Last Minute 2019 Federal Income Tax Legislation

On December 20, 2019, President Donald Trump signed into law two separate appropriations bills to fund the operations of the federal government for FY 2020. These bills were: (1) the Consolidated Appropriations Act, 2020, and (2) the Further Conslidated Appropriations Act, 2020. The second of these Acts, the Further Consolidated Appropriations Act, 2020, included a number of last-minute changes to federal income tax law.[1]

Because of the large number of tax code sections involved, this report summarizes only a few of the key changes affecting *individual* taxpayers.

One notable feature of this legislation is that a number of these changes are *retroactive.* Affected taxpayers will need to file amended federal returns to benefit from these changes.

SECURE Act

One portion of the new legislation is titled the "Setting Every Community Up for Retirement Enhancement Act of 2019," or SECURE Act. This Act contains a number of provisions, many of which are intended to encourage retirement savings.

Item	Prior Law	SECURE Act
Repeal of maximum age for making contributions to a traditional IRA.	An individual was prohibited from making additional contributions to a traditional IRA, once he or she reached age 70½.	Repeals the age 70½ limitation. Additional contributions may be made at any age, assuming taxpayer has "compensation." Applies to contributions made for tax years beginning after December 31, 2019.
Age at which required minimum distributions (RMDs) from traditional IRAs, employer-sponsored qualified plans, and individual retirement annuities must begin.	Generally required participants in employer-sponsored retirement plans, owners of traditional IRAs, and owners of individual retirement annuities to begin taking required minimum distributions by April 1 of the calendar year after the year the individual reached age 70½.	Increases the "trigger" age for RMDs to age 72. Effective for distributions required to be made after December 31, 2019 to individuals who reach age 70½ after that date.

[1] The discussion here concerns federal income tax law; state or local law may differ.

SECURE Act (continued)

Item	Prior Law	SECURE Act
Portability of lifetime income options.	No comparable provision.	In some situations, the permissible investment options available to a plan participant may change, requiring an investment to be liquidated and forcing the participant to incur surrender fees or other charges. The new law allows qualified defined contribution plans, 403(b) plans, and 457(b) plans to distribute a lifetime income investment or a lifetime income investment in the form of a qualified plan distribution contract, in a direct, trustee-to-trustee transfer to another qualified plan or traditional IRA. Applies to plan years beginning after December 31, 2019.
Required distribution rules for designated beneficiaries for distributions from inherited defined contribution or IRA accounts.	Generally, allowed non-spousal beneficiaries to take distributions from an inherited account over their life expectancy.	Generally, requires non-spousal beneficiaries to take distributions from an inherited account over no more than a 10-year period. Creates a new class of “eligible designated beneficiaries” who are exempt from the mandatory 10-year distribution requirement. The new law is generally effective for distributions with respect to individuals dying after December 31, 2019. For governmental plans, the provision is effective for distributions with respect to individuals dying after December 31, 2021.

SECURE Act (continued)

Item	Prior Law	SECURE Act
10% penalty for early (before age 59½) withdrawal of taxable amounts from traditional IRAs and employer-sponsored retirement plans.	Levied a 10% penalty on taxable amounts withdrawn from traditional IRAs and certain employer-sponsored retirement plans before age 59½, unless an exception applied.	Creates a new exception to the 10% penalty for distributions (up to $5,000 per parent) for expenses related to the birth or adoption of a child. Allows for tax-free recontribution of amounts distributed for this purpose. Effective for distributions after December 31, 2019.
529 Plans – expanded definition of "qualified higher education expense."	No comparable provision.	Expands the definition of "qualified higher education expense" to include expenses related to participation by a designated beneficiary in an apprenticeship program registered with the Secretary of Labor, as well as allowing for the distribution of $10,000 (lifetime limit) for the payment of interest or principal of a qualified education loan for the designated beneficiary or a sibling. Effective for distributions made after December 31, 2018.
Plan adopted by filing due date for the year may be treated as in effect as of the close of the year.	Required a qualified retirement plan – in order to be treated as in effect for a tax year – to be adopted by the last day of the tax year.	Allows an employer who adopts a qualified retirement plan by the due date (including extensions) for filing the employer's income tax return for the year, to treat the plan as having been adopted by the last day of the taxable year. Applicable to plans adopted for taxable years beginning after December 31, 2019.

SECURE Act (continued)

Item	Prior Law	SECURE Act
Unearned income of children – the “kiddie” tax.	Taxable income attributable to “net unearned income” was taxed according to the tax brackets applicable to trusts and estates. The remainder of a child’s taxable income was taxed at the child’s rates. A reduced AMT exemption applied to children subject to the kiddie tax.	The “net unearned income “of a child is taxed at the parent’s tax rates if the parent’s rates are higher than those of the child. The remainder of a child’s taxable income is taxed at the child’s tax rates. The reduced AMT exemption is repealed. The tax rate changes are applicable to taxable years beginning after December 31, 2019, but may be applied to 2018 or 2019 at the taxpayer’s choice. The reduced AMT exemption applies to tax years beginning after December 31, 2017.

Tax Extenders

In a separate section, the legislation also included a number of tax “extenders,” tax provisions that Congress in the past has routinely extended for one or two years at a time.

Item	Prior Law	2019 Legislation
Exclusion from gross income of discharge of qualified principal residence indebtedness.	Through December 31, 2017 allowed for an exclusion from taxable income for up to $2,000,000 ($1,000,000 – Married Filing Separately) of forgiven principal “acquisition indebtedness.	Extends this provision to debt discharged before January 1, 2021 and retroactively to 2018.
Reduced medical expense deduction floor	For 2019 and later tax years, provided for a deduction on Schedule A for medical expenses in excess of 10% of Adjusted Gross Income (AGI).	For tax years 2019 and 2020, reduces the threshold for deductible medical expenses on Schedule A to 7.5% of AGI.

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Tax Extenders

Item	Prior Law	2019 Legislation
Mortgage insurance premiums treated as qualified mortgage interest.	Through December 31, 2017, prior law allowed a taxpayer to treat mortgage insurance premiums as qualified mortgage interest.	Extends this provision to amounts paid through December 31, 2020, and retroactively to 2018.
Deduction of qualified tuition and related expenses.	Through December 31, 2017, allowed an "above-the-line" deduction of up to $4,000 for payment of qualified tuition and related expenses.	Extends this provision to amounts paid through December 31, 2020 and retroactively to 2018.

Disaster Tax Relief

The Further Consolidated Appropriations Act, 2020, also included disaster relief applicable to major disasters declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, for the period January 1, 2018 through February 19, 2020.[1] Such tax relief includes:

- **Disaster-related use of retirement funds.** Including an exception from the 10% early withdrawal penalty in IRC Sec. 72(t) for "qualified disaster distributions;" the option to include a qualified disaster distribution in income over three years; and the option to recontribute within three years the funds withdrawn.
- **Personal casualty losses.** A relaxed set of standards applies with regard to deducting disaster-related personal casualty losses. Personal casualty disaster losses do not need to exceed 10% of a taxpayer's AGI and may be deducted in addition to the taxpayer taking the standard deduction.
- **Earned income tax credit and additional child credit.** The 2019 legislation allows a taxpayer to use his or her earned income from the prior tax year in calculating the earned income credit or additional child credit.
- **Extension of filing deadlines.** Taxpayers affected by a qualified disaster have an automatic extension of time to file income, estate, gift, excise, or employment tax returns.

[1] A major exception is the California wildfires; tax relief for these disasters was provided in the Bipartisan Budget Act of 2018.

Patient Protection and Affordable Care Act

Several provisions permanently repealed certain taxes passed as part of the Patient Protection and Affordable Care Act.

Item	Prior Law	2019 Tax Legislation
Excise tax on high-cost employer-sponsored health plans (the "Cadillac" tax).	An excise tax applicable to certain "high-cost" employer-sponsored" health plan. As originally passed, this tax was schedule to go into effect in 2020. The effective date was later pushed back to 2022.	Permanently repealed, effective for tax years beginning after December 31, 2019.
Medical device tax	Applied a 2.3% excise tax to the sale of certain medical devices purchased by the public for individual use.	Permanently repealed, effective for sales after December 31, 2019.
Annual fee on health insurance providers.	Imposed an annual fee on organizations engaged in the business of providing health insurance.	Permanently repealed for calendar years beginning after December 31, 2020.

Seek Professional Guidance

The foregoing is a simplified overview of a few of the more notable provisions affecting individual taxpayers in this last-minute legislation. To receive maximum benefit from these changes, the advice and guidance of trained income tax and legal professionals is highly recommended.

Disclosure Notice

The information that follows is intended to serve as a basis for further discussion with your financial, legal, tax and/or accounting advisors. It is not a substitute for competent advice from these advisors. The actual application of some of these concepts may be the practice of law and is the proper responsibility of your attorney. The application of other concepts may require the guidance of a tax or accounting advisor. The company or companies listed below are not authorized to practice law or to provide legal, tax, or accounting advice.

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