GMS Flash Alert

2020-004 | January 6, 2020

United States - Individual Income Tax Provisions Enacted in Appropriations Legislation

On December 20, 2019, President Trump signed into law the *Further Consolidated Appropriations Act, 2020* (the "new law"),[1] a U.S. government funding bill that includes significant tax provisions. This report summarizes the tax provisions within the new law that affect individuals.

WHY THIS MATTERS

The new law contains a number of tax provisions that are generally taxpayer favorable, and may reduce the U.S. tax cost of certain assignees eligible for certain incentives. Additionally, some of these changes are retroactive and affect prior tax years for which a return may have already been filed. Assignment programs may have opportunities to recoup U.S. tax costs, although the process for claiming certain retroactive incentives is not yet clear.

Extensions of Expired or Expiring Provisions: Highlights

The new law extends 34 tax provisions that either had already expired or that were scheduled to expire, including:

- the exclusion from gross income of discharge of qualified principal residence indebtedness;
- the treatment of mortgage insurance premiums as qualified residence interest;
- the reduction in the medical expense deduction floor from 10 percent to 7.5 percent;
- the above-the-line deduction for qualified tuition and related expenses;
- the classification of certain race horses as three-year property for depreciation purposes;
- the nonbusiness energy property credit;

© 2020 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. Printed in the U.S.A. NDPPS 530159

- the qualified fuel cell motor vehicle credit;
- the 2-wheeled plug-in electric vehicle credit;
- the energy efficient homes credit; and
- the look-through rule for related controlled foreign corporations.

The new law generally extends these provisions through 2020, and the incentives that had already expired (some as long ago as the end of 2017) generally are extended retroactively to the date of expiration.

KPMG NOTE

As some of the above incentives expired at the end of 2017, otherwise eligible taxpayers generally could not take advantage of these incentives on their 2018 tax returns. The new law provides specific instructions to the IRS about issuing guidance for taxpayers regarding certain incentives, but does not provide any "blanket" rule as to how taxpayers and the IRS should address questions associated with the impact of retroactive extensions on 2018 returns. Taxpayers may be required to file amended returns to take advantage of some of these renewed incentives.

It is hoped that the IRS will issue guidance on these issues in the near future.

Disaster Tax Relief

The new law includes a number of provisions dealing with tax relief for victims of natural disasters. It extends relief to any victim of a federally-declared disaster occurring in the period from January 1, 2018 through January 19, 2020.

The new law allows victims of qualified disasters to take up to $100,000 penalty-free from eligible retirement plans, and provides special rules that allow a victim to spread any income inclusion from a distribution over a three-year period. Additionally, the new law provides an employee retention credit for employers affected by qualified disasters.

Other relief includes an increased charitable contribution limitation for qualified contributions made for disaster relief efforts in a qualified disaster area, special rules for qualified-disaster-related personal casualty losses and determining earned income for purposes of the earned income credit, and a 60-day filing extension for certain individuals affected by a federally-declared disaster.

Changes to Retirement Savings and Pensions

The new law includes provisions intended to expand and preserve retirement savings.

Repeal of Maximum Age for Allowing Contributions to a Traditional IRA

The new law allows working individuals to continue to make contributions to a traditional IRA past age 70½ (the current age limit). This change is effective for contributions made for tax years beginning after December 31, 2019.

Increase in Age for Required Beginning Date for Mandatory Distributions

Under the new law, required minimum distributions from certain retirement plans (RMDs) would start at age 72 instead of age 70½. However, this change only affects individuals who did not attain age 70½ by the end of 2019. This change

© 2020 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. Printed in the U.S.A. NDPPS 530159

allows participants to defer distributions and grow their savings for a longer period. This provision is effective for distributions required to be made after December 31, 2019, for individuals who attain age 70½ after that date.

Increase Automatic Contribution Limits to 15 Percent

The new law raises the limit on automatic employee contributions to 401(k) plans from 10 percent to 15 percent. This change is effective for plan years beginning after December 31, 2019.

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

The new law allows a penalty-free distribution of up to $5,000 from an IRA or certain defined contribution plans after the birth or adoption of a child. This provision is effective for distributions made after December 31, 2019.

Extension of Section 529 Plans

The new law expands the definition of the term "qualified higher-education expense" for which section 529 plan proceeds may be used to include amounts paid as principal or interest on any qualified education loan of the designated beneficiary or a sibling of the designated beneficiary. However, the amount of distributions from a 529 plan treated as a qualified higher-education expense with respect to the loans of any individual is subject to a lifetime limitation of $10,000. Additionally, a taxpayer is not allowed a student loan interest deduction for any distribution treated as a qualified higher-education expense.

Modification of TCJA Rules Relating to Taxation of Unearned Income of Children

The new law modifies the taxation of unearned income of certain children (the "kiddie tax"), effectively repealing the rate changes made to the kiddie tax regime by the 2017 tax law (commonly known as the "Tax Cuts and Jobs Act" or "TCJA"). This change is generally effective for tax years beginning after December 31, 2019. However a taxpayer may elect for the change to apply retroactively to tax years beginning in 2018 or 2019.

Other Provisions

Removal of RMD Provisions for Stretch IRAs

The new law removes the RMD provisions for "stretch IRAs." Non-spouse-designated beneficiaries of an inherited IRA are generally required to take distributions over 10 years instead of over the designated beneficiary's lifetime.

Increased Failure-to-File Penalty

The new law increases the failure-to-file penalty from $330 to $435, effective for returns the due date of which (including extensions) is after December 31, 2019.

Repeal of "Parking Tax"

The new law retroactively repeals a provision of the TCJA which required tax-exempt organizations to include in unrelated business taxable income the amounts they pay or incur on qualified transportation fringe benefits.

© 2020 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. Printed in the U.S.A. NDPPS 530159

FOOTNOTE:

1 H.R. 1865. Read a December 2019 report [PDF 987 KB] (13 pages) prepared by KPMG LLP (U.S.) providing more information, as well as preliminary analysis and observations, regarding some of the key tax provisions in the new law.

* * * *

KPMG LLP's Global Rewards Services Invites You to a January 9 Webcast on Section 162(m) Changes

January 9, 2020 Webcast – On December 16, 2019, the U.S. Treasury and Internal Revenue Service released proposed regulations addressing the changes made to section 162(m) of the Internal Revenue Code as part of the 2017 tax law commonly referred to as the Tax Cuts and Jobs Act (TCJA).

We invite you to a 90-minute webcast on January 9 (2:00pm EST; GMT -5) that will examine these much-anticipated regulations. Senior-level KPMG tax professionals from KPMG's Washington National Tax and Global Reward Services practices will:

- review the changes made to section 162(m) by the TCJA;
- examine the (i) implications associated with expanded definitions of corporations subject to section 162(m), (ii) limitations covered employees of affected corporations, and (iii) compensation that must be taken into account;
- discuss grandfathering and other transition relief opportunities;
- address action items corporations should consider in implementing these provisions.

For more information and to register, click here.

© 2020 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. Printed in the U.S.A. NDPPS 530159

The above information is not intended to be "written advice concerning one or more Federal tax matters" subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230 as the content of this document is issued for general informational purposes only.

The information contained in this newsletter was submitted by the KPMG International member firm in United States.

www.kpmg.com

kpmg.com/socialmedia

© 2020 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. Printed in the U.S.A. NDPPS 530159

The KPMG name and logo are registered trademarks or trademarks of KPMG International.

The KPMG logo and name are trademarks of KPMG International. KPMG International is a Swiss cooperative that serves as a coordinating entity for a network of independent member firms. KPMG International provides no audit or other client services. Such services are provided solely by member firms in their respective geographic areas. KPMG International and its member firms are legally distinct and separate entities. They are not and nothing contained herein shall be construed to place these entities in the relationship of parents, subsidiaries, agents, partners, or joint venturers. No member firm has any authority (actual, apparent, implied or otherwise) to obligate or bind KPMG International or any member firm in any manner whatsoever. The information contained in herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

Flash Alert is a GMS publication of KPMG LLP's Washington National Tax practice. To view this publication or recent prior issues online, please click here. To learn more about our GMS practice, please visit us on the Internet: click here or go to http://www.kpmg.com.