



# Tax Client Alert

## COVID-Related Tax Relief Act of 2020

### Individuals to Receive Additional Recovery Rebates Covered Expense Deduction Allowed with PPP Loan Forgiveness Other COVID-Related Tax Relief

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The COVID-related Tax Relief Act of 2020 (“COVIDTRA”), as a part of the [Consolidated Appropriations Act, 2021](#) (“CAA, 2021”), was passed by Congress, and signed into law by the President on December 27, 2020. CAA 2021 includes certain other federal tax law changes and extensions in another part of the bill, the Taxpayer Certainty and Disaster Tax Relief Act of 2020, which are not discussed in this summary.

COVIDTRA provides changes in federal tax law under the Internal Revenue Code related to economic stimulus relief and programs enacted by the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) on March 27, 2020.

Key federal income tax changes made by COVIDTRA include additional federal income tax credits to provide cash rebates for individuals, in addition to those paid under the [CARES Act](#); and clarification of the effect of the CARES Act with respect to [whether federal income tax deductions are allowed](#) for expenses paid with proceeds from a loan forgiven under the Paycheck Protection Program (“PPP”) established pursuant to the CARES Act. COVIDTRA also makes other clarifying, tax relief and administrative changes.

The following is an overview/summary of some of the COVIDTRA changes.

#### 2020 Additional Recovery Rebates to be Paid to Individuals

COVIDTRA provides for economic relief to be given through further cash rebates to individuals, referred to as “additional 2020 recovery rebates for individuals.” A refundable tax credit is allowed for eligible individuals. The refundable credit is \$600 per eligible individual (\$1,200 in the case of eligible individuals filing a joint return), in addition to an amount equal to the product of \$600 multiplied by the number of qualifying children. The refundable credit is available for a taxpayer’s 2020 taxable year. The refundable credit is not allowed to higher income individuals; and phases out by being reduced by 5% of so much of the taxpayer’s adjusted gross income as exceeds \$75,000 for an individual, \$112,500 in the case of a head of household, and \$150,000 for married filing a joint return, or a surviving spouse. A taxpayer identification number must be provided for an individual to receive a rebate, including a qualifying child; with a taxpayer identification number being an individual social security number. The Secretary of Treasury is required to refund the amount of the refundable credit to eligible individuals as rapidly as possible, and to send notice by mail to eligible taxpayers stating the amount of payment and method of payment. COVIDTRA Sec. 272.

### **Covered Expense Deduction with PPP Loan Forgiveness**

The COVIDTRA change having significant federal income tax effect for businesses is relief from unfavorable Internal Revenue Service (“IRS”) interpretation of the CARES Act provisions authorizing forgiveness of PPP loans.

CARES Act section 1102 provides that a recipient of a PPP loan can use the loan proceeds to pay certain covered costs including payroll costs, interest on a mortgage obligation, a rent obligation, and a utility payment. If PPP loan recipients use their PPP loans to pay those costs, they can have their loan forgiven in an amount equal to the sum of those costs pursuant to CARES Act section 1106, and the loan forgiveness does not give rise to taxable income subject to federal income tax. However, Internal Revenue Code section 265 and regulations thereunder generally do not allow a taxpayer to deduct expenses that are paid with tax exempt income, and the CARES Act did not expressly state the effect of PPP loan forgiveness on deduction of expenses paid with a tax-exempt forgiven PPP loan. Based on the general rule disallowing expenses paid with tax exempt income, and following enactment of the CARES Act, the IRS issued guidance in which it ruled covered expenses paid with a forgiven PPP loan would not be deductible for federal income tax purposes. IRS Notice 2020-32, Rev. Rul. 2020-27, Rev. Proc. 2020-51.

COVIDTRA includes a “clarification” of the federal income tax treatment of forgiveness of PPP loans that by statute expressly overrides the IRS’ interpretation. It provides taxpayers receiving PPP loans that are forgiven are allowed federal income tax deductions for otherwise deductible expenses paid with the proceeds of a PPP loan. The clarifying amendment of the CARES Act provides 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 income of forgiveness of a PPP loan. The clarifying change to allow federal income tax deduction of forgiven PPP loan funded payment of covered expenses is considered to apply to forgiven PPP loans retroactively and prospectively. It is made effective for original PPP loans for tax years ending after the date of enactment of the CARES Act, and for subsequent PPP loans in the case of any taxable year ending after the date of the enactment of COVIDTRA and CAA, 2021. COVIDTRA Sec. 276.

### **Taxpayer Identification Number Requirement for CARES Act Rebates**

COVIDTRA amends CARES Act recovery rebate provisions to clarify eligibility provisions and add a requirement that a taxpayer identification number be provided to receive a rebate consistent with COVIDTRA provisions. COVIDTRA Sec. 273.

### **Extension of Deferred Payroll Taxes**

COVIDTRA provides for extension of the deferred collection and payment of payroll taxes on certain employees affected by COVID-19. The extension applies to deferred collection and payment as provided under IRS Notice 2020-65, and applicable wages and salaries paid between September 1, 2020 and December 31, 2020. COVIDTRA Sec. 274.

### **Teachers \$250 Deduction for COVID-19 Personal Protective Equipment**

COVIDTRA provides that the IRS shall issue guidance to clarify that expenses paid or incurred after March 12, 2020, for personal protective equipment, disinfectant, and other supplies used for the prevention of the spread of COVID-19 are treated as educator trade or business expenses, deductible in determining adjusted gross income. COVIDTRA Sec. 275.

### **Emergency Financial Aid Grant Exclusion and Tax Credits Clarification**

CARES Act emergency financial aid grants are excluded from the gross income of college and university students for federal income tax purposes. Students receiving such grants are held harmless for purposes of determining their eligibility for the American Opportunity Tax Credit and Lifetime Learning Credit. COVIDTRA Sec. 277.

### **Economic Injury Disaster Loan Forgiveness Exclusion and Deduction of Expenses**

COVIDTRA clarifies that gross income does not include forgiveness of an Economic Injury Disaster Loan (EIDL), emergency EIDL grants; and certain loan repayment assistance and deductions are allowed for otherwise deductible expenses paid with the amounts not included in income, and tax basis and other attributes will not be reduced because those amounts are excluded from gross income. COVIDTRA Sec. 278.

### **Waiver of Information Reporting Requirements**

COVIDTRA authorizes the Secretary of Treasury to provide an exception to federal tax information return reporting requirements for any amount excluded from income by the exclusion of covered loan amount forgiveness from taxable income, the exclusion of emergency financial aid grants from taxable income or the exclusion of certain loan forgiveness, and other business financial assistance under the CARES Act and COVIDTRA. COVIDTRA Sec. 279.

### **Money Purchase Plan Distributions Qualify as Coronavirus-related Distributions**

COVIDTRA provides that in the case of a qualified money purchase pension plan, a “coronavirus-related distribution,” which is a participant in-service withdrawal, is treated as meeting qualified plan distribution rules to avoid application of the 10% additional income tax on early withdrawals. COVIDTRA Sec. 280.

### **Net Operating Loss Relief for Farmers**

COVIDTRA allows farmers who elected a two (2) year net operating loss carryback prior to the CARES Act to elect to retain that two (2) year carryback rather than claim the five (5) year carryback provided in the CARES Act. It also allows farmers who previously waived an election to carry back a net operating loss to revoke the waiver. COVIDTRA Sec. 281.

### **Oversight and Audit Reporting**

The provisions of the CARES Act governing oversight and auditing are amended to also refer to the Senate Finance Committee and House Ways and Means Committee. COVIDTRA Sec. 282.

### **Disclosures to Prevent Private Tax Collection**

The Internal Revenue Code is amended to exclude supplemental social security (SSI) and social security disability insurance (SSDI) beneficiaries from an IRS private debt collection program beginning on January 1, 2021. COVIDTRA provides statutory authority to disclose taxpayer information to implement the exclusion. COVIDTRA Sec. 283.

### **Disclosure of Tax Return Information Related to Education Institutions**

COVIDTRA allows the IRS to share tax return information of student aid applicants, their parents, students, and other persons with the Department of Education and for tax return information to be redisclosed to colleges and universities (and certain scholarship organizations) in accordance with tax return confidentiality protections provided under the Internal Revenue Code. COVIDTRA Sec. 284.

### **Transfers of Excess Pension Assets Relief**

COVIDTRA provides specified relief for retirement plans that have started a “qualified future transfer” of retiree health benefits and life insurance costs from a qualified defined benefit pension plan to a retiree benefits account and/or a retiree life insurance account within the plan, and for termination of the transfer period. COVIDTRA Sec. 285.

### **Extension of Credits for Paid Sick and Family Leave**

COVIDTRA provides for [extension of tax credits for COVID-related paid leave](#) to employees until March 31, 2021. COVIDTRA Sec.286.

**Election to Use Prior Year Net Earnings from Self-Employment for Determining Credits for Paid Sick and Family Leave**

COVIDTRA provides the Families First Coronavirus Response Act (“FFCRA”) is amended to provide an individual may elect to substitute his or her prior year net earnings from self-employment for such earnings in the current taxable year in applying FFCRA. COVIDTRA Sec. 287.

**Technical Improvements to Credits for Paid Sick and Family Leave**

COVIDTRA makes technical and conforming amendments to the provisions FFCRA to take effect as if originally included therein. COVIDTRA Sec. 288.

If you would like to discuss the COVID-related Tax Relief Act of 2020, or any other federal income tax matters, please contact your GableGotwals attorney, or a member of our [Tax Law Practice Group](#) which includes:

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