What is the Consolidated Appropriations Act, 2021?

The Consolidated Appropriations Act, 2021, is a $2.3 trillion spending bill that combines $900 billion in stimulus relief for the COVID-19 pandemic with a $1.4 trillion omnibus spending bill for the 2021 federal fiscal year (combining 12 separate annual appropriations bills) passed by Congress on Dec. 21, 2020 and signed by President Trump on Dec. 27, 2020.

The Consolidated Appropriations Act, 2021, includes new economic impact payments to individuals, a second round of PPP funding, changes to the deductibility of expenses for PPP recipients, numerous tax extenders and other tax changes.

For a summary of key tax provisions contained in the legislation, refer to the AICPA Tax Section's Summary of Year-End Coronavirus Relief Act.

Who is eligible for the economic impact payment and how much will it be?

Similar to the first round of economic impact payments, all U.S. residents or citizens with adjusted gross income (AGI) under $75,000 for single filers or married filing separately filers and $150,000 for married filing jointly filers, who are not the dependent of another taxpayer and have a work-eligible Social Security number, are eligible for the full $600 ($1,200 for married filing jointly) stimulus payment. There is also $600 for each dependent child under the age of 17 (no payment is available for an adult dependent). The credit phases out starting at $75,000 of modified adjusted gross income ($112,500 for heads of household and $150,000 for married taxpayers filing jointly) at a rate of $5 per $100 of additional income.

A taxpayer's 2020 income is what qualifies him or her for the economic impact payment and the government is basing the calculation on the 2019 tax return. If the payment is less than the authorized credit, taxpayers will receive the difference when the 2020 tax return is filed. As with the first round of payments under the Coronavirus Aid, Relief and Economic Security (CARES) Act, most recipients will receive these payments by direct deposit. For Social Security and other beneficiaries who received the first round of payments via Direct Express, they will receive this second payment the same way.

If the credit a taxpayer is owed on his or her 2020 return exceeds the economic impact payment received, the difference will be claimed as an additional refundable credit for the balance. To the contrary, if the economic impact payment exceeds the actual credit, the taxpayer is not required to make a payment back to the IRS.

To check the status of an economic impact payment, consider using the Get My Payment Tool.

For more information, see IR 2020-280.

Are expenses paid with PPP funds deductible for tax purposes?

Deductions are allowed for otherwise deductible expenses paid with the proceeds of a PPP loan that is forgiven and the tax basis and other attributes of the borrower's assets will not be reduced as a result of loan forgiveness.

For additional FAQs on PPP loans, check out the AICPA's SBA PPP FAQs.

What are the consequences of shareholder/partner basis and at-risk limits when the PPP loan is forgiven?

The forgiveness will be treated as tax-exempt income for the purposes of the stock basis increase for PPP recipients. There could be timing issues that arise if the PPP loan is not forgiven or deemed forgiven in the same year as the expenses were incurred. More guidance is needed about the determination of when the PPP loan is deemed forgiven. For more information, see this article.

Be sure to check if your state follows this new rule.

Were there any modifications to the eligibility for the employee retention tax credit for PPP borrowers?

Yes. The Consolidated Appropriations Act, 2021, extends the CARES Act employee retention tax credit (ERTC) through June 30, 2021. It also expands the ERTC and contains technical corrections. A noteworthy modification provides that employers who receive PPP funds may still qualify for the ERTC with respect to wages that are not paid with forgiven PPP proceeds. Planning opportunities may exist for borrowers who incurred more expenses than needed for loan forgiveness.

Are payroll tax deferrals still an option for employees?

Yes. In August 2020, President Trump issued a memorandum allowing employers to defer the withholding, deposit and payment of the employee portion of the 6.2% share of Social Security tax for any employee whose pretax wages or compensation during any biweekly pay period generally is less than $4,000. It applies to payroll taxes on wages paid from Sept. 1, 2020 through Dec. 31, 2020. Under the memorandum and Notice 2020-65, employers are required to increase withholding and pay the deferred amounts ratably from wages and compensation paid between Jan. 1, 2021 and April 30, 2021.

The Consolidated Appropriations Act, 2021, extends the repayment period through Dec. 31, 2021.

What extensions were included about sick and family leave?

The Consolidated Appropriations Act, 2021, extends the refundable payroll tax credits for paid sick and family leave, enacted in the Families First Coronavirus Response Act, P.L. 116-127, through the end of March 2021. It also modifies the payroll tax credits so that they apply as if the corresponding employer mandates were extended through March 31, 2021. Also, self-employed individuals can elect to use their average daily self-employment income from 2019, rather than 2020, to compute the credit, which applies against their income and self-employment tax. See the new Form 7202, *Credits for Sick Leave and Family Leave for Certain Self-Employed Individuals*.

Did the above-the-line deduction for charitable contributions get extended?

The Consolidated Appropriations Act, 2021, extends and modifies the $300 charitable deduction for nonitemizers for 2021 and increases the maximum amount that may be deducted to $600 for married couples filing jointly. Note that for tax year 2020, $300 is the maximum allowed per tax return, regardless of filing status.

The Sec. 6662 penalty is increased from 20% to 50% of the underpayment for taxpayers who overstate this deduction.

What other extensions and pandemic provisions were included?

Several provisions were made permanent by the Consolidated Appropriations Act, 2021. Notably, the Sec. 213(f) reduction in medical expense deduction floor, which allows individuals to deduct unreimbursed medical expenses that exceed 7.5% of adjusted gross income (previously the amount was 10%). Numerous other provisions were addressed, including a 100% business expense deduction for meals (rather than 50%) as long as the expense is for food or beverages provided by a restaurant. This provision is effective for expenses incurred after Dec. 31, 2020 and expires at the end of 2022.

For a detailed listing of other extensions and pandemic provisions, refer to AICPA Tax Section's Summary of Year-End Coronavirus Relief Act.

Families First Coronavirus Response Act (FFCRA) (H.R. 6201, Notice 2020-21, and IRS FAQs)

What is the Families First Coronavirus Response Act (FFCRA)?

The FFCRA was signed into law on March 18, 2020 and contains refundable tax credits for employers who provide paid sick leave or family or medical leave for their employees who miss work for various coronavirus-related reasons.

Subject to limitations and exceptions, employers of less than 500 employees are required to provide mandatory sick time and paid family leave but are eligible for payroll tax credits to offset the costs.

What guidance has been released related to this legislation?

The U.S. Department of Labor (DOL) has issued temporary regulations, a fact sheet for employees, a fact sheet for employers and FAQs related to H.R. 6201.

The IRS released Notice 2020-21, overview information and FAQs.

Additional modifications were addressed in the Consolidated Appropriations Act, 2021.

When are the provisions effective?

The provisions set forth in the FFCRA were effective April 1, 2020 and apply to leave taken between April 1, 2020 and Dec. 31, 2020. Wages paid for leave taken prior to April 1 will not be eligible for the payroll tax credits. See Notice 2020-21 for more information.

The Consolidated Appropriations Act, 2021, extends the paid sick and family leave tax credits through March 31, 2021 on a voluntary basis. Employers are not required to provide FFCRA leave between Jan. 1, 2021 and March 31, 2021, but if they do so, they are eligible for the tax credits for wages paid with respect to the leave.

How does an employer receive the benefit of these credits?

The employer tax credits for qualified sick leave wages and qualified family leave wages can be claimed as credits on payroll tax forms (Forms 941, 943, 944 or CT-1) for the qualifying period (to reduce their federal employment tax deposits). Employers requesting an advance of the tax credit should use Form 7200, Advance Payment of Employer Credits Due to COVID-19.

How does the emergency paid sick leave work?

Two weeks of sick leave must be paid when the employee is unable to work or telework for any of the following:

1. The employee is subject to a federal, state or local quarantine or isolation order related to COVID-19.
2. The employee has been advised by a healthcare provider to self-quarantine due to concerns related to COVID-19.
3. The employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis.
4. The employee is caring for an individual who is subject to a quarantine order.
5. The employee is caring for a son or daughter if the school or place of care of the son or daughter has been closed, or the childcare provider of such son or daughter is unavailable, due to COVID-19 precautions.
6. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

There are exceptions for healthcare workers and emergency responders. And, employers with fewer than 50 employees can be exempted from the requirement.

The amount of sick leave is set at:

- The employee’s standard rate of pay (or minimum wage, if greater) for leave taken in situations 1, 2 and 3 discussed above and two-thirds of that amount for leave taken in situations 4, 5 and 6 above.

The maximum amount of paid sick leave is based on the greater of regular pay or minimum way, but not more than:

- 100% of pay or $511 per day ($5,110 in total) for leave paid because of situations 1, 2 and 3 above
- 2/3 of pay or $200 per day ($2,000 in total) for leave paid due to situations 4, 5 and 6 above

The duration of the sick leave is 80 hours for full-time employees and equal to the average hours worked over a two-week period for part-time workers.

The credit is equal to the wage amount as computed above, allocable to qualified health plan expenses and the employer's 1.45% Medicare taxes paid on the leave wages (see IRS FAQs).

How does the expanded paid family leave work?

Subject to certain limitations, the law allows an employer to claim a payroll tax credit that equals 100% of the qualified family leave wages paid by the employer.

It requires employers with fewer than 500 employees to provide public health emergency leave under the Family and Medical Leave Act (FMLA), P.L. 103-3, when an employee is unable to work or telework due to a need for leave to care for a son or daughter under age 18 because the school or place of care has been closed, or the childcare provider is unavailable, due to a public health emergency related to COVID-19.

The leave is available for up to 12 weeks.

- The first 2 weeks of the leave may consist of unpaid leave. However, the employee may choose to use any accrued paid time off or sick leave.
- The following 10 weeks are paid leave
- The credit is generally available for 2/3 of pay up to $200 in wages for each day an employee receives qualified family leave wages. A maximum of $10,000 in wages per employee would be eligible for the credit.
- The paid leave benefit is available to self-employed taxpayers, and is claimed on their 2020 From 1040 (see Form 7202).

Employers with fewer than 50 employees can be exempted from the requirement if providing the leave will cause the business to not remain viable as a going-concern. Also, certain healthcare providers and emergency responders may be excluded by their employer from receiving the paid sick leave or expanded family medical leave.

The sick leave and family leave can work together if an employee is taking care of a child because his or her school is closed, or childcare isn't available (sick leave reason 5 above). In that case, the first two weeks would be paid sick leave (maximum of $2,000) and the following 10 weeks would be paid family leave (maximum of $10,000). Thus, the total payment could be a maximum of $12,000.

The credit is equal to the wage amount as computed above, allocable to qualified health plan expenses and the employer's 1.45% Medicare taxes paid on the leave wages (see IRS FAQs).

FAQs from the Department of Labor and IRS help to clarify when paid leave is to be provided and how it is to be documented.

What is the tax credit applied against?

The credit is first applied against the employer's 6.2% FICA tax and is then refundable against other employment taxes with any excess claimed on Form 7200, Advance Payment of Employer Credits Due to COVID-19. Employers are exempt from the employer portion of the 6.2% Social Security tax on the eligible paid leave. This will not be calculated or owed. See FFCRA Secs. 7001 and 7003 and the reference to Sec. 3111(a).

Employers are required to add the paid leave credit amount to their gross income, and report it on the other income line.

Do self-employed taxpayers also qualify for the credit?

Eligible self-employed individuals are eligible for a refundable credit against income tax for qualified family leave and qualified sick leave equivalent amounts.

An eligible self-employed individual is an individual who regularly carries on any trade or business (as defined in Sec. 1402) and would be entitled to receive paid leave under the Emergency Paid Sick Leave Act if the individual were an employee. The leave is computed using 2020 business income but can be considered in calculating estimated taxes for 2020.

The Consolidated Appropriations Act, 2021, allows self-employed individuals to elect to use 2019 self-employment income rather than 2020 income in calculating their paid leave credit amounts.

Coronavirus Aid, Relief and Economic Security (CARES) Act (H.R. 748, IRS FAQs, and IR 2020-61)

What is the Coronavirus Aid, Relief and Economic Security (CARES) Act?

This legislation contains $2 trillion of aid designed to help the economy as it suffers from the effects of the coronavirus pandemic. There are many tax provisions in the bill including the following:

- Stimulus payments for individual taxpayers
- Payroll tax credit refunds
- Employee retention credit
- Relief related to retirement plan distributions (including required minimum distributions)
- Temporary changes to charitable contributions
- Payroll tax deferral (including payroll taxes paid by self-employed individuals)
- Temporary repeal of net operating loss limitations (included in the Tax Cuts and Jobs Act)
- Temporary changes to the interest expense deduction limitation (for tax years beginning in 2019 and 2020, Sec. 163(j) is amended to increase the adjusted taxable income percentage from 30% to 50%)
- A technical correction for qualified improvement property under Sec. 168 making it 15-year property and eligible for bonus depreciation (retroactive to Jan. 1, 2018)

For more information on the tax provisions contained in the CARES Act, see the AICPA Tax Section's legislative summary. Also, see IRS FAQs.

Who is eligible for the economic impact payment and what is the amount?

With regard to the first economic impact payments provided by the CARES Act, all U.S. residents or citizens with adjusted gross income (AGI) under $75,000 for single filers or married filing separately filers, $112,500 for heads of household and $150,000 for married filing jointly filers, who are not the dependent of another taxpayer and have a work-eligible Social Security number, are eligible for the full $1,200 ($2,400 for married filing jointly) stimulus payment. They are also eligible for an additional $500 per child. A typical family of four is eligible for a $3,400 economic impact payment.

The amount is reduced by $5 for each $100 that a taxpayer's income exceeds the phase-out threshold. The amount is completely phased out for single filers with income exceeding $99,000, $146,500 for head of household filers with one child and $198,000 for joint filers with no children. For a typical family of four, the amount is completely phased out for those with adjusted gross incomes exceeding $218,000.

The second round of economic impact payments were provided in the Consolidated Appropriations Act, 2021, and the amounts are detailed above.

The IRS's Economic Impact Payments website contains information with regard to both economic impact payments.

A taxpayer's 2020 income is what qualifies him or her for the economic impact payments. The government is basing the calculations on the 2019 tax return. If the payment is less than the authorized rebate, taxpayers will receive the difference when the 2020 tax return is filed as economic impact payments are advance payments of what will be called the Recovery Rebate Credit on the 2020 Form 1040 or Form 1040-SR. Similar to the first round of economic impact payments, the second economic impact payment will be deposited into a taxpayer's bank account using direct deposit information provided on the tax return. If direct deposit information has not been previously provided, the IRS will mail a check and, in some instances, a prepaid Debit Card will be issued.

Most eligible taxpayers have received their first economic impact payment. Those who did not receive the full amount of that payment may be eligible to claim a Recovery Rebate Credit when the 2020 federal tax return is filed.

To check the status of an economic impact payment, consider using the Get My Payment Tool.

Should economic impact payments received for deceased individuals be returned to the IRS?

Yes, if the individual died prior to receipt of the payment, the payment should be returned to the IRS. Information on how to return the payment (including the address on where to mail the check to the IRS) is included in the IRS FAQs. If the payment was made to joint filers, only the portion that related to the decedent should be returned ($1,200 unless adjusted gross income exceeded $150,000).

What changes to charitable contributions were made?

Taxpayers who do not itemize deductions may take an above-the-line deduction on their 2020 return for qualified charitable contributions in an amount not to exceed $300 per eligible individual.

In addition, the 60% adjusted gross income (AGI) limit for cash charitable contributions that can be deducted by individuals is temporarily suspended. In

2020, individuals may deduct qualified contributions up to 100% of AGI. Qualified contributions do not include contributions to a donor advised fund.

The Consolidated Appropriations Act, 2021, extends and modifies the $300 charitable deduction for nonitemizers for 2021 and increases the maximum amount that may be deducted to $600 for married couples filing jointly. Note that for tax year 2020, $300 is the maximum allowed per tax return, regardless of filing status.

The Sec. 6662 penalty is increased from 20% to 50% of the underpayment for taxpayers who overstate this deduction. The Consolidated Appropriations Act, 2021, also extends the 60% adjusted gross income (AGI) limit for cash charitable contributions that can be deducted by individuals into 2021.

What are the loan provisions contained in the CARES Act?

There are several loan provisions designed to assist businesses.

- **Payroll Protection Program (PPP)**: This is a Small Business Association (SBA) loan program designed to provide capital to cover the cost of retaining employees. This program is generally available for businesses with fewer than 500 employees. The loan size is determined based on monthly payroll costs. If the loan proceeds are used during the covered eight-week period to maintain employees and wages, the loan may qualify to be forgiven.
- **Economic Injury Disaster Loans (EIDL)**: These are loans generally available for businesses with fewer than 500 employees. The proceeds can be used more broadly for operating costs. For businesses eligible for an EIDL and that have been in operation since Jan. 31, 2020, the CARES Act allows for an advance of $10,000 (considered an Emergency Economic Injury Grant). Funds should be available within three days of a successful application, and this grant will not have to be repaid.

Other SBA programs are also available.

The Consolidated Appropriations Act, 2021, made important changes to the loan provisions contained in the CARES Act, notably to the PPP program. For additional FAQs on PPP loans, check out the AICPA's SBA PPP FAQs.

For more guidance, see the AICPA's SBA PPP resources for CPAs, SBA's Coronavirus Small Business Guidance and Loan Resources and the Small Business Owner's Guide to the CARES Act.

Are there any credits available for employers related to payroll?

Sec. 2301 of the CARES Act allows eligible employers to take a refundable employee retention credit against employment taxes equal to 50% of qualified wages (up to $10,000 in wages) for each employee.

To qualify for this credit, the business must be either completely or partially shut down by government orders or have experienced a significant decline in gross receipts. For employers with more than 100 full-time employees, wages eligible for the credit are wages that the employer pays employees who are not providing services due to the suspension of the business or a drop in gross receipts. For employers with 100 or fewer employees, all wages paid qualify for the credit.

Certain wages, such as those paid to a related party, are not eligible for the credit (see IRS FAQs).

The employee retention tax credit can be claimed on payroll tax forms (Forms 941, 943, 944 or CT-1) for the qualifying period. Employers requesting an advance of the tax credit should use Form 7200, Advance Payment of Employer Credits Due to COVID-19. The employer's wage deduction is reduced by the amount of the credit.

The Consolidated Appropriations Act, 2021, extends the CARES Act employee retention tax credit (ERTC) through June 30, 2021. It also expands the ERTC and contains technical corrections. A noteworthy modification provides that employers who receive PPP funds may still qualify for the ERTC with respect to wages that are not paid with forgiven PPP proceeds.

What is the interaction between the loans and the payroll tax credits?

Under the CARES Act, if a business received a PPP loan/grant, it was not eligible for the employer retention tax credit. The Consolidated Appropriations Act, 2021, provides that employers who receive PPP funds may still qualify for the ERTC with respect to wages that are not paid with forgiven PPP proceeds.

If a business takes a tax credit for qualified sick or family leave wages, the payroll costs related to those wages will not be included as payroll costs for the purpose of PPP loan forgiveness.

Are there any delays in payments of payroll taxes by employers available?

Employers can temporarily defer payment of their portion of Social Security and certain railroad retirement taxes. The same temporary deferral is also available to self-employed individuals for 6.2% of their 15.3% of self-employment tax.

The period for the payroll tax deferral is March 27, 2020 and ends before Jan. 1, 2021.

The delayed taxes must then be repaid in two equal installments:

- 50% of the deferred amount is due by Dec. 31, 2021
- The remaining 50% of the deferred amount is due by Dec. 31, 2022.

With the signing of the Paycheck Protection Program Flexibility Act (PPPFA), employers receiving a PPP loan may now also defer payment of the employer's share of Social Security tax for the period beginning March 27, 2020. The Social Security tax that is deferred from March 27, 2020 until the date of the forgiveness will be due 50% by Dec. 31, 2021 and 50% by Dec. 31, 2022.

See IRS FAQs for more information.

What are the special rules for retirement plan and IRA distributions from the CARES Act?

Sec. 2202 of the CARES Act provides for expanded distribution options and favorable tax treatment for up to $100,000 of coronavirus-relation distributions from eligible retirement plans to qualified individuals, as well as special rollover rules with respect to such distributions. There are also changes to borrowing and repaying loans from an eligible retirement plan (not including an IRA).

The IRS has issued information about who is a qualified individual (see IRS FAQs) and has indicated that they may issue guidance that expands the list of factors taken into account.

An up to $100,000 distribution to a qualified individual will not be subject to the 10% additional tax on early distributions from a retirement plan/IRA. Also, the distributions generally are included in income ratably over a three-year period, starting with the year the distribution is received. The entire distribution can be elected to be included in income in the year of the distribution.

The qualified individual can repay all or part of the distribution to an eligible retirement plan within three years after the date the distribution was received and it will be treated as a direct trustee-to-trustee transfer (so no federal income taxes would be owed). Amended returns can be filed to claim a refund of the tax attributable to the distribution.

Form 8915-E, *Qualified 2020 Disaster Retirement Plan Distributions and Repayments*, is used to report these distributions.

IRS relief options to help taxpayers affected by COVID-19

What was the People First Initiative?

From April 1 through July 15, 2020, the IRS implemented various modifications to their procedures related to payment, compliance and enforcement proceedings with the People's First Initiative (IR-2020-59).

The People First Initiative included relief on a variety of issues related to collections ranging from easing payment guidelines to postponing compliance actions.

During this time the IRS:

- Allowed taxpayers to suspend their payments on installment agreements if they were unable to comply.
- Halted most new liens and levies initiated by field revenue officers, including any seizures of a personal residence.
- Stopped the issuance of new automatic, systemic liens and levies.
- Suspended Passport Certifications to the State Department that prevent "seriously delinquent" taxpayers from receiving or renewing passports.
- Did not forward new delinquent accounts to private collection agencies.

Although the People First Initiative ended mid-July, the IRS continues to work with taxpayers. While beginning to resume its critical tax administration responsibilities, the IRS will also factor in the wide-ranging impacts of COVID-19 on taxpayers.

Are any payment options and collection relief efforts for taxpayers currently available?

Yes. In November 2020, the IRS unveiled taxpayer relief initiative in IR 2020-248. These initiatives include:

- Taxpayers who qualify for a short-term payment plan option may now have up to 180 days to resolve their tax liabilities instead of 120 days.

- The IRS is offering flexibility for some taxpayers who are temporarily unable to meet the payment terms of an accepted offer in compromise.
- The IRS will automatically add certain new tax balances to existing installment agreements, for individual and out-of-business taxpayers. This taxpayer-friendly approach will occur instead of defaulting the agreement, which can complicate matters for those trying to pay their taxes.
- To reduce burden, certain qualified individual taxpayers who owe less than $250,000 may set up installment agreements without providing a financial statement or substantiation if their monthly payment proposal is sufficient.
- Some individual taxpayers who only owe for the 2019 tax year and who owe less than $250,000 may qualify to set up an installment agreement without a notice of federal tax lien filed by the IRS.
- Qualified taxpayers with existing direct debit installment agreements may now be able to use the Online Payment Agreement system to propose lower monthly payment amounts and change their payment due dates.

Continue to check out the IRS website for updates.

Other Coronavirus Tax-Related Questions

What effect will the COVID-19 outbreak have on IRS operations?

The COVID-19 pandemic still impacts normal IRS operations. The IRS continues to keep taxpayers informed of operational status on its website IRS Operations During COVID-19: Mission-critical functions continue.

Keep these tips in mind as ways to contact the IRS:

- Tax practitioners with e-Services accounts and with client authorization can still access the Transcript Delivery System (TDS) to get prior-year transcripts. Check out the AICPA Tax Section’s Using IRS E-Services page for tips and tricks for using the tool.
- You can also encourage your clients to still use the Where’s My Refund? and Get Transcript services to pull information regarding these items.
- Reach out to your local taxpayer advocate especially if a levy situation creates a hardship. There may be a message indicating that they will contact you in 24 hours if you leave a voicemail.
- Some tax compliance lines remain available on a limited basis.

- The IRS can still receive mail, although responses will probably be delayed.

For foreign (non-U.S.) individuals, is the substantial presence test met when they are unable to return to their home country due to being ill or because of travel restrictions?

For purposes of the substantial presence test for foreign individuals who are in the U.S. and are ill (including those afflicted by COVID-19), Regs. Sec. 301.7701(b)-3(c)(1) states that an individual will not be considered present in the U.S. on any day that the individual intends to leave and is unable to leave the U.S. because of a medical condition or medical problem that arose while the individual was present in the U.S.

In Rev. Proc. 2020-20, the IRS provided relief to foreign citizens living in the U.S. and will automatically consider the COVID-19 emergency a medical condition that prevented the individual from leaving the U.S. for up to 60 consecutive calendar days of their U.S. presence and will not count this time span for purposes of determining U.S. tax residency under the substantial presence test or whether the person qualifies for certain tax treaty benefits with respect to income from dependent personal services performed in the U.S. The date when the 60-day period begins is made by each person but must begin between Feb. 1, 2020 and April 1, 2020 and is included on Form 8843, *Statement for Exempt Individuals and Individuals With a Medical Condition*.

For U.S. individuals who were living abroad, if the individual was prevented from returning to the foreign country due to travel restrictions from COVID-19, will they still qualify for the foreign earned income exclusion?

For purposes of the foreign earned income exclusion, the IRS provided relief in Rev. Proc. 2020-27 and indicated that the individual will be considered a qualified individual with respect to the period during which that individual was present in, or was a bona fide resident of, that foreign country if the individual establishes a reasonable expectation that he or she would have met the requirements of Sec. 911(d)(1) but for the COVID-19 emergency.