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PPC's Five-Minute Tax Briefing

2021

April 13, 2021—No. 2021-07

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Highlights

2020 Recovery Rebate Credit Letters Being Sent:The IRS is mailing letters to some taxpayers who claimed the 2020 recovery rebate credit and may be getting a different amount than expected. The first and second Economic Impact Payments (EIPs) were advance payments of the 2020 credit. When the IRS processes a 2020 tax return claiming the credit, it determines the eligibility and amount of the taxpayer's credit based on the 2020 tax return information and the amounts of any EIP previously issued. If there's a mistake, the IRS will calculate the correct amount, make the correction, and continue processing the return, which may cause a slight delay. The IRS will then send the taxpayer a letter or notice explaining any change. The IRS's website has a special section that addresses frequently asked questions on the 2020 recovery rebate credit. See www.irs.gov/newsroom/recovery-rebate-credit-frequently-asked-questions for more information. News Release IR 2021-76.

Additional Guidance on Extended May 17 Tax Deadline for Individuals:With the extension of the filing deadline for Form 1040 returns from 4/15/21 to 5/17/21, the IRS is postponing the time for individuals to make 2020 contributions to their Individual Retirement Arrangements (IRAs and Roth IRAs), Health Savings Accounts (HSAs), Archer Medical Savings Accounts (Archer MSAs), and Coverdell Education Savings Accounts (Coverdell ESAs). The time for reporting and payment of the 10% additional tax on amounts includible in gross income from 2020 distributions from retirement plans also is extended. The IRS also has postponed the filing deadline for Form 5498

related to these accounts to 6/30/21. For tax year 2017 individual income tax returns, the normal April 15 deadline to claim a refund has been extended to 5/17/21. The deadline for estimated tax payments has not been extended; these payments are still due on 4/15/21. News Release IR 2021-67 and Notice 2021-21 .

PPP Extension Act of 2021:On 3/25/21, the U.S. Senate passed the PPP Extension Act of 2021, which amends the Small Business Act and the CARES Act to extend the covered period for the Paycheck Protection Program (PPP). Before the Act was passed, the PPP application deadline was set to expire on 3/31/21. The legislation extends this deadline to 5/31/21. In addition, the Small Business Administration (SBA) is granted an additional 30 days until 6/30/21 to process loan applications submitted before 6/1/21. Due to the recent changes in eligibility, the AICPA and others urged Congress to extend the deadline. President Biden signed the legislation on 3/30/21. P.L. 117-6.

Update on Unemployment Compensation Exclusion:The American Rescue Plan Act excludes up to \$10,200 of unemployment compensation paid in 2020 from gross income. If married, this exclusion applies to both spouses. If a taxpayer's Modified Adjusted Gross Income (MAGI) is \$150,000 or more, the exclusion is not available. According to updated instructions recently issued by the IRS, unemployment income is not included when calculating MAGI for purposes of the unemployment compensation exclusion. This is a reversal of the IRS's original interpretation of the provision. The exclusion is calculated using the Unemployment Compensation Exclusion Worksheet. Taxpayers filing Form 1040-NR are not allowed an unemployment compensation exclusion for their spouse. See www.irs.gov/forms-pubs/new-exclusion-of-up-to-10200-of-unemployment-compensation for more information.

Other Current Releases

Employee Benefits—COBRA Premium Subsidy and Enrollment Option:The American Rescue Plan Act of 2021 (ARPA) creates a 100% COBRA premium subsidy and additional COBRA enrollment rights for certain employees (and dependents) who have lost group health plan coverage due to an involuntary termination of employment or reduction of hours during the period 4/1/21 and 9/30/21. The employer, plan, or insurer will pay 100% of an Assistance Eligible Individual's (AEI's) COBRA premium during that time period and will be reimbursed by the federal government through a credit against Medicare payroll taxes or, for credit amounts exceeding such taxes, as a refund of an overpayment. The subsidy period may be shortened for AEIs who reach the end of their maximum coverage period or who become eligible for coverage under Medicare or another group health plan, with certain exceptions. The Act also creates a plan enrollment option under which a plan may permit AEIs to elect a different coverage option. P.L. 117-2.

Employee Benefits—Update for Weighted Average Interest Rates, Yield Curves, and Segment Rates:The IRS has provided guidance on the corporate bond monthly yield curve, the corresponding spot segment rates used under IRC Sec. 417(e)(3), and the 24-month average

segment rates under IRC Sec. 430(h)(2) . In addition, the IRS has provided guidance as to the interest rate on 30-year Treasury securities under IRC Sec. 417(e)(3)(A)(ii)(II) as in effect for plan years beginning before 2008 and the 30-year Treasury weighted average rate under IRC Sec. 431(c)(6)(E)(ii)(I). The IRS has not yet provided 24-month average segment rates determined under IRC Sec. 430(h)(2)(C)(iv) reflecting the modifications made by Sec. 9706(a) of the American Rescue Plan Act of 2021 (ARPA), which was enacted on 3/11/21. Those rates will be provided in future guidance. Notice 2021-22.

Employment Tax—IRS Expands Guidance for Employers Claiming the Employee Retention Credit (ERC) for 2021:The Taxpayer Certainty and Disaster Tax Relief Act of 2020 (Relief Act) extended the application of the ERC to qualified wages paid after 12/31/20 and before 7/1/21 and modified calculation of the credit amount. On 3/1/21, the IRS issued Notice 2021-20 on claiming the ERC for calendar quarters in 2020. The applicable provisions of Notice 2021-20 addressing rules that were not changed by the Relief Act continue to apply to ERCs. The IRS has now issued Notice 2021-23 , which provides guidance on increased credit amounts, expanded eligibility, a modified gross receipts test, revisions to qualified wages, limitations on the credit, and procedural aspects of claiming the ERC during the first two calendar quarters of 2021. In the future, the IRS will provide further guidance on claiming the ERC during the third and fourth quarters of 2021, as provided under the American Rescue Plan Act of 2021 (ARPA). News Release IR 2021-74 and Notice 2021-23.

Income Tax—Costs of Personal Protective Equipment to Prevent the Spread of COVID-19 Are Tax Deductible:The IRS has issued Announcement 2021-7, which clarifies that amounts paid for personal protective equipment, such as masks, hand sanitizer, and sanitizing wipes, for the primary purpose of preventing the spread of COVID-19 are deductible medical expenses (provided total medical expenses exceed 7.5% of the taxpayer's AGI). Such amounts also are eligible to be paid or reimbursed under health Flexible Spending Arrangements (health FSAs), Archer Medical Savings Accounts (Archer MSAs), Health Reimbursement Arrangements (HRAs), or Health Savings Accounts (HSAs). In addition, the announcement notifies administrators of group health plans regarding the ability to make certain plan amendments pursuant to the announcement. Announcement 2021-7 and News Release IR 2021-66.

Income Tax—Fashion Designer Denied Research Credits:Leon Max is a successful designer and businessman who founded an S corporation (LMI) that produces and sells millions of garments a year. Beginning with hand-drawn sketches, LMI designers, patternmakers, and sample makers follow a structured process for conceptualizing, designing, and developing garments. For these activities, LMI claimed credits under IRC Sec. 41 for increasing research activities for 2011 and 2012, which flowed through to Mr. Max. Qualified research and related expenses must relate to a new or improved function, performance, reliability, or quality of the product or process. Four tests must be met—(1) the Section 174 test, (2) the technological information test, (3) the business component test, and (4) the process of experimentation test. LMI's activities did not satisfy any of

the four tests; therefore, the expenses it incurred in the design process were not eligible for the research credit. *Leon Max*, TC Memo 2021-37 (Tax Ct.).

Income Tax—Guidance for Issuers of Qualified Mortgage Bonds and Mortgage Credit

Certificates: Rev. Proc. 2021-19 provides guidance on the U.S. and area median gross income figures for use by issuers of *qualified mortgage bonds* under IRC Sec. 143(a) and issuers of *mortgage credit certificates* under IRC Sec. 25(c) in computing the income requirements under IRC Sec. 143(f). This revenue procedure provides that issuers must use either (1) the most recently released income figures from the Department of Housing and Urban Development (HUD) or (2) the income figures HUD released immediately prior to the most recently released income figures, determined as of the date a mortgage loan or mortgage credit certificate is committed to a mortgagor. This revenue procedure also provides a 90-day transition period for issuers to use the income figures HUD released during the second calendar year prior to the current calendar year. This revenue procedure will be published as permanent guidance, and the publishing of annual revenue procedures will cease. Rev. Proc. 2021-19.

Income Tax—Guidance on 100% Deduction for Food and Beverages: The IRS has provided guidance on tax relief for deductions for food or beverages from restaurants. The Taxpayer Certainty and Disaster Tax Relief Act of 2020 added a temporary exception to the 50% limit on the amount that businesses may deduct for food or beverages. Beginning 1/1/21 through 12/31/22, the temporary exception allows a 100% deduction for food or beverages from restaurants, as long as the business owner (or an employee of the business) is present when food or beverages are provided and the expense is not lavish or extravagant under the circumstances. Under the temporary provision, *restaurants* include businesses that prepare and sell food or beverages to retail customers for immediate on-premises and/or off-premises consumption. However, restaurants do not include businesses that primarily sell pre-packaged goods not for immediate consumption, such as grocery stores and convenience stores. News Release IR 2021-79 and Notice 2021-25.

Income Tax—Median Gross Income Figures for Qualified Mortgage Bonds: Rev. Proc. 2021-17 provides issuers of *qualified mortgage bonds*, as defined in IRC Sec. 143(a), and issuers of *mortgage credit certificates*, as defined in IRC Sec. 25(c), with (1) the nationwide average purchase price for residences located in the U.S. and (2) average area purchase price safe harbors for residences located in statistical areas in each state, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, the Virgin Islands, and Guam. This revenue procedure uses Federal Housing Administration (FHA) loan limits for a given statistical area to calculate the average area purchase price safe harbor for that area. The FHA sets limits on the dollar value of loans it will insure based on median home prices and conforming loan limits established by the Federal Home Loan Mortgage Corporation. Rev. Proc. 2021-17.

Income Tax—Population Figures Provided by IRS: The IRS has provided the population figures for the 50 states, District of Columbia, American Samoa, Guam, the Northern Mariana Islands, the

U.S. Virgin Islands, and Puerto Rico. These figures are provided for purposes of determining the 2021 calendar year (1) state housing credit ceiling under IRC Sec. 42(h) , (2) private activity bond volume cap under IRC Sec. 146, and (3) private activity bond volume limit under IRC Sec. 142(k). IRC Sec. 42 provides a tax credit, which is allocated to qualified states based on their population, to owners of qualified low-income housing. Under IRC Secs. 146 and 142(k), state and local governments and Indian tribal governments may issue certain tax-exempt bonds, known as *private activity bonds* , to promote economic development. The private activity bond volume cap and volume limit are calculated using state population figures. Notice 2021-19.

Income Tax—Taxability of COVID-19 Student Emergency Aid: Emergency financial aid grants made by a federal agency, state, Indian tribe, higher education institution, or scholarship-granting organization (including a tribal organization) to a student because of an event related to the COVID-19 pandemic are not included in the student's gross income. Also, students should not reduce qualified tuition and related expenses by the amount of an emergency financial aid grant. Because students don't include emergency financial aid grants in their gross income, higher education institutions are not required to file or furnish Form 1099-MISC reporting the grants and do not need to report the grants in Box 5 of Form 1098-T . However, higher education institutions must include qualified tuition and related expenses paid by emergency financial aid grants awarded to students in Box 1 of Form 1098-T. For more information see www.irs.gov/newsroom/higher-education-emergency-grants-frequently-asked-questions. News Release IR 2021-70 .

Tax-exempt Organizations—Update on Mandatory Electronic Filing of Form 990-T: The Taxpayer First Act requires certain exempt organizations to file information and tax returns electronically for tax years beginning after 7/1/19. Pending conversion of Form 990-T (Exempt Organization Business Income Tax Return) to electronic format, the IRS has continued to accept paper copies of 2019 returns. Beginning in March 2021, several providers have made software available for filing Form 990-T electronically. The 2020 Form 990-T instructions have been updated for e-filing of returns with due dates on or after 4/15/21. Any 2020 Form 990-T with a due date on or after 4/15/21 must be filed electronically. A limited exception applies for 2020 Form 990-T returns submitted on paper that bear a postmark date on or before 3/15/21. See www.irs.gov/charities-non-profits/current-edition-of-exempt-organizations-update for more information.

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