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2020-21 INCOME TAX BULLETIN

This publication is provided as a service to our clients. It focuses on the following topics:

- Federal Tax Issues
- Oregon Tax Law Changes
- State Sales Tax Jurisdiction
- Transportation & Travel Expenses
- Retirement and Health Care Plans
- Administration and Reporting Issues
- Supplemental Charts



OUTLINE

Section	Topic	Applicability	Pages
FEDERAL TAX ISSUES	2019 SECURE Act Federal Legislation and Regulations Issued in March – August 2020 - Families First Act - CARES Act - Paycheck Protection Program (PPP) Loan Forgiveness Act - IRS Notice 2020-127 - SBA Regulations re PPP Loans Consolidated Appropriations Act – December 27, 2020 IRC Sec 168(k) Bonus Depreciation IRC Sec 179 Expense Election	<i>Individuals</i> <i>Small Business & Individuals</i> <i>Small Business</i>	3-7
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FEDERAL TAX ISSUES

2019 SECURE ACT

Source: Tax Speaker

On December 20, 2019, the President signed the Setting Every Community Up for Enhancement (SECURE) Act of 2019 that has tax law changes for individuals effective in 2018, 2019 & 2020. The 2018 effective date for some provisions provides refund opportunities on amended returns. The major effects are summarized as follows:

Retirement Planning

- Starting in 2020 anyone of any age may now deposit money to an IRA if they have earned income such as a wage or self-employment. There are some other rules that may apply, but the old rule prohibiting deposits during or after the year turning 70 and ½ has been repealed.
- Beginning in 2020 the mandatory age to begin distributions from your IRA has been raised to 72 from the old, confusing age of 70 and ½.
- IRAs inherited from people (other than your spouse and a few other exceptions) who passed away after 2019 must now be distributed within 10 years of death. This does not affect situations where the IRA was inherited from someone who died before 2020.
- Stipends and fellowships now qualify the recipient to make IRA contributions, even if the income is not subject to Social Security tax.
- Up to \$5,000 may be withdrawn from a retirement plan without penalty for the birth or legal adoption of a child, for up to one year after birth or adoption. The amount withdrawn is still taxable, but may be redeposited without penalty, and if redeposited within 60 days of withdrawal is not even taxable.

College and Children Changes

- You may now withdraw up to \$10,000 total during your lifetime from a 529 plan to repay student loans of the account beneficiary (or their siblings), without tax or penalty, as a qualified educational expense.
- A 529 may now be used tax free to pay for an apprenticeship program if it is approved as such.
- Those rare children with large amounts of interest, dividends or capital gain income are once again retroactively taxed at their parent's tax rates instead of the potentially higher trust tax rates.
- The tuition and fees deduction was retroactively restored from 2018-2020.

Other Items

- The deduction for mortgage insurance premiums was retroactively restored for 2018-2020.
- The deduction for medical expenses was restored to a lower threshold for 2019 & 2020.
- The credit for installing an electric car charger was restored for 2018-2020.

FEDERAL LEGISLATION AND REGULATIONS ISSUED IN MARCH – AUGUST 2020

Source: Thomson Reuters and Tax Speaker

The COVID-19 pandemic resulted in numerous pieces of economic stimulus legislation with related IRS announcements and SBA regulations during the months of March – August 2020, including ongoing amendments. These include the Families First Act; Coronavirus Aid, Relief, and Economic Security (CARES) Act; Paycheck Protection Program (PPP) Forgiveness Act; IRS Notice 2020-127 re rollover relief for required minimum distributions, and SBA regulations surrounding the loan programs created by the CARES Act. Following is a list of the topics. We are available to discuss any that might impact or interest you. Note that some of these provisions were expanded or modified by the Consolidated Appropriations Act in December 2020 discussed in the next article.

Business Law Changes for Economic Stimulus and Employment Preservation

Families First Act

Mandated sick/FMLA paid leave for COVID-19 related absences – subsidized by payroll tax credits and expanded by the Consolidated Appropriations Act

CARES Act

Grants and loans through the Small Business Administration's (SBA) Economic Injury and Disaster Loan (EIDL) programs

- Paycheck Protection Program loans eligible for forgiveness through the SBA if funds are used for qualifying expenses, including payroll, rent, utilities, and certain interest costs
- Payroll Retention Credit & Payroll Delayed Deposit – payroll tax credit or deferral for payroll-related costs of employers experiencing economic hardships related to COVID-19
- Qualified leasehold improvement property eligible for accelerated depreciation – retroactive technical correction of 2017 Tax Cuts and Jobs Act
- Net operating loss carrybacks to the 5 prior tax years allowed for losses arising in 2018 through 2020
- \$250,000 limitation on deducting business losses delayed until 2021 and not applicable for years 2018 – 2020

Paycheck Protection Program Forgiveness Act

This law changed a number of the parameters defining the opportunity to obtain forgiveness of all or a portion of the loan proceeds, including the time period for spending and percentage of expenses eligible for forgiveness in relation to the total.

Individual Tax Law Changes from the CARES Act and IRS Notice 2020-127

- “Stimulus payments”: Advance rebate/credit for 2020 issued in April – October 2020 to eligible US taxpayers equal to the sum of \$1,200 for each individual taxpayer plus \$500 for each qualifying child of the taxpayer(s). The credit/rebate is phased out by 5% times the amount of adjusted gross income (AGI) in excess of \$75,000 for singles and \$150,000 for married filing jointly. The payments are based on 2018 and 2019 AGI but will be adjusted based on 2020 AGI. Taxpayers who did not receive a rebate payment or are entitled to a higher amount based on 2020 AGI will receive a tax credit on their 2020 income tax returns. Taxpayers whose actual 2020 AGI exceeds their eligibility based on 2018 or 2019 AGI will not be required to return rebates received earlier in the year.
- Charitable contribution deduction for non-itemizers: For 2020 a \$300 charitable contribution deduction is allowed for taxpayers who elect not to itemize but make contributions to qualifying charities. The Consolidated Appropriations Act passed in December increased the maximum for joint filers to \$600 beginning in 2021.
- AGI limit for charitable contributions raised for itemizers: For tax year 2020, the limit on charitable contribution deductions of cash to qualified public charities is raised from 60% to 100% of AGI. The Consolidated Appropriations Act extended this through 2021.
- Waiver of required minimum distributions: Required minimum distributions for certain qualified retirement plans and all IRAs are waived for 2020. Distributions already taken during the year may be rolled over by August 31, 2020 to the same or a different retirement account to avoid taxation. Distributions after that date may be rolled over within 60 days of the distributions. Taxpayers who are making qualified charitable distributions would not utilize the waiver option.
- Waiver of mandatory federal income tax withholding on qualified plan distributions
- Waiver of 10% excise tax on coronavirus-related 2020 distributions up to \$100,000 for taxpayers under age 59 ½

- Coronavirus-related distributions may be re-deposited within 3 years and eligible for removal of taxation on amended tax returns
- Qualified plan loans limit increased to \$100,000 and allowed for 180 days
- Health savings account rules were modified to allow the use of telehealth services without meeting deductible limits.

CONSOLIDATED APPROPRIATIONS ACT

Source: AICPA and Tax Speaker

On December 27, 2020 President Trump signed this second round of economic stimulus legislation that provides \$900 billion of federal funding through tax benefits, unemployment compensation, a second round of cash payments to individual taxpayers, and more PPP loan funding plus relaxation of some of the loan forgiveness requirements. Provisions impacting the taxation of business and individuals for 2020 and 2021 include the following.

Paycheck Protection Loan Rules

- Forgiven amounts are tax-free! No PPP loan forgiven amount is included in gross income as debt forgiveness. All related expense deductions are allowed in full. No tax attributes are reduced, and no basis increase is denied for the forgiven amounts. The amounts will be treated (for flow-through entities) as if they were equivalent to municipal bond income and thus increase basis.
 - The above rules apply to PPP loans from before the new act and to new PPP loans after the act, without regard to the date forgiven.
 - There are no dollar limits – these rules apply to all loans.
- Economic Injury and Disaster Loan advances and SBA-made EIDL loan payments will not reduce the maximum amount of PPP loan forgiveness, and are neither taxable, nor do they reduce related expenses. The EIDL program is extended through December 31, 2021.
- Non-payroll costs are expanded to include many other things like computer costs, some inventory, human resources, and protective equipment.
- Payroll costs include “group life, disability, vision or dental insurance”
- The Act directs the SBA, within 24 days from December 27, 2020 to design a new 1-page form for PPP loan forgiveness when the loan amount is less than \$150,000. The new rules apply to pre-existing loans (even if forgiven) and new loans. The 1-page forgiveness application requires:
 - A description of number of employees able to retain because of the loan,
 - The estimated amount of the loan spent on payroll costs,
 - The total loan amount, and
 - Attestation by applicant to accuracy and compliance.
 - The lender may not require additional documentation.
- The Act creates a new first or second PPP loan for businesses with less than 300 employees, at 2.5 times the last 12 months average monthly payroll (Farmers use 2019’s gross revenues up to \$100,000). For the second loan the applicant must also show that its gross receipts must have declined by at least 25% when compared to the 1st, 2nd or 3rd quarter of 2019 and extend the new loan period through March 31, 2021. The second draw program also extends loan possibilities to new groups.

New Provisions

For Individuals

- The Act allows teachers to include the cost of Personal Protective Equipment (PPE) in the \$250 educator expense deduction retroactive for expenses paid after March 11, 2020.

- A second recovery rebate of \$600 for individuals and their dependent children is being paid in cash through January 15, 2021 or available as a 2020 tax credit.
- Lower income taxpayers may use 2019's earned income, by election, to calculate their 2020 earned income and child tax credit.
- The Act expands the possibility of up to \$100,000 in penalty-free distributions from an eligible retirement plan by clarifying several questions raised by the CARES Act:
 - Eliminates the requirement that the account owner prove a financial impact by COVID-19 by replacing it with a requirement of being in a qualified disaster area and noting that the entire country has been declared a disaster area due to COVID.
 - Eliminates the requirement that the distribution occur in 2020, so this could be a planning item for 2021.

For Business

- The Act allows a 100% deduction for business meals for amounts paid or incurred in 2021 and 2022.
- A health or dependent care flex spending account may carry over unspent amounts for 2020 or 2021 to the next year.
- The COVID Sick Pay and Family Medical leave qualifying wage credits from earlier legislation are extended through March 31, 2021 and the rules for self-employed persons to receive the credit are eased.
- The Employee Retention credit has had major modifications. It is now retroactively allowed for PPP loan recipients (but not on the same wages used for forgiveness). For qualifying wages paid from January 1 – June 30, 2021 the credit now is per employee, per quarter and has been increased to 70% of the first \$10,000 of wages per employee, per quarter. The newer credit is available for any quarter where gross receipts are 20% or less of same 2019 quarter and ends the first day of the following quarter when gross receipts are 80% or more of the same 2019 quarter.

Extension of Expired Provisions from Laws Prior to 2020

Permanently Extended Items

- The medical expense deduction floor is now permanently 7.5% of AGI
- Energy efficient commercial buildings deduction
- Exclusion from income of certain tax benefits for volunteer firefighters and emergency medical responder
- Repeal of deduction for qualified tuition and related expenses, replaced with increased income limitation on lifetime learning credit
- Modification of the uniform capitalization rules and reduction of excise tax rate for beer, wine, and distilled spirits

Extended through December 31, 2021

- Treatment of mortgage insurance premiums as qualified residence interest
- Credit for health insurance costs of eligible individuals
- Nonbusiness energy property credit
- Qualified fuel cell motor vehicles credit
- Alternative fuel refueling property credit
- Two-wheeled plug-in electric vehicle credit
- Energy efficient homes credit

Extended through December 31, 2023

- Residential energy-efficient property credit (think solar 26% and 22%); and
- Energy credit under Code Sec 48.

Items Extended through December 31, 2025

- Work opportunity credit
- Exclusion from gross income of discharge of qualified principal residence indebtedness, but at a new lower \$750,000 amount
- Expensing rules for certain qualified film and television and live theatrical productions
- Employer credit for paid family and medical leave
- Exclusion from income for certain employer payments of student loans

IRC SECTION 168(k) BONUS DEPRECIATION

Source: Thomson Reuters and Tax Speaker

The first-year bonus depreciation deduction under IRC Sec. 168(k) was extended through 2027 as part of the Tax Cuts & Jobs Act of 2017 (TCJA). The previous rate of 50% was increased to 100% effective September 28, 2017 and phases down at the rate of 20% per year starting in 2023. Extension beyond 2027 would require new legislation. Unlike the section 179 expense deduction discussed next, the bonus depreciation deduction is not limited to smaller companies or capped at a certain dollar level. Qualified property is virtually any equipment, building or leasehold improvement with a cost recovery period by statute of no more than 20 years. The requirement that the property be “new” was eliminated for acquisitions after September 28, 2017. First-year bonus depreciation applicable to vehicles is limited to \$8,000. As an exception that continues under prior law, Sport Utility Vehicles (SUVs) and pickup trucks with a gross vehicle weight rating in excess of 6,000 pounds are exempt from the luxury car depreciation caps discussed later. These qualify for a separate cap of \$25,000 in Sec. 179 or 168(k) expense.

IRC SECTION 179 EXPENSE ELECTION

Source: Thomson Reuters and Tax Speaker

Under Code Sec. 179, businesses can elect to recover all or part of the cost of qualifying property, up to a limit, by deducting it in the year it is placed in service. The Code Sec. 179-dollar limitation for 2020 and 2021 is \$1,040,000 and \$1,050,000 respectively with a \$2,590,000 investment ceiling for 2020 and \$2,620,000 for 2021. These limits were set by the TCJA. Qualified property must be tangible personal property, which is actively used in the business, and for which a depreciation deduction would be allowed. Qualified property must be newly purchased new or used property, rather than property that was previously owned and recently converted to business use. Orchards and vineyards (including capitalized planting costs) qualify, but not until the year in which the fruit is first harvested. Also qualifying are off-the-shelf computer software, single purpose agricultural structures, qualified improvements to real estate, HVAC, and roofs on commercial property. If qualified purchases for the year exceed the expensing dollar limit, the business can decide to split the expensing election among the new assets. As long as newly purchased business equipment is placed in service before the end of the tax year, the entire expensing deduction is allowed for that year. The expense depends on the date the qualified property is placed in service; not when it is purchased or paid.

The TCJA extended qualifying assets to include roofs on commercial property; personal property in residential rental; HVAC units; security, fire, and alarm systems. The qualified retail, restaurant, and leasehold improvement rules were replaced by a new qualified improvement property group defined as “interior modifications to commercial property”. The CARES Act included technical corrections that qualify it for Sec 179, bonus depreciation under Sec 168(k) or a 15-year depreciable recovery period. Although the differences between bonus depreciation and Code Sec. 179 expensing would now be narrowed if both offer 100-percent write-offs for new or used property, some advantages and disadvantages for each would remain. For example, Code Sec. 179 property is subject to recapture if business use of the property during a tax year falls to 50 percent or less; but Code Sec. 179 allows a taxpayer to select for expensing particular qualifying assets within any asset class, whereas Code Sec. 168(k) requires an election for all assets within a class.

Rev. Proc. 2019-8 defines qualified real property and explains how taxpayers can elect to treat certain qualified real property as section 179 property. The TCJA amended § 179(f) by defining qualified real property as (1) any qualified improvement property described in § 168(e)(6) and (2) any of the following improvements to nonresidential real property placed in service after the date such property was first placed in service: roofs, heating, ventilation, and air-conditioning property; fire protection and alarm systems; and security systems. These amendments apply to property placed in service in taxable years beginning after December 31, 2017. The related Sec 179 expense election may be claimed on an original or amended Federal tax return for that taxable year.

OREGON TAX LAW CHANGES

Source: Oregon Department of Revenue

OREGON REDUCED TAX RATES

HB 3427 passed by the Oregon legislature in 2019 reduces individual income tax rates (other than the top 9.9% rate) by .25% beginning January 1, 2020. Oregon did not adopt the Qualified Small Business Income deduction in the federal TCJA, so this deduction is added back to taxable income on the Oregon individual return. However, Oregon previously enacted a provision in 2014 that allows an annual election to claim a 2% reduction in the tax rate on qualifying net income from pass-through entities that employ at least one Oregon employee for 1,200 or more hours during the tax year. Qualifying income does not include wages or guaranteed payments to owners, or any income taxed on the federal return with long term capital gain tax rates. The major change for 2018 and later years is that sole proprietorships and single member limited liability companies are added to the definition of qualifying “pass-through entities”. Unlike the federal deduction, net income from real estate rental activities does not qualify for the Oregon reduced tax rate.

OREGON COLLEGE SAVINGS PLAN

The Oregon College Savings Plan, (OCSP) is an IRC Sec 529 plan that enables families to accumulate tax-free investment earnings to fund qualified higher education expenses. Contributions made to accounts in the Plan are also deductible for Oregon tax purposes only up to annual limits. Distributions are entirely tax-free as long as the proceeds are used for qualified expenses. Nonqualified distributions are taxable on the Oregon return to the extent of earnings and prior contribution deductions. Oregon did not adopt the federal changes in the TCJA to include payments for certain K-12 education in qualified expenses.

2019 Tax Year

For 2019 a subtraction was allowed up to \$4,865 for taxpayers who file a joint return and \$2,440 for all others.

2020 Tax Year Changes

Oregon House Bill 2164 eliminated the subtraction from taxable income for contributions to the OCSP after December 31, 2019. The subtraction is replaced by a credit directly against tax. The credit is calculated as a percentage of the contribution, with a decreasing percentage as the taxpayer’s income increases as follows:

Adjusted Gross Income	Tax Credit % of OCSP Contribution
<\$30,000	100%
\$30,000 - \$70,000	50%
\$70,000 - \$100,000	25%
\$100,000 - \$250,000	10%
>\$250,000	5%

The total credit is limited to \$300 on a “married filing joint” return and \$150 for all others.

The credit is allowed for a preceding tax year if the contribution is made before the taxpayer files a return or before April 15th, whichever is earlier. This deadline is the same as for the subtraction. For tax year 2019 a subtraction is available for contributions prior to December 31, 2019 and a credit for contributions from January 1–April 15, 2020.

Carryovers from Years Prior to 2020

As a result of the HB 2164 change from a subtraction to a credit, a provision needed to be made for those taxpayers who have made contributions in excess of the annual deduction limit and are carrying those excess contribution deductions forward. Those taxpayers have four years in which to use up the excess deductions at the rate of the present annual limit. Any remaining unused carryforward at the end of that time will expire.

RECONNECT TO FEDERAL LAW

Oregon tax law is primarily tied to federal law with specific exceptions. Oregon taxable income usually begins with federal adjusted gross income followed by additions, subtractions and adjustments specifically allowed by Oregon. To avoid an increased number of differences in 2020 taxable income for federal and Oregon purposes, the Oregon legislature needs to consider several provisions in the 2020 federal legislation for Oregon adoption. Of particular importance is the treatment of PPP loan forgiveness as non-taxable income.

CORPORATE ACTIVITY TAX (CAT)

Legislation and Applicability

- HB 3427 – Original CAT legislation in 2019
- HB 2164 – Included technical adjustments and changes to the original CAT legislation in 2019 (HB 3427)
- HB4202 – Technical corrections and clarification to statutes in June 2020 effective January 1, 2020
- CAT is a calendar year tax beginning January 1, 2020, but an option exists for fiscal year entities to use the data from their most recent fiscal year-end, as long as the return is filed by the April 15 deadline and estimated tax requirements for calendar year taxpayers are followed.
- Applies to all business entity types – C corporations, S corporations, partnerships, sole proprietorships, and other business entity types
- The CAT is measured on Oregon commercial activity (does not apply to non-Oregon sources)

Commercial Activity

- The total amount realized by a business, arising from transactions and activity in the regular course of the trade or business, without deduction for expenses incurred
- Over 40 items are excluded from commercial activity
- A 35% subtraction is allowed for certain expenses
- Measured on a calendar year basis, even for fiscal year income tax filers

Registration and Filing Requirements

Threshold	Amount
Excluded	\$750,000 or less of Oregon commercial activity
Registration	Over \$750,000 of Oregon commercial activity
Filing	Over \$1 million of Oregon commercial activity
Tax Payment	Over \$1 million of Oregon taxable commercial activity after expense subtractions

- Taxpayers must register within 30 days of exceeding the \$750,000 registration threshold
- Annual registration requirement was eliminated in 2020 for repeat filers
- Penalty for failure to register is \$100 per month up to \$1,000 annually

- Taxpayers may register in advance if they believe they will meet the threshold & want to avoid any possible penalty
- Registration is available online through Revenue Online at www.oregon.gov/dor.
- CAT returns are filed separately from income tax returns
- Returns are due annually on April 15

Unitary Groups

- United by more than 50% common ownership
- Must have one of the following:
 - Centralized management
 - Centralized administrative services
 - Flow of goods, capital resources or services demonstrating functional integration
- OAR 150-317-1020 provides guidance

CAT subtraction

- 35% of either cost inputs or labor costs attributable to commercial activity
- May not exceed 9% of commercial activity
- HB4202 clarified subtraction provisions and how costs are apportioned
- OAR 150-317-1200 provides guidance

Cost inputs

- HB 4202 created a special definition of cost inputs for farming operations that do not report cost of goods sold
- Farming operations selling agricultural commodities may determine amount of out-of-state sales by either:
 - Obtaining certificate from purchasing broker or wholesaler stating % sold out of state, or
 - Applying industry average % from USDA

Sourcing of commercial activity

- Sales of tangible personal property
 - Gross receipts of Oregon sales vs out-of-state sales
 - Wholesalers can certify, but applies to each sale separately
- Sales of property other than tangible personal – leases or delivery of service

HB4202 and CAT estimated payment penalty

- Taxpayers expecting to owe at least \$10K of CAT for 2020 were required to make quarterly estimated tax payments, but this was increased to \$20K due to COVID
- HB4202 modifies penalty for underpayment
 - Reduces penalty from 20% to 5%
 - Adds safe harbor provision and extends 80% threshold for estimated tax payments through tax year 2021
 - No penalty for 2020 if taxpayer unable to make estimated tax payments due to COVID

2020 Tax forms for CAT are on the Department of Revenue website now

Information Resources

- Visit www.oregon.gov/dor for the most current information, or to sign up for the Department of Revenue mailing list. Click on the Corporate Activity Tax link, or type “CAT” in the search bar.
- Specific questions can be sent directly to: cat.help.dor@oregon.gov

STATE SALES TAX JURISDICTION

U.S. SUPREME COURT DECISION IMPACTS INTERNET SALES

Source: *Tax Speaker & Wall Street Journal*

In 2018 the US Supreme Court in *South Dakota v. Wayfair* overturned the established physical presence rules for businesses to determine if they needed to register, collect, and pay sales tax in an individual state. If you own a business with a website that engages in internet based out-of-state sales, you could be exposed to new laws passed by over 35 states requiring you to register, collect and pay sales tax in that state.

If you think these rules do not apply to you, Think Again! Most states have passed laws stating that if you sell more than \$100,000 of products or services OR more than 200 transactions of any dollar amount, you are subject to their rules. Failure to follow their rules could essentially bankrupt your company in a few years with penalties.

We do not monitor sales volumes or the number of transactions by state and do not register or file sales tax returns for you when we prepare your income tax returns. It is imperative if you have a website selling products or services, or you offer sales across state lines, that you familiarize yourself with these rules and protect your company. We can make suggestions for software solutions if you wish, but again, you need to act on this issue because it is not part of your income tax preparation.

With over 9,000 separate state and local taxing jurisdictions in the United States our concern for your company's exposure to these rules forced us to alert you to the problem via this special alert letter. Please act sooner rather than later; we cannot over-emphasize the importance of compliance with these rules.

TRANSPORTATION & TRAVEL EXPENSES

AUTO EXPENSES – STANDARD MILEAGE RATES AND DEPRECIATION LIMITS

2020 and 2021 standard mileage rates in lieu of actual auto expenses:

RATES PER MILE:	2020	2021
Business Use	57.5¢	56¢
Charitable Use	14¢	14¢
Medical & Moving Expense	17¢	16¢

The personal use of an employer-provided vehicle must be treated as income to the employee. One of the optional valuation methods allows each personal mile to be valued at the business standard mileage rate, but only if the fair market value of the vehicle when first provided to the employee does not exceed a specified value. For all types of vehicles placed in service, the value is \$50,400 for 2020 and \$51,100 for 2021.

For passenger cars, SUVs, trucks, and vans weighing less than 6,000 lb. placed in service in 2020, the maximum depreciation allowances are as follows:

Classification	First Year	Second Year	Third Year	Subsequent Years
Vehicles for which no bonus depreciation is claimed under Code Sec. 168(k)	\$10,100	\$16,100	\$9,700	\$5,760
Bonus Depreciation under 168(k)	\$ 8,000	-0-	-0-	-0-

If depreciation exceeds the annual cap, the excess is deducted beginning in the year after the vehicle's regular depreciation period ends at the maximum rate of \$5,760 per year.

TRAVEL EXPENSE PER DIEM RATES

The 2020 simplified “high-low” per diem rates for travel in the continental U.S. (excluding Alaska and Hawaii) that employers can use to reimburse employees who are away from home overnight on business are \$297 for high-cost areas, and \$200 for all other areas. The \$297 per day rate breaks down to \$226 for lodging and \$71 for meals and incidentals for high-cost areas. For low-cost areas, the breakdown is \$140 and \$60 respectively. The same rates are deductible on the tax returns of employees who are not reimbursed. Self-employed persons can use the per diems to substantiate meals only. They must separately substantiate lodging (cannot use \$297/\$200 rates). The high-low per diem rates for 2021 announced in October 2020 did not change. Taxpayers using per diem rates may also deduct or be reimbursed for transportation and mailing expenses. The per diem rate for the incidental expenses only deduction is \$5 per day for 2020 and 2021 travel.

RETIREMENT AND HEALTH CARE PLANS

SOCIAL SECURITY AND MEDICARE

Payroll Tax Rates for Employees

	<u>2020</u>	<u>2021</u>
Social Security (FICA)	6.20%	6.20%
Medicare	1.45%	1.45%
Combined	7.65%	7.65%

Taxable Wage Bases

Social Security (FICA)	\$137,700	\$142,800
Medicare	No Limit	

Earnings Needed to Accrue Benefits

Wages Needed to Earn one “Credit” (to determine benefits)	\$1,410	\$1,470
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Earned Income Limits for Retirees Under Full Retirement Age

Before normal retirement age	\$18,240	\$18,960
Year of normal retirement age	\$48,600	\$50,520

Medicare Part B Premiums per month

	\$144.60	\$148.50
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Medicare Premium Surcharges

Couples with AGIs over \$176,000 and singles with more than \$88,000 of AGI for 2018 or 2019 owe an additional premium for 2020 and 2021 respectively. The surcharges range from \$59 to \$356 per month.

SMALL BUSINESS HEALTH CARE OPTIONS

Source: Tax Speaker

A small business is defined as having less than 50 full-time or full-time equivalent employees on every day of the year. In any year where the employer hits that magic number of 50 employees the employer becomes an applicable large employer (ALE) and is not affected by this newsletter. The following are the options available only to the small business.

Option 1 – No Insurance Required

A small business is still not required under any Federal law to provide health insurance or any other health care fringe benefits to employees.

Option 2 – Provide Health Insurance

A small business may provide health insurance to employees. It may further pay all, none, or some of that insurance as long as it is not discriminatory against full-time employees over age 25. The employee share may be paid through a cafeteria (125) plan if such a plan has been established and there is no dollar limit on the premium that may be paid

pre-tax, although a dollar limit does apply to any other medical costs when the employer provides health insurance. Health insurance provided for the owners of the business qualifies in most cases for the self-employed health insurance deduction. Partners will have it added to their guaranteed payments and reported on their K-1 while S corporation shareholders will have it added to their W-2, Box 1. C corporation shareholders receive the benefit tax-free.

Option 3 – Provide a Small Employer HRA

This fringe benefit was added to the Code in 2017. It allows the employer to establish what items and how much will be reimbursed to the employee as a tax-free fringe, limited only to the IRS established maximum reimbursement. **The employer offering health insurance may not also offer this fringe benefit.** This fringe may be used, depending upon the employer's choice, to reimburse for any and all medical costs including insurance, Marketplace insurance, Medicare premiums and any other medical bills. Owners of partnerships and S corporations may not participate in these plans.

Option 4 – Provide the new “Individual Coverage HRA”

This is a new type of fringe benefit that went into effect January 1, 2020. It allows the employer to offer (or not offer) health insurance and then reimburse any or all employees for their premiums (only) whether they are from the employer-sponsored plan, Marketplace policies, spouse policies or Medicare. The plan is limited to health insurance costs, but the only dollar limit is that established by the employer. Although non-discriminatory, it is a new plan that allows large reimbursement to older employees than to younger ones to reflect age related premium differences.

Option 5 – Provide the new “Excepted Benefit HRA”

Also, effective January 1, 2020, this fringe allows the employer to establish a written plan to reimburse any and all medical costs up to \$1,800 annually. There is no requirement for the employer to offer insurance, and if the employer offers insurance, no requirement for the employee to participate. An employer that offers insurance may also offer this additional fringe plan.

ESTATE AND GIFT TAX EXEMPTION LEVELS AND PLANNING

	2020	2021
Federal estate tax exemption	\$11,580,000	\$11,700,000
Annual gift tax exclusion	\$15,000	\$15,000
Oregon estate tax exemption	\$1,000,000	\$1,000,000
Washington estate tax exemption	\$2,193,000	\$2,193,000

The annual exclusion for gifts in 2020 and 2021 is \$15,000. Above this exemption, taxable gifts are subtracted from an individual's lifetime estate- and gift-tax exemption, which is the same as the estate tax exemptions in the chart above. In an alternative strategy, givers can “bunch” five years of annual \$15,000 gifts to a 529 education-savings plan, typically for children or grandchildren by filing Form 709 and making the appropriate election.

While the filing of a gift tax return (Form 709) is not required for gifts to individuals not exceeding the increased \$15,000 annual exclusion per donee, a gift tax return is required if making gifts above the \$15,000 annual exclusion. Though many gifts to trusts will qualify for annual exclusion treatment and not require disclosure by filing a gift tax return, many trusts do not qualify for such treatment and will require the filing of a gift tax return. Additionally, gift tax returns are required to “gift split” – where one spouse makes a gift in excess of the annual exclusion amount and the couple wishes to treat the gift as being made by both spouses in order to utilize the annual exclusion treatment for both spouses. To do this, both spouses need to “consent” to the treatment on the gift tax returns each will file.

The basic exclusion amount for estates is \$11,400,000 for 2019 and \$11,580,000 for 2020. This increase in the exception is set to lapse after 2025. There are also unlimited deductions for qualifying transfers during life and at death to charities and spouses. In November 2018, the Treasury Department and the IRS issued proposed regulations that would allow individuals who make large gifts between 2018 and 2025 to retain the tax benefit of the higher exemption, even if it reverts to pre-2018 levels.

It is important to note that if a decedent's gross estate (the fair market value of the decedent's assets on the date of death plus prior taxable gifts) does not exceed the new increased lifetime exemption amounts noted above, an estate tax return is not required to be filed. However, in such circumstance, if an estate tax return is filed, the decedent's unused lifetime estate and gift tax exemption may be transferred to the decedent's surviving spouse for use during the spouse's lifetime or at death. This concept is known as portability, and to take advantage of this beneficial election, an estate tax return must be filed.

CONTRIBUTION AND BENEFIT LIMITS FOR RETIREMENT PLANS AND HEALTH SAVINGS ACCOUNTS

The dollar limits on contributions and benefits under qualified plans are as follows.

	<u>2020</u>	<u>2021</u>
401(K) Elective Deferrals Annual Dollar Limit	\$19,500	\$19,500
401(K) Age 50+ Catch-up Contribution	\$6,500	\$6,500
SIMPLE Plan Elective Deferrals Annual Dollar Limit	\$13,500	\$13,500
SIMPLE Plan Age 50+ Catch-up Contribution	\$3,000	\$3,000
Annual Includible Compensation Limit (SEP & qualified plans)	\$285,000	\$290,000
Key Employee's Compensation Limit (SEP & qualified plans)	\$185,000	\$185,000
Highly Compensated Employee's Compensation Limit	\$130,000	\$130,000
Defined Contribution & SEP Annual Addition Limit	\$57,000	\$58,000
Defined Benefit Pension Plan Annual Benefit Limit	\$230,000	\$230,000
SEP Minimum Compensation Amount	\$600	\$650
457 Plan Elective Deferral Limit	\$19,500	\$19,500
Traditional IRA Contribution	\$6,000	\$6,000
Roth IRA Contribution	\$6,000	\$6,000
IRA Age 50+ Catch-up Contribution	\$1,000	\$1,000
HSA Contribution Limits: Family	\$7,100	\$7,200
Single	\$3,550	\$3,600
Age 55+ Extra	\$1,000	\$1,000
HSA Caps on Out-of-Pocket Reimbursements: Family	\$13,800	\$14,000
Single	\$6,900	\$7,000
HSA Minimum Deductible on HDHP: Family	\$2,800	\$2,800
Single	\$1,400	\$1,400
FSA Out-of-Pocket Maximum	\$2,750	\$2,750

ADMINISTRATION AND REPORTING ISSUES

IRS INTEREST RATES ON TAX DEFICIENCIES AND OVERPAYMENTS/ABATEMENT

	<u>January 1 – June 30, 2020</u>	<u>July 1 – December 31, 2020</u>	<u>January 1 – March 31, 2021</u>
Federal	5.0%	3.0%	3.0%
Oregon	6.0%	6.0%	4.0%

1099 INFORMATION REPORTING AND RELATED PENALTIES

Source: CCH Federal Tax Weekly

Our office is available to prepare the 1099 information returns that are required to be issued by every business or individual that pays \$600 or more to an unincorporated entity for services, rent, interest, or dividends. We can provide you with a worksheet for compiling the necessary information to enable us to prepare these forms that are due by January 31, 2020. Form 1098 Mortgage Interest Statements can also be prepared from this worksheet if you change "Recipients of 1099 Income" to "Payers of Mortgage Interest."

Beginning with tax year 2020 the IRS created a separate form 1099-NEC to report Nonemployee Compensation paid in 2020. In years prior to 2020 it is reported in box 7 of form 1099-MISC. The new form is intended to reduce misclassification of this type of income, because it can be subject to self-employment Social Security tax, unlike other types of income reported on form 1099-NEC.

The Oregon Department of Revenue (ODR) requires that copies of all 1099s to Oregon recipients be filed electronically with ODR using its iWire system. Filing the federal copies with the IRS is not sufficient to meet the Oregon requirements.

In an audit of business returns, the IRS may assess penalties for failure to file correct 1099's, W-2's and similar information returns. The penalty cap for failure to file correct information returns and failure to furnish correct payee statements increased from \$1.5 million to \$3 million. The amount for each individual failure increased from as low as \$30 to as high as \$1,000. Lower penalty caps that apply when the penalty is corrected within 30 days or before August 1 have also doubled and tripled to \$500,000 and \$1.5 million, respectively. Lower limitations for persons with gross receipts of \$5 million or less have also been raised. The penalty amounts are indexed for inflation. The penalties apply for erroneous returns, as well as missing returns. However, there is a safe harbor. If an error is \$100 or less (\$25 in the case of errors involving tax withholding) the issuer is not required to file a corrected return and no penalty will be imposed. The recipient, however, can elect to have a corrected return issued.

FAILURE TO FILE PENALTIES

Source: Tax Speaker

In June 2019, President Trump signed the Taxpayers First Act. Its provisions include an increase in the maximum penalty for failure to file an income tax return to the lesser of \$330 (up from \$205) (indexed for inflation), or 100% of the amount required to be shown on the return. This is effective for returns required to be filed after December 31, 2019.

2020 PENSION COMPARISON TABLE

Source: Bob Jennings/Tax Speaker

	Traditional IRA	Roth IRA	Non-Deductible IRA	Roth 401-K	Simple IRA	SEP	Solo 401-K	401-K
Highlights	Excellent savings plan for those not covered by other plans but who have earned income	Great long-term plan that offers tax-free accumulations and withdrawals	Worst of the 3 IRAs but better than nothing	Fantastic way to save big bucks with no future taxation, but must be employer sponsored	Excellent choice for side businesses, small businesses, and those with <\$50k annual income. 97% employee funded	Excellent contribution limits, no 5500 make this a winner, but 100% employer funded. Voluntary contributions	The best plan for family businesses, those with only part-time employees as long as they want to fund more than a SIMPLE. Better than a SEP in many cases.	Excellent plan, partly employee funded, but watch the dreaded top-heavy rules which can make this a bad choice for some businesses.
Max. Employee Contribution	\$6,000	\$6,000	\$6,000	\$19,500	\$13,500	-0-	\$19,500	\$19,500
Max. Employer Contribution	N/A	N/A	N/A	\$57,000	\$13,500	Lesser of 25% of W-2 or \$57,000	Lesser of 25% of W-2 or \$57,000	Lesser of 25% of W-2 or \$57,000
Max. Contribution All Sources	\$6,000	\$6,000	\$6,000	\$57,000	\$13,500 + 3% of W-2 Before Deferral	\$57,000	\$57,000	\$57,000
Over Age 49 Additional Catch-Up	\$1,000	\$1,000	\$1,000	\$6,500	\$3,000	N/A	\$6,500	\$6,500
Tax Deduction	Yes	No	No	No	Yes	Yes	Yes	Yes
Withdrawals	Taxed	Nontaxable	Earnings Taxed	Nontaxable	Taxed	Taxed	Taxed	Taxed
Earnings	Tax Deferred	Nontaxable	Tax Deferred	Nontaxable	Deferred	Deferred	Deferred	Deferred
Penalty Exceptions	Death, disability, education, 1 st home, more	Death, disability, education, 1 st time home, more	Death, disability, education, 1 st time home, more	Death, disability, education, 1 st time home, more	Most IRA exceptions	Most IRA exceptions	Most IRA exceptions	Most IRA exceptions
Form By (2020)	4/15/21	4/15/21	4/15/21	12/31/20	10/1/20	Due date + extension	12/31/20	12/31/20
Contribute By	4/15/21	4/15/21	4/15/21	Due date + Extension	Due date + Extension	Due date + Extension	Due date + Extension	Due date + Extension
Penalty Issues	10% before 59 ½	10% before 59 ½ on earnings only	10% before 59 ½	10% before 59 ½	25% 1 st 2 years	10% before 59 ½	10% before 59 ½	10% before 59 ½
Tests	1-Earned Income 2-Not covered by other plan 3-If covered, must be below income limits	1-Earned income 2-Max Income under \$139k single, \$206k MFJ	1-Earned Income	Employer sponsored	No other active plan	No other active plan	Family Only, Employer sponsored, other plans ok	Employer sponsored; other plans ok
Distributions	Start by 4/1 of year after turning 72	No requirement	Start by 4/1 of year after turning 72	Plan based Usually 72	Plan based Usually 72	Plan based Usually 72	Later of 72 or retirement	Later of 72 or retirement
Bankruptcy Protection	\$1,000,000 Infl. adj.	\$1,000,000 Infl. adj.	\$1,000,000 Infl. adj.	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited
5500 Required?	No	No	No	Yes	No	No	Yes	Yes
More Information	Pub 590	Pub 590	Pub 590	Publications 560	Publications 560	Publications 560	Publications 560	Publications 560

For more information, visit the following websites:

<http://www.irs.gov/publications/p560or590/index.html>

DOCUMENTATION GUIDE FOR CHARITABLE CONTRIBUTIONS

Source: Thomson Reuters/PPC

PURPOSE: This table describes the types of documentation required to substantiate various types of charitable contributions made by individual taxpayers. Failing to maintain the proper documentation generally results in the donation being nondeductible.

TYPE OF DONATION	AMOUNT GIVEN IN A SINGLE DONATION			
	Less than \$250	\$250 to \$500	Over \$500, up to \$5,000	Over \$5,000
Cash	• Bank record or written receipt from charity showing donee name, date, and amount of contribution unless donation is to a charitable remainder trust	• Bank record or written receipt from charity showing donee name, date, and amount of contribution • Acknowledgment	• Bank record or written receipt from charity showing donee name, date, and amount of contribution • Acknowledgment	• Bank record or written receipt from charity showing donee name, date, and amount of contribution • Acknowledgment
Noncash:				
1. Publicly traded stock	• Receipt or reliable written records	• Acknowledgment • Reliable written records	• Acknowledgment • Reliable written records	• Acknowledgment • Reliable written records
2. Nonpublicly traded stock	• Receipt or reliable written records	• Acknowledgment • Reliable written records	• Acknowledgment • Reliable written records	• Acknowledgment • Reliable written records • Qualified appraisal • Declaration of appraiser and donee acknowledgment (Form 8283, Section B)
3. Artwork	• Receipt or reliable written records	• Acknowledgment • Reliable written records	• Acknowledgment • Reliable written records	• Acknowledgment • Reliable written records • Qualified appraisal • Declaration of appraiser and donee acknowledgment (Form 8283, Section B)
4. Vehicles, boats, and airplanes	• Receipt or reliable written records	• Acknowledgment • Reliable written records	• Acknowledgment	• Acknowledgment Qualified appraisal if deduction is FMV
5. All other noncash donations	• Receipt or reliable written records	• Acknowledgment • Reliable written records	• Acknowledgment • Reliable written records	• Acknowledgment • Reliable written records • Qualified appraisal • Declaration of appraiser and donee acknowledgment (Form 8283, Section B)
6. Payroll deduction	• Paystub, Form W-2, or other record from employer • Pledge card from donee showing donee's name	• Paystub, Form W-2, or other reliable written record from employer • Documentation from charity	• Paystub, Form W-2, or other reliable written record from employer Documentation from charity	• Paystub, Form W-2, or other reliable written record from employer • Documentation from charity
7. Out-of-pocket expenses while serving as a volunteer	• Receipt, cancelled check, or other reliable written records	• Receipt, cancelled check, or other reliable written records • Acknowledgment	• Receipt, cancelled check, or other reliable written records • Acknowledgment	• Receipt, cancelled check, or other reliable written records • Acknowledgment

MEALS & ENTERTAINMENT DEDUCTIONS
Under Tax Cuts & Jobs Act of 2017
and Consolidated Appropriations Act of 2020

Type of Expense	TCJA 2018-2020	Consolidated Appropriations 2021-2022	Reference & Comments
Business Entertainment	No Deduction	No Deduction	IRC Section 274
Sky boxes	No Deduction	No Deduction	
Sporting/Theatre Tickets	No Deduction	No Deduction	
Other entertainment, amusement, or recreation expenses	No Deduction	No Deduction	Golf, lodges, trips, resorts, etc.
Business Meals where business is discussed during or immediately before or after the meal	50% Deductible as long as not lavish or extravagant and taxpayer or employee of taxpayer is present	100% Deductible as long as not lavish or extravagant and taxpayer or employee of taxpayer is present	
Business Meals at, before, or after an entertainment event such as dinner before a theatre	50% Deductible as long as not lavish, and taxpayer or employee of taxpayer is present	100% Deductible as long as not lavish, and taxpayer or employee of taxpayer is present	
Company Picnic or Holiday Events	100% Deductible	100% Deductible	De Minimis IRC Sec. 132(e)
Meals at Employer's Convenience (on premise rule)	100% Deductible	100% Deductible	IRC Sec. 199 Employer Convenience
Working Condition Fringe Meals	100% Deductible	100% Deductible	
Travel Meals	50% Deductible	100% Deductible	These are not meals subject to the entertainment limits, they are meals subject to travel limits
Meals reimbursed by employer under accountable plans	100% Deductible by employee, Employer subject to various tests which allow either a 50% deduction if business meals, or a 100% deduction if cost of providing service	100% Deductible by employee, Employer gets no deduction if business meals, 50% deduction if travel meals and 100% deduction if cost of providing service	
Business meeting meals of employees, stockholders & directors	50% Deductible	100% Deductible	
Meals sold to the general public (like cost of putting on an event – client seminars, etc.)	100% Deductible	100% Deductible	