trustee of the special needs trust.

Takeaways

ABLE accounts are tax-advantaged savings accounts that allow disabled individuals and their family members to save a substantial amount of money without losing government benefits. One ABLE account may be established for any person who became disabled or blind before age 26. Contributions to an ABLE account are not federally tax-deductible, but the money inside the account grows tax-free.

ABLE account withdrawals are tax-free without limit if made to pay for a wide variety of expenses.

Total contributions to the ABLE account from all sources (other than the additional contribution allowed to the disabled person who works) may not exceed $15,000 and one person could contribute up to $15,000 without running afoul of the gift tax exemption.

Disabled individuals who work may contribute to their ABLE accounts an amount equal to the lesser of their compensation or the prior year's federal poverty level for a one-person household. For 2021, you use the 2020 poverty level of $12,760.

There is a lifetime cap on contributions of $300,000 to $500,000 in most states. But disabled individuals who receive SSI benefits may have no more than $100,000 in their ABLE account.

An ABLE account may be established in a disabled person's home state or in any other state that permits out-of-state participants.

Tax Considerations When a Loved One Passes Away (Part 2)

A financially comfortable loved one has passed away. In this year of seemingly endless bad news, that's not an uncommon situation—sad but true.

The now-deceased loved one may have been single or married and may have been a relative or not.

In any case, you've stepped up to the plate and taken on the challenging job of acting as executor for the deceased person's estate. Good for you.

But it can be a lot of work, including handling important tax matters. This article is the second of our three-part series on what you, as the executor, need to know about the most important federal tax issues.

Note. There may be state tax issues too, but those are beyond the scope of our analysis here.

The Executor's Role

When a loved one passes away, someone must handle the resulting financial fallout, including the tax issues. That person may be identified in the "decedent's" (deceased individual's) will as the executor of the decedent's estate.

If there is no will, the probate court will appoint an administrator.

In either case, it's often the surviving spouse or another family member who takes on the responsibility. In this article, we will refer to that person as the "executor." That would be you!

Your role as the executor is to identify the estate's assets, pay off its debts, and distribute the remainder to the rightful heirs and beneficiaries.

You are also responsible for filing any necessary tax returns and arranging to pay any taxes. We covered some of the most important tax issues in Part 1 of our analysis. This article presents the rest of the story. Here goes.

Choose Tax Treatment for Decedent's Medical Expenses

Pay extra attention to the decedent's medical expenses.

If uninsured expenses were incurred but not paid before death, you (as the executor) must make a potentially important choice about how those expenses are treated for federal tax purposes.

Along with any medical expenses that have already been paid in the year of death, the executor (you) can choose to deduct as-yet-unpaid medical expenses on the decedent's final Form 1040, to the extent the combined paid and unpaid expenses exceed 7.5 percent of adjusted gross income (AGI)—assuming the decedent's final Form 1040 itemizes deductions.

To take advantage of this special itemized deduction privilege for unpaid medical expenses, you must pay the expenses out of the decedent's estate during the one-year period beginning with the day after the date of the decedent's death.

Planning point. Under this special rule, you avoid the cash-basis taxpayer rule, which requires you to pay the expense before you can deduct it; and likely have more than a year of expenses compared with what you would have had on a cash basis, making it more likely that you can exceed the 7.5 percent floor.

Alternatively, in the relatively unlikely event that the estate is subject to the federal estate tax, you (as the executor) can choose to deduct unpaid medical expenses on the decedent's federal estate tax return rather than on the decedent's final Form 1040. But when no federal estate tax is owed, this is not an option.

The federal estate tax exemption for someone who died in 2020 is a whopping $11.58 million, so only a few estates of individuals who die in 2020 will owe any federal estate tax.

Planning point. When federal estate tax is owed, deducting unpaid medical expenses on the federal estate tax return is usually the tax-smart option. That's because the federal estate tax rate is 40 percent whereas the decedent's final federal income tax rate could be as low as 10 percent.

Also, you can deduct the full amount of unpaid medical expenses on the estate tax return, not just the excess over the 7.5 percent of AGI threshold.

File Estate's Federal Income Tax Return (Form 1041)

You, as the executor, are also responsible for the estate's federal income tax return. After the decedent has passed away, income generated by his or her holdings now belongs to the estate, and that income does not escape the clutches of good ol' Uncle Sam.

The estate's initial federal income tax year begins immediately after the decedent's death. The tax year-end can be December 31 or the end of any other month that results in an initial tax period of 12 months or less.

File the return on Form 1041 (U.S. Income Tax Return for Estates and Trusts). The due date is the 15th day of the fourth month after the tax year-end (adjusted for weekends and holidays). So, for a decedent who died in 2020, the filing deadline for the estate's 2020 federal income tax return is April 15, 2021, assuming you choose the standard December 31 tax year-end for the estate.

You won't need to file Form 1041 when all the decedent's income-producing assets bypass probate and go straight to the surviving spouse or other heirs by contract or by operation of law. For example, this is what happens with· real property that is owned by joint tenants with right of survivorship,. qualified retirement plan accounts and IRAs that have designated account beneficiaries, and. life insurance death benefits that are paid directly to designated policy beneficiaries.

File Estate's Federal Estate Tax Return (Form 706)

File the federal estate tax return on Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return. Assuming the decedent did not make any sizable gifts before passing away, no federal estate tax will be due and no Form 706 will be required, unless the estate is valued for federal estate tax purposes at more than $11.58 million for a person who died in 2020.
Sizable gifts mean those in excess of· $15,000 to a single gift recipient in a single year, for gifts in 2018-2020;· $14,000 for gifts in 2013-2017;· $13,000 for 2009-2012;· $12,000 for 2006-2008;· $11,000 for 2002-2005; and· $10,000 for 2001 and earlier.

If such sizable gifts were made, the excess over the applicable threshold for the year of the gift is added back to the estate to see whether the estate tax exemption ($11.58 million for 2020) is surpassed. If it is, there is a 40 percent federal estate tax on the excess.

Form 706 is due nine months after the decedent's date of death, but you can extend the filing deadline for up to six months by submitting Form 4768 to the IRS.

Planning point. If you choose to extend, send Form 4768 by certified mail, return receipt requested. Better to be safe than sorry.

The Unlimited Marital Deduction

If the decedent's surviving spouse is a U.S. citizen, an unlimited amount can pass to the surviving spouse free of any current federal estate tax. This is thanks to the so-called unlimited marital deduction privilege.

The unlimited marital deduction, in conjunction with the generous federal estate tax exemption for 2020, can allow a relatively large estate to avoid any current federal estate tax liability.

Life Insurance Proceeds

While life insurance proceeds are generally free of any federal income tax, they are usually included in the decedent's estate for federal estate tax purposes, even though the money may go directly to designated policy beneficiaries.

An exception to this general rule can apply when the policy beneficiary is the surviving spouse. Here's the reason: assets inherited by a surviving spouse (including life insurance payouts) are not included in the decedent's estate for federal estate tax purposes when the surviving spouse is a U.S. citizen. This is thanks to the aforementioned unlimited marital deduction privilege.

Filing Form 706 Solely to Make the Portability Election

While you may think no Form 706 is necessary because no federal estate tax is owed, you may be well advised to think again.

Reason. Filing Form 706 is necessary to make the so-called portability election that allows you, as the executor, to pass the decedent's unused unified federal estate and gift tax exemption to the surviving spouse. The portability privilege can be a really big tax-saving deal for well-off married couples.

In future years, who knows what the allowable unified federal estate and gift tax exemption will be—or if there will even be one. Nobody knows what the impact of making an earlier portability election will be. But making the election cannot possibly hurt, and it might pay off big-time in the future. So, please make the election in the case of a well-off married couple. That requires filing Form 706.

If you file Form 706 solely to make the portability election, an extended filing deadline applies. The deadline is on or before the second anniversary of the decedent's date of death. And you have to complete only a portion of the Form 706. Even so, preparing Form 706 is no picnic, and nobody would blame you for hiringa tax pro to do it.

Take Care of Other Tax-Related Details

If you, as the executor, will be filing Form 1041 and/or Form 706, you'll need to get the estate a federal employer identification number (EIN). This is analogous to an individual's Social Security number. Apply for an EIN with Form SS-4 (Application for Employer Identification Number).

Next, file Form 56 (Notice Concerning Fiduciary Relationship) to notify the IRS that you, as the executor, will be acting on behalf of the estate regarding federal tax matters. Filing Form 56 ensures that you will receive any notices sent out by the IRS (we hope and trust).

Next, open a checking account in the name of the estate, with some funds transferred from the decedent's account(s). As the executor, you have the legal power to do this.

But make sure you have the estate's EIN in hand, because the bank will ask for it. Then use the new account to accept deposits from income earned by the estate and to pay the estate's expenses such as outstanding bills, funeral and medical expenses, and (of course) taxes.

Unfortunately, after you have taken care of all the above, your work still might not be done. You also may be responsible for state income tax returns and perhaps a state death tax return as well.

Takeaways

The decedent's medical expenses provide you with planning opportunities to deduct as itemized deductions (subject to the 7.5 percent floor) not only the medical expenses incurred during the taxable year of death, but also those unpaid at the date of death but paid within one year of death; or deduct in full (no floor) the medical expenses paid after the date of death against the federal estate tax.

You, as the executor, may need to file· the decedent's final Form 1040,· the estate's Form 1041 income tax return, and· the estate's Form 706.

You won't need to file Form 1041 when all the decedent's income-producing assets bypass probate and go straight to the surviving spouse or other heirs by contract or by operation of law—assets such as· real property that is owned by joint tenants with right of survivorship,· qualified retirement plan accounts and IRAs that have designated account beneficiaries, and· life insurance death benefits that are paid directly to designated policy beneficiaries.

If the estate is valued at $11.58 million or less and the decedent did not make any sizable gifts before death, you don't have to file Form 706. But even if you don't have to file Form 706, you may want to file it anyway to preserve the portability election.

The important federal tax considerations explained in this article and in the Part 1 article can apply when a loved when passes away, so pay close attention—especially if you are the executor.

New Stimulus Law Grants Eight Tax Breaks for 1040 Filers

The new, massive stimulus bill enacted into law on December 27, 2020, contains eight new tax breaks designed to help the non-business taxpayer.

None of these tax breaks are earthshaking by themselves, but together they add up to a nice tax present for COVID-weary Americans.

1. Enlarged Universal Charitable Contribution Tax Deduction

Ordinarily, charitable contributions are deductible only if you itemize your personal deductions on IRS Schedule A instead of taking the standard deduction.

In the past, about 30 percent of taxpayers itemized. Today, only about 10 percent itemize because the TaxCuts and Jobs Act roughly doubled the standard deduction.

Thus, today the vast majority of individual taxpayers don't get any tax benefit from charitable contributions.

The Coronavirus Aid, Relief, and Economic Security (CARES) Act attempted to ameliorate this state of affairs and thereby help struggling charities that rely on donations. It added a new $300, universal, above-the-line charitable deduction for cash contributions by non-itemizers to tax-qualified charities during 2020.

Unfortunately, this deduction came with a marriage penalty: it was the same for single and joint filers.

The Taxpayer Certainty and Disaster Tax Relief Act of 2020 extends this deduction to 2021 and eliminates the marriage penalty: the deduction is $600 for married non-itemizers who file jointly, but for 2021 only.

Interestingly, the new law also adds a special 50 percent penalty for taxpayers who cheat by taking this deduction without actually making the cash contributions they claim on their return.

2. Extension of CARES Act Elimination of AGI Limit on Charitable Contributions

Under regular tax rules, the amount of charitable cash contributions taxpayers can deduct on Schedule A as an itemized deduction is limited to 60 percent of the taxpayer's adjusted gross income (AGI). The CARES Act increased this deduction to 100 percent of AGI for cash deductions to qualified charities (not including donor-advised funds). But this increase was for 2020 only.

The Taxpayer Certainty and Disaster Tax Relief Act of 2020 extends this 100 percent of AGI charitable deduction to 2021.

Planning point. It's rarely a good tax planning strategy to donate an amount equal to 100 percent of your AGI.

3. Lengthened Payroll Tax Deferral Repayment Period

Back in August, President Trump signed an executive order allowing employers to defer withholding the employee portion of the Social Security tax due for September through December 2020. The deferred amount would then be withheld from the employees' pay during January through April 2021.

The idea was to increase employee take-home pay during these months (the employee Social Security payroll tax is 6.2 percent of up to $137,700 in wages during 2020).

Compliance with the order was purely voluntary, and few private employers took advantage of the deferral. But the tax deferral was made mandatory for most federal and military employees.

The COVID-related Tax Relief Act of 2020 allows employees who had their Social Security taxes deferred to pay them back by December 31, 2021, instead of by April 30. Payments are to be made ratably during these months.

This will give these employees a bit more take-home pay during January through April, but a bit less for the remainder of the year.

4. 7.5 Percent AGI Floor for Medical Expense Deduction Made Permanent

Medical expenses are deductible as a personal itemized deduction only if, and to the extent, they exceed a percentage of the taxpayer's AGI.

For several years, this AGI floor has fluctuated between 10 percent and 7.5 percent of AGI. The rate is 7.5 percent of AGI for 2020, and before the new law, it was scheduled to go up to 10 percent for 2021 and later.

The Taxpayer Certainty and Disaster Tax Relief Act of 2020 makes the 7.5 percent of AGI floor permanent. This makes it a bit easier for taxpayers who itemize to deduct their medical expenses.

5. Flexible Spending Account Carryovers

Under regular tax rules, employees who have health flexible spending accounts (FSAs) may carry over a maximum of $550 of unused funds in the account to use the following year.

The Taxpayer Certainty and Disaster Tax Relief Act of 2020 allows employees to carry over any unused2020 balances in their health FSAs to 2021. Moreover, any remaining balance at the end of 2021 may be carried over to 2022.

Planning point. Employers are not required to allow such carryovers in their FSA plan; it's purely voluntary for the employer.

6. Earned Income Tax Credit and Child Tax Credit

Two of the most important federal programs that benefit the working poor are the earned income tax credit (EITC) and the child tax credit (CTC). The EITC and the CTC are based on a taxpayer's family size and earned income. The more earned income, the larger the credits, subject to maximum limits.

But due to the COVID-19 pandemic, the earned income of many low-income taxpayers declined dramatically during 2020. This would ordinarily result in a reduction in their EITC and CTC credits—up to an 80 percent decrease for some taxpayers.

For purposes of the EITC and the CTC only, the Taxpayer Certainty and Disaster Tax Relief Act of 2020 permits taxpayers to substitute their earned income for 2019 if it is greater than their earned income for 2020. This will result in larger tax credits for these low-income taxpayers.

7. Educator Expense Deduction Includes PPE

Teachers of kindergarten through grade 12 may take an above-the-line deduction of up to $250 for books, supplies, and other equipment they purchase with their own money for use in the classroom.

The COVID-related Tax Relief Act adds to this deduction expenses for personal protective equipment (PPE), disinfectant, and other supplies used to prevent the spread of COVID-19. Only PPE and supplies purchased after March 12, 2020, qualify. The deduction remains a maximum of $250.

Note that the educator expense deduction is not available for homeschoolers, including parents who are teaching their children at home during the pandemic. It's only for professional educators who work at least 900 hours during the school year.

8. Goodbye, Tuition and Fees Deduction—Hello, Expanded Lifetime Learning Credit

The tax code contains a bewildering array of deductions and credits for higher education, including the American opportunity tax credit, the lifetime learning credit, and the tuition and fees deduction.

The tuition and fees deduction is being allowed to expire at the end of 2020. In its place, the Taxpayer Certainty and Disaster Tax Relief Act of 2020 is making the lifetime learning credit available to more taxpayers by increasing the phaseout range for the credit.

The 2020 lifetime learning credit phaseout range is $59,000 to $69,000 for single filers, and $118,000 to $138,000 for joint filers. Beginning in 2021, the lifetime learning credit phaseout range will be $80,000 to $90,000 for single filers, and $160,000 to $180,000 for joint filers. This is the same as the American opportunity tax credit phaseout range.

The main purpose here seems to be to simplify the tax code by reducing the number of education-related tax benefits taxpayers have to deal with.

Also, the lifetime learning credit is better than the tuition and fees deduction because it's a tax credit, not a deduction. Unlike a deduction, which reduces only your taxable income, a credit is a dollar-for-dollar reduction in tax.

The lifetime learning credit offers a credit of 20 percent of up to $10,000 in education expenses, for a maximum credit of $2,000.

The tuition and fees deduction allows you to deduct a maximum of $4,000 above the line ($2,000 if your AGI is over $65,000 if single, or over $130,000 for joint filers). Even if you were in the top bracket (37 percent), a $4,000 deduction would save only $1,480 in tax (but you can't qualify for this deduction at all if your income is high enough to be in the 37 percent bracket).

Takeaways

The new stimulus law contains eight new tax breaks that enable you as an individual taxpayer to do the following:

1. Deduct cash contributions to charity if you don't itemize.

2. Deduct up to 100 percent of your AGI as a charitable deduction.

3. Lengthen to one year the time you have to repay your employee 2020 Social Security taxes if you had them deferred.

4. Deduct medical expenses that exceed 7.5 percent of your AGI in 2021.

5. Carry over unused flexible savings account funds to next year.

6. Use your 2019 income to qualify for the EITC and/or CTC if you're a lower-income taxpayer.

7. Deduct out-of-pocket expenses for PPE if you're a teacher.

8. Take advantage of the lifetime learning credit if you're a higher-income taxpayer in 2021.