NATP

SUMMARY:
CONSOLIDATED APPROPRIATIONS ACT OF 2021 – HR 133

Individual Provisions

2020 additional recovery rebates for individuals
The bill provides a second round of payments to taxpayers (subject to income limits) in the way of a credit under §6428 of $600 per individual ($1,200 for married couples filing a joint return) plus $600 per qualifying child as defined under §24(c).

The payment is reduced by 5% of the taxpayer's adjusted gross income in excess of $75,000 ($112,500 for head of household; $150,000 for joint filers). The payment will fully phase out when income reaches $99,000 for single filers, $146,500 for heads of household with one child and $198,000 for joint filers.

Eligible taxpayers include anyone except:
- Nonresident aliens
- Any taxpayer who does not have a Social Security number (SSN) or adoption taxpayer identification number (ATIN)
- Taxpayers who qualify as a dependent of another taxpayer (§151)
- Estates or trusts

Individuals who have no income, as well as those whose income comes entirely from non-taxable, means-tested benefit programs (such as SSI benefits) also qualify for the advance payment.

The bill expanded eligibility to include all individuals with a valid SSN, even if they file jointly with a person who uses an ITIN. Those who did not receive an initial stimulus payment under the CARES Act because they filed jointly with a person using an ITIN are now eligible to claim the initial $1,200 stimulus payment when filing their 2020 tax return.

Joint filers are each treated as having received one-half of the advanced payment. The eligibility for the payment is based on the taxpayers 2019 tax return, or if the taxpayer has not filed a 2019 return, eligibility is based on the 2018 return. If no returns were filed in 2018 or 2019, information from 2019 Forms 1099-SSA and 1099-RRB will be used.

Changes to earned income tax credit & child tax credit
For tax year 2020, taxpayers may use their 2019 taxable income to determine eligible amounts to claim for §32 earned income tax credit and §24(d) additional child tax credit if it results in higher credit amounts when compared to their 2020 taxable income.

Medical expense deduction floor
Beginning in tax year 2021, the §213(a) medical expense deduction floor is permanently reduced to 7.5% of adjusted gross income.

Flexible spending accounts
Unused balances in flexible spending accounts for health care and dependent care expenses may be carried over from 2020 into 2021, and again from 2021 into 2022, if the employer allows. A special carryforward rule applies to children who turned age 13 during the pandemic.

Partial above-the-line charitable contribution deduction
A charitable contribution not in excess of $300 for individuals and $600 for joint filers made in taxable years beginning in 2021 is allowed to taxpayers who do not itemize. The contribution must be made in cash to a qualified charitable organization.

Increased imposition of tax for overstating charitable contributions
The imposition of accuracy-related penalty under §6662 increased from 20% to 50% for any understatement of tax due by non-itemizers resulting from an overstatement of qualified charitable contributions made in 2020.

Mortgage forgiveness debt relief
The maximum amount of discharged debt on a principal residence through foreclosure or debt restructuring that may be excluded from income under §108(a)(1)(E) was lowered from $2 million to $750,000. This new limit will apply through tax year 2025.

Changes to education credits
The bill repeals the §222 deduction for qualified tuition and related expenses but in its place increases the phaseout limits on the lifetime learning credit to match the phaseout limits for the American opportunity credit, effective for tax years beginning after Dec. 31, 2020.

Additional time to pay back deferred payroll taxes for certain employees
Federal employees, members of the military and all other taxpayers may pay back the deferred amount of payroll taxes throughout the entire year of 2021.

Exclusion for volunteer firefighters and emergency medical responders
The bill makes permanent Sec. 139B gross income exclusion of certain benefits provided to volunteer firefighters and emergency medical responders.

Minimum age for retirement distributions
The bill modifies §401(a) to allow certain qualified pensions to make distributions to workers who are 59½ or older and who are still working. For certain construction and building trades workers, the age is lowered to 55.

Energy credits
The bill extended §48 energy investment tax credit for solar and residential energy-efficient property for tax years 2020 and 2021.

Business Provisions

Business meals deduction
The bill provides a temporary increased allowance to the deduction for business meals when provided by a restaurant. The deduction for business means increases from 50% to 100% for tax years 2021 and 2022.

Exclusion for certain employer payments of student loans
Excludable education assistance under §127(c)(1)(B) includes payments made by an employer after March 27, 2020, as added by the CARES Act, for the benefit of an employee, whether paid to the employee or to a lender, of principal or interest on any qualified education loan (as defined in §221(d)(1)) incurred by the employee for education of the employee. This temporary exclusion was extended out to payments made before Jan. 1, 2026.

Employee retention credit
The bill extends and improves the employee retention credit as follows:

- The refundable payroll tax credit increased from 50% to 70% of qualified wages each quarter.
- The limit on per-employee creditable wages increased from $10,000 for the year to $10,000 for each quarter.
- The credit now includes wages paid or incurred from March 13, 2020, through June 30, 2021.
- A safe harbor was created allowing employers to use prior-quarter gross receipts to determine eligibility.
- The required reduction in gross receipts changed from 50% to 20% of receipts for the same calendar quarter in the prior year.
- The number of employees counted when determining the relevant qualified wage base increased from 100 to 500.
- New employers who were not in existence for all or part of 2019 are now eligible to claim the credit.

Excise tax provisions on alcohol production
The bill made permanent provisions of the Craft Beverage Modernization Act, which originally passed as part of TCJA. This permanent relief for the craft beverage industry includes a reduction to excise taxes and simplified recordkeeping requirements for the taxation of producers of beer, wine and distilled spirits.

Permanent deduction for efficiency improvements
A tax deduction under §179D for qualified energy efficient improvements to commercial buildings is now permanent and allows developers to receive a tax deduction of up to $1.80 per square foot.

Foreign personal holding company income
The look-through rule found in §954(c)(6) is extended through tax year 2025. This rule provides that income such as royalties, dividends, and interest that one foreign subsidiary receives from a related foreign subsidiary is not treated as foreign personal holding company income.

Work opportunity tax credit
The bill extended this §51 elective credit through tax year 2025.

45Q carbon capture, utilization, and storage tax credit
The bill adopted the §45Q Carbon Capture, Utilization, and Storage Tax Credit Amendments Act of 2020. This act extends the carbon oxide sequestration credit for facilities that begin construction by the end of 2025.

Railroad track maintenance credit
The §45G railroad track maintenance credit was reduced from 50% to 40%, capped at $3,500 per mile of railroad track. This annual tax extender is now a permanent tax credit.

New markets tax credit
The bill established a permanent 4% floor to the §42 low-income housing tax credit (LIHTC) rate, extended the new markets tax credit (NMTC) through tax year 2025 and extended phase-down provisions for the renewable energy investment tax credit (ITC) and production tax credit (PTC)

Partial plan terminations
The bill provides that qualified plans will not be treated as having a partial termination under §411(d)(3) during any plan year which includes March 13, 2020, through March 31, 2021, so long as the number of active participants covered by the plan on March 31, 2021, is at least 80% of the number covered on March 13, 2020.

Empowerment zone tax incentives
The bill extended the §1391(d) empowerment zone designations through tax year 2025. The §1394 empowerment zone tax-exempt bonds and §1396 empowerment zone employment credit will expire on Dec. 31, 2020, and were not extended.

Credit for offshore wind facilities
The bill extends the §48 investment tax credit for electing offshore wind facilities that begin construction through 2025.

Waste energy recovery property
The bill makes waste energy recovery property eligible for the §48 energy investment tax credit for tax years 2021, 2022 and 2023.

Oil spill liability trust fund rate
The bill extended the §4611 oil spill liability trust fund financing rate through tax year 2025.

Employer credit for paid family and medical leave
The bill extended this tax credit through 2025.

Recovery period for motorsports entertainment complexes
The bill extends the §168(e)(3)(C)(ii) seven-year recovery period for motorsports entertainment complexes through tax year 2025.

Expensing rules for certain productions
The bill extends the §181 special expensing rules for certain film, television and live theatrical productions through tax year 2025.

One-year tax extenders
The bill established an extension through tax year 2021 for the following provisions:

- §25C 10% credit for qualified nonbusiness energy property
- §30B credit for qualified fuel cell motor vehicles
- §30C 30% credit for the cost of alternative fuel vehicle refueling property
- §30D 10% credit for plug-in electric motorcycles and two-wheeled vehicles
- §35 health coverage tax credit
- §40(b)(6) credit for each gallon of qualified second-generation biofuel produced
- §45(e)(10)(A)(i) production credit for Indian coal facilities
- §45(d) credit for electricity produced from certain renewable resources
- §45A Indian employment credit
- §45L energy-efficient homes credit
- §45N mine rescue team training credit
- §163(h) treatment of qualified mortgage insurance premiums as qualified residence interest
- §168(e)(3)(A) three-year recovery period for racehorses 2-years-old or younger
- §168(j)(9) accelerated depreciation for business property on Indian reservations
- §4121 Black Lung Disability Trust Fund increase in excise tax on coal
- §6426(c) excise tax credits for alternative fuels and §6427(e) outlay payments for alternative fuels
- The American Samoa economic development credit (P.L. 109-432, as amended by P.L. 111-312)

Other Provisions

Expanded unemployment assistance
The bill extends pandemic unemployment assistance benefits created under the CARES Act through March 14, 2021. The federal supplement to unemployment insurance benefits for eligible individuals is $300 per week beginning Dec. 26, 2020, and ending March 14, 2021. Benefits are extended from 39 to 50 weeks. All benefits will expire on April 5, 2021.

Expanded relief for renters
The bill provides $25 billion for rental assistance, including both past and future rent and utility payments, and extends the eviction moratorium through Jan. 31, 2021.

Food assistance
The benefits available through the Supplemental Nutrition Assistance Program (SNAP), which includes food stamp benefits, have increased. Expanded food benefits will continue for vulnerable populations including families with children in childcare, infants, children and senior citizens.

Expanded paycheck protection program
The bill provides clarification that deductions are allowable for expenses paid with the proceeds of a forgiven PPP loan and that PPP forgiveness is not a taxable event. These clarifications retroactively apply from March 27, 2020, the enactment date of the CARES Act.

The bill allows some businesses to receive an additional loan called a “PPP second draw”. The targeted businesses eligible for this loan include smaller and harder hit businesses. To be eligible, the business must:

- Employ 300 or fewer employees;
- Have used or will use the full amount of their first PPP loan; and,
- Demonstrate at least a 25% reduction in gross receipts.
    - For a for-profit business, gross receipts generally include all revenue in any form from any source, excluding any forgiven PPP loan or any EIDL advance.
    - For all applicants (except those meeting one of the conditions set forth below), gross receipts in any calendar quarter of 2020 were at least 25% lower than the same quarter of 2019, or they may compare annual gross receipts in 2020 with annual gross receipts in 2019 if they were in business in 2019.
    - For applicants not in business during the first and second quarters of 2019 but in operation during the third and fourth quarters of 2019, gross receipts in any quarter of 2020 were at least 25% lower than during either the third or fourth quarters of 2019.
    - For applicants not in business during the first, second and third quarters of 2019, but in operation during the fourth quarter of 2019, gross receipts in any quarter of 2020 were at least 25% lower than the fourth quarter of 2019.
    - For applicants not in business during 2019 but in operation on Feb. 15, 2020, gross receipts in the second, third or fourth quarter of 2020 were at least 25% lower than the first quarter of 2020.

Eligible recipients may borrow up to 2.5 times their average monthly payroll costs in either the year prior to the loan or the calendar year. The maximum loan amount is $2 million. The previous 60/40 cost split between payroll and non-payroll costs will continue to apply for forgiveness purposes.

The bill also creates a simplified forgiveness application for loans up to $150,000. The application, which shall not exceed one page, will require the number of employees the employer was able to retain as well as the estimated total amount of the loan used to cover payroll costs.