Coronavirus Response and Relief Act, 2021

Wealth Management

The $900 billion Coronavirus Response and Relief Act is the second largest relief package ever approved by Congress, trailing only the $2 trillion Coronavirus Aid, Relief, and Economic Security (CARES) Act passed in March 2020. The new, far-ranging act was included in the nearly 6,000 page $1.4 trillion catchall government spending bill running through the end of the September 2021 fiscal year.

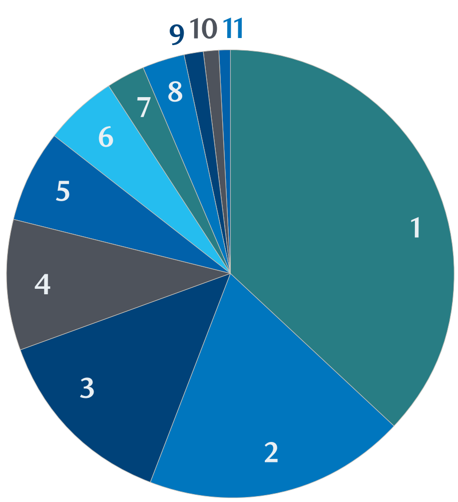
The long-awaited Coronavirus Response and Relief Act was signed by President Trump on December 27, 2020 along with the Consolidated Appropriations Act, 2021 for the federal government for the 2021 fiscal year. The $900 billion COVID-19 stimulus package provides emergency relief for families and businesses, plus additional funding for coronavirus-related programs for vaccines, tracing and testing.

The act includes several extensions of popular provisions of the CARES Act passed earlier in 2020, such as another round of direct stimulus checks to many Americans and expanded unemployment benefits. The largest allocation of the relief package will go to small businesses, including a second round of the Paycheck Protection Program (PPP) forgivable loans, and access to a greatly expanded Employee Retention Tax Credit. The act also provides relief for the hardest-hit businesses, including the transportation, entertainment and farming industries.

The legislation includes provisions to renew certain "tax extender" incentives that were scheduled to expire December 31, 2020. These provisions were either made permanent or extended over a one- to two-year period.

Both sides gave up specific priorities with Democrats forgoing aid to state and local governments struggling amid lost sales tax revenue, and Republicans giving up COVID-related liability protection for companies that adhere to CDC guidance on remaining open during the pandemic. President-elect Joe Biden described the agreement as a down payment on additional relief and stimulus he will seek after his January 20, 2021 inauguration.

What's in the $900 billion relief act?



1. Small businesses **$325**
2. Direct checks **$166**
3. Unemployment benefits **$120**
4. Schools **$82**
5. Vaccines, testing and tracing **$58.40**
6. Transportation **$45**
7. Nutrition and agriculture **$26**
8. Rental assistance **$25**
9. Support for small banks that serve low-income and minority communities **$12**
10. Childcare **$10**
11. Broadband **$7**

***In billions**

The act provides:

- A second round of direct payments of $600 for eligible individuals and $600 for each dependent child
- Enhanced weekly unemployment benefits of $300 through mid-March
- An extension of the charitable tax break provided in the CARES Act of $300 (married couples filing a joint return) or $300 (non-married filers or married filers filing separately) above-the-line deduction for 2020 to $600 (married couples filing a joint return) or $300 (non-married filers or married filers filing separately) above-the-line deduction for 2021 and up to 100% of adjusted gross income (AGI) for qualified donations to public charities through 2021 include 2020 and 2021.
- The opportunity to carry forward unused flexible spending and dependent care account balances into 2021
- Significant aid for small businesses, including a second round of funding for the PPP and loans for qualified organizations
- A clarification of the income exclusion and expense deductibility of forgiven PPP loans (the Coronavirus Response and Relief Act expressly provides the intent of the CARES Act was that such expenses can give rise to deduction)
- An expansion of the employee retention tax credit through June 30, 2021
- A temporary 100% deduction for business food and beverage expenses provided by a restaurant that are paid or incurred in 2021 or 2022
- Emergency education relief, childcare, additional low-income family and rental assistance
- An extension of the deadline to repay deferred payroll taxes on a pro-rata basis until December 31, 2021
- Specific funding for the hardest hit industries, including airlines, entertainment, hospitality, farming as well as the U.S. Postal Service
- Funding for vaccine development and vaccines, testing and contact tracing for the states
- A provision to renew certain "tax extender" provisions that generally were scheduled to expire, and made permanent other tax incentives

Some widely discussed potential changes were **not** included, specifically additional relief on Required Minimum Distributions (RMDs will be required in 2021) and further relief on student loan deferrals.

Relief for individuals and families

Additional recovery rebate — The legislation authorized a second round of direct economic-impact payments of $600 per eligible individual. While there is a possibility of an additional bill that would support an increase in this rebate to $2,000, the current rebate provides for a direct payment of $600 for each adult and $600 for each dependent child. In comparison, the original CARES Act provided payments of $1,200 and $500, respectively. Although the additional recovery rebate payment is actually a credit against 2020 taxes, it will be paid out as soon as possible and begins to phase out for individuals with adjusted gross income in 2019 in excess of $75,000 and caps at $99,000; the income thresholds double for couples.

Since the payment is based off of the taxpayer's 2019 AGI, their 2019 income may be high enough to phase them out of some (or all) of their recovery rebate. However, if their 2020 AGI is lower and produces a larger recovery rebate, the additional amount (or the difference between the credit based on their 2020 AGI compared to their 2019 AGI) can be taken as a credit when the taxpayer files their 2020 income tax return. By contrast, because the calculation is based on 2019 income, taxpayers whose 2019 income was low enough to receive a payment now, but whose actual 2020 is high enough that they would have been phased out, will not have to repay such amounts. In addition, dependents who qualified in 2019 and are now age 18, will also likely receive a rebate. If a taxpayer received a recovery rebate payment that was based on their 2019 income, but have a higher 2020 income reflected in their tax return, they will be able to keep the recovery rebate already paid.

Non-residents who don't have Social Security numbers remain ineligible for the payments. But in a change from the first round of stimulus, spouses and children with Social Security numbers are now eligible. This change is retroactive, so these households can claim an amount for the first payment as a credit as part of their 2020 tax returns.

Unemployment benefits — The CARES Act created a host of out-of-the-ordinary unemployment benefits. Many of these benefits have been extended, or reinstated, via the Coronavirus Response and Relief Act. Providing needed relief to millions of unemployed workers is a $300 supplemental enhancement in addition to their state unemployment benefit for 11 weeks, set to expire on March 14, 2021. The amount is half of the earlier federal boost, which ended in July. As with the prior aid packages, self-employed, gig workers, freelancers and contract workers who don't ordinarily qualify for benefits will be eligible under the Pandemic Unemployment Assistance program. The legislation would also extend to 50 weeks; most states typically provide 26 weeks of jobless benefits. Note that like earned income, unemployment compensation is taxable at ordinary income tax rates.

Also, the act provides a federally funded $100 per week additional benefit to those who have at least $5,000 in annual self-employment income but are disqualified from receiving Pandemic Unemployment Assistance because they are eligible for regular state unemployment benefits, and extends the maximum number of weeks a person can claim unemployment benefits to 50 weeks.

Rental assistance — The act provides $25 billion of assistance to tenants in arrears on rent and extends the federal eviction prohibition until the end of January 2021.

Tax credits for childcare, teacher expenses and students — The act makes a temporary change in the calculation of the earned income tax credit and the child tax credit. Under the provision, lower-income taxpayers can instead calculate the credits for the 2020 tax year using income information for the 2019 tax year. The calculation of both credits can result in a lower credit amount in a year where there is a reduction in income. The provision allows lower-income taxpayers who may have seen a reduction in wages in 2020 due to the pandemic to use 2019 income amounts (if higher) to calculate the amount of the credits for 2020.

For teachers, the act requires that the Treasury issue regulations providing that personal protective equipment and other supplies used to prevent the spread of COVID-19 qualify for the above-the-line educator expense deduction.

The act includes $10 billion in grants for childcare providers and $250 million for the Head Start program. It also provides $82 billion for public and private K-12 schools, as well as colleges.

The act effectively restructures the above-the-line tuition-related expense deduction starting in 2021 in favor of an enhanced Lifetime Learning Credit (LLC).

The act also helps more students take advantage of the LLC by aligning the phase out benefit with the American Opportunity Credit (AOC) at the same amount. Under the legislation, for tax years beginning in 2021, the Modified Adjusted Gross Income (MAGI) limitation for the LLC is set to the same MAGI limitation as the American Opportunity Credit (AOTC) and is no longer indexed for inflation. Both the LLC and AOTC begin phasing out for taxpayers with MAGI of $80,000 ($160,000 for married filing jointly) and are fully phased out for taxpayers with MAGI of $90,000 ($180,000 for married couples filing jointly).

The act clarifies that financial aid received by college students under the CARES Act can be excluded from income and also directed a simplification of the FAFSA application.

Charitable contributions — The act extends the CARES Act charitable contribution provisions, including the temporary increases to the limitation on donations in order to encourage taxpayers to support charities. For individuals, the limitation on charitable contributions was increased from 60% of Adjusted Gross Income (AGI) to 100% for eligible cash donations for 2021. Also, individual taxpayers can claim a $300 above-the-line charitable contribution on 2021 tax returns and the act removes the marriage penalty associated with the 2020 version, by allowing joint filers to claim an above-the-line deduction of up to $600.

The CARES Act increase was extended for charitable contribution deductions for corporations from 10% to 25% for qualified cash contributions made in 2020. A corporation may carry forward for five years any qualifying contribution that exceeds the 25% limit. The deduction limitation for contributions of food inventory from any trade or business is also temporarily increased from 15% to 25% for donations of food inventories made during 2020.

Special disaster-related rules for use of retirement funds — The legislation allows residents of disaster areas to borrow up to $100,000 from a retirement plan or IRA account without penalty. Amounts withdrawn are included in income, but the income is spread over three years. The amount may be recontributed to the plan to avoid tax. For new and outstanding plan loans, the repayment period is extended for one year. Unlike the CARES Act, the borrower must be in a declared disaster area.

Relief for businesses

Paycheck Protection Program — The $325 billion allotted to help small businesses includes $284 billion in forgivable Paycheck Protection Program loans, including the allowance for a second round of loans for qualified small businesses. In addition, the act reopens the original Paycheck Protection Program (PPP), makes meaningful revisions to the PPP rules and provides important clarifications.

For those businesses yet to receive a loan under the Paycheck Protection Program, the ability to apply for round one financing will be reopened. The qualifications and the rules for the first round program remain largely the same, with some welcome changes to qualifying covered expenses.

Only businesses with less than 500 employees qualify for the first-line program. Businesses, nonprofit organizations, self-employed workers and independent contractors are among those eligible for the loans. It also carves out $12 billion for minority-owned businesses and expands eligibility to more nonprofits as well as local newspapers, TV and radio broadcasters. There are special provisions for the hospitality industry, and publicly traded companies are specifically excluded.

For those businesses that have already applied for the first round of the PPP, the second-line draws would be limited to those businesses with fewer than 300 employees that have seen drops of at least 25% of their revenue during any quarter of 2020 compared to the same quarter in 2019. It would also reduce the amount a borrower can receive from $10 million to $2 million, and give businesses more flexibility on how they spend the money with a simplified forgiveness process for loans under $150,000. Businesses engaged in accommodation and food services are eligible to receive PPP2 loans of up to 3.5 times their average monthly payroll costs, subject to the same $2 million maximum as other businesses.

Expenses related to group life insurance, group disability, vision, and/or group dental insurance all count toward payroll-related expenses. In addition, the Coronavirus Response and Relief Act adds four new categories of forgivable expenses for outstanding and new PPP loans:

- Operating expenses including payments for any business software or cloud computing service that facilitates business operations
- Property damage costs, including 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
- Supplier costs including expenses of a business involving payment to a supplier of essential goods
- Worker protection expenditures including operating or capital expenditures related to complying with COVID-19 guidance for sanitation, social distancing or any other worker or customer safety measures

Funds spent on any of the above expenses will be eligible for forgiveness, subject to the still-applicable limitations on non-payroll expenses of no more than 40% of the forgiven amount.

Initially, the CARES Act set the covered period at eight weeks. Then in June, the Paycheck Protection Program Flexibility Act of 2020 set the covered period to 24 weeks for loans funded on or after June 5, 2020. The act allows the flexibility for all borrowers to choose between either an 8-week or 24-week covered period.

The legislation says that forgiven PPP loans will not be taxable to small business borrowers; that applies to all existing PPP loans made under the original Coronavirus Aid, Relief, and Economic Security Act, as well as the new second-draw PPP loans.

The act also includes an important clarification of the favorable tax treatment of eligible business expenses covered by the PPP loans that were subsequently forgiven. The act expressly states that the intent of the original legislation was such expenses can qualify as a deduction. It also clarified that the forgiveness of Economic Injury Disaster Loans (EIDL) granted to small businesses under the CARES Act are excluded from income. The Act also repeals the requirement that PPP borrowers deduct the amount of any EIDL advance from their PPP forgiveness amount.

The Employee Retention Credit — The act expands and extends through June 30, 2021, the employee retention tax credit enacted as part of the CARES Act. The credit rate increases from 50% to 70%, and the limit on per-employee creditable wages increases from $10,000 for the year to $10,000 for each quarter. Other modifications include expanding the eligibility of qualifying employers from 100 employees to 500 employees and clarifying that employers that receive PPP loans may still qualify for the employee retention tax credit with respect to wages that are not paid for with forgiven PPP proceeds. The employee retention tax credit is also available to certain nonprofits.

Other business tax provisions — The act provides the temporary 100% deduction for business food and beverage expenses provided by a restaurant that are paid or incurred in 2021 or 2022. Currently the deduction is available for only 50% of the business meal expense. Entertainment expenses generally remain non-deductible.

The employer credit for paid sick and family leave, originally part of the Families First Coronavirus Response Act, is extended. The credit was originally set to expire at the end of 2020, but the covered period is extended to March 31, 2021.

Relief for specific hard-hit businesses

Small lender banks — The act provides $12 billion in support to small lenders focused on low-income and minority communities, reinforcing minority-owned banks and firms known as community financial development.

Farmers — The U.S. agriculture sector is set for another multi-billion dollar injection in the new relief act, which directs about $12 billion to crop farmers, cattle ranchers and rural communities.

Airlines — The act includes $15 billion to cover airline salaries and benefits through the end of March, plus $1 billion for airline contractor payrolls and $2 billion for airports and airport-based businesses.

Theaters and other live venues — The act creates a $15 billion grant program for live venues, theaters and museum operators that have lost at least 25% of their revenues. The initial grant can total up to $10 million per eligible business. A second grant, worth half the amount of the first, may also be available. The money will be for specified expenses such as payroll costs, rent, utilities and personal protective equipment.

During the first 14 days of the program's implementation, grants will be awarded to those who have faced 90% revenue losses. Then, those who have experienced at least 70% revenue losses will be eligible during the next two weeks. After the first month of the program, any other eligible businesses can receive grants.

U.S. Postal Service — The act loosens some of the strings imposed on the U.S. Postal Service from the CARES Act, which provided a $10 billion Treasury loan after terms were negotiated. According to the new act, the Postal Service would not be required to repay the loan.

Other business-related COVID-19 relief

Vaccine, testing and contact tracing — The legislation provides for significant funding to prevent, prepare for, and respond to coronavirus domestically and internationally. The act increases the amount of money aimed at combating the virus, adding $3 billion to the $175 billion fund for hospitals and health care providers for reimbursement of health care-related expenses or lost revenue resulting from the pandemic.

The legislation provides emergency resources for schools, state highways, transit agencies, Amtrak and airports, and for health-related expenses of state, local, tribal and territorial governments.

The deal also extends the deadline for spending the $150 billion in coronavirus relief funds by a year. State and local governments were racing to use all the money by the deadline of December 30, 2020, with many providing assistance to residents.

Tax incentive extenders

The legislation extends many popular tax breaks for individuals and businesses. These provisions, commonly known as extenders, are generally renewed annually, and were scheduled to expire at the end of 2020. While not comprehensive, the following summarizes the most notable extenders:

Tax incentives made permanent:

- The 7.5% adjusted gross income floor on the deduction of medical expenses
- Deduction for qualified tuition and related expenses was repealed and replaced with increased income limitations for Lifetime Learning Credit
- Provisions modifying the rates of taxation for beer, wine and distilled spirits
- Energy-efficient commercial building deductions

Tax incentives extended through 2025:

- Employer tax credit for family and medical leave
- Work opportunity and new markets credit
- Discharge on indebtedness on principal residence is excluded from gross income
- Empowerment Zone tax incentives

Tax incentives extended through 2023:

- Credit for residential energy property

Tax incentives extended through 2021:

- Premiums for mortgage insurance deductible as interest that is qualified residence interest
- Credit for qualified fuel cell motor vehicles
- Credit for alternative fuel vehicle refueling property
- Credit for construction of new energy efficient homes
- Credit for health insurance costs for eligible individuals
- Credit for certain nonbusiness energy property

The act is sure to impact many individuals, businesses and private foundations. Consult your tax advisor to determine how your particular situation may be impacted.

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Sources:

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