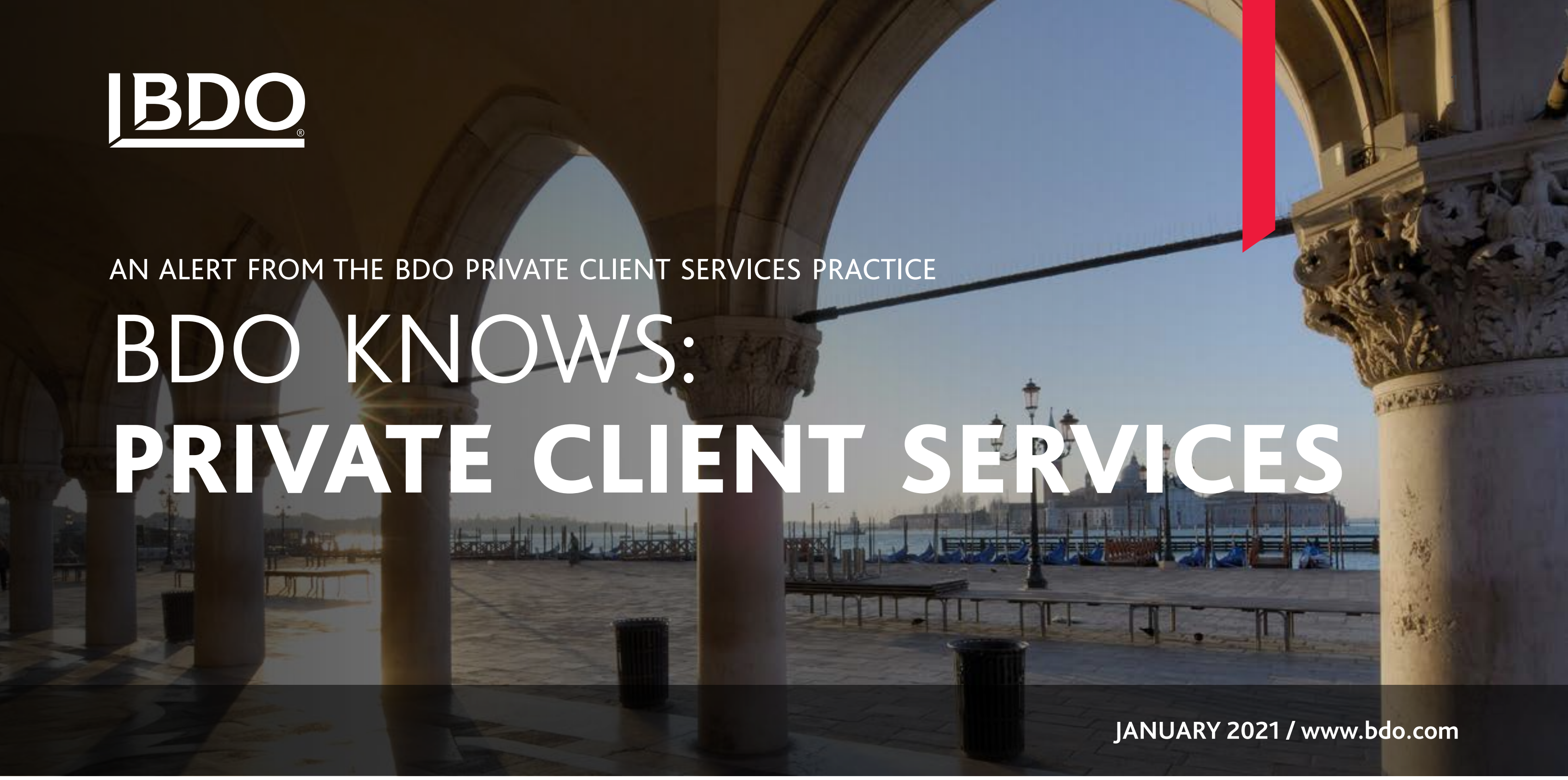

AN ALERT FROM THE BDO PRIVATE CLIENT SERVICES PRACTICE

BDO KNOWS: PRIVATE CLIENT SERVICES

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WHAT INDIVIDUALS NEED TO KNOW ABOUT THE CONSOLIDATED APPROPRIATIONS ACT

On December 27, 2020, the **Consolidated Appropriations Act, 2021** (CAA) was signed into law by President Trump. The CAA is the fourth major relief legislation enacted in response to the coronavirus pandemic. It includes two tax relief acts that directly impact individual taxpayers. First is the COVID-related Tax Relief Act of 2020 (CRTRA), which provides for additional recovery rebates for individuals. The second is the Taxpayer Certainty and Disaster Tax Relief Act of 2020 (TCDTRA), which enacts the following provisions:

- Changes to the deductibility of medical expenses
- Discharge of qualified principal residence indebtedness
- Mortgage insurance premiums treated as qualified residence interest
- Increased Income Limitation on the Lifetime Learning Credit
- Residential rental property depreciation over a 30-year period
- Charitable contribution deduction for non-itemizers
- Modification of limitations on charitable contributions

This alert summarizes those key provisions, which impact individual taxpayers. For up-to-date information and guidance on COVID-19 issues and relief, visit BDO's **Crisis Response Resource Center**.

COVID-RELATED TAX RELIEF ACT OF 2020

Additional 2020 Recovery Rebates for Individuals

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) enacted on March 27, 2020 granted eligible individuals and families a one-time recovery rebate credit of $1,200 for individuals and $2,400 for couples (plus $500 per qualifying child). The rebate amount was advanced based on 2018 or 2019 income, but the credit is determined based on 2020 income. In addition to the rebate available under the CARES Act, eligible individuals will receive a second refundable tax credit against their 2020 taxable income equal to $600 ($1,200 for joint filers) plus $600 per qualifying child. The refund is determined based on the taxpayer's 2020 income tax return but is advanced to taxpayers based on their 2019 income tax return.

Like the CARES Act, the CRTRA credit begins to phase out when the individual's adjusted gross income (AGI) exceeds $75,000 ($150,000 for joint filers and $112,500 for head of household filers) and is reduced by an amount equal to 5% of the amount in which the taxpayer's AGI exceeds these thresholds. As a result, individuals with no qualifying children completely phase out of eligibility for the credit when their AGI exceeds $87,000 ($174,000 for joint filers). Individuals with two qualifying children completely phase out of eligibility when their AGI exceeds $111,000 ($198,000 for joint filers).

If an eligible individual's 2020 income is higher than the 2019 income used to determine the rebate payment, the eligible individual will not be required to pay back any excess rebate. However, if the eligible individual's 2020 income is lower than the 2019 income used to determine the rebate payment such that the individual should have received a larger rebate, the eligible individual will be able to claim an additional credit generally equal to the difference of what was refunded and the total amount they are eligible for when they file their 2020 income tax return.

Individuals who did not file a tax return in 2019 may still receive an automatic advance based on their status as a beneficiary of Social Security, railroad retirement benefits or VA (Veteran's Administration) benefits. Individuals who otherwise are not required to file and are not receiving Social Security benefits are still eligible for the rebate but will be required to file a tax return to claim the benefit.

The CRTRA provides that the IRS will make automatic payments to individuals who previously have electronically filed their income tax returns using direct deposit banking information provided on a return any time after January 1, 2019.

Eligible individuals do not include nonresident aliens, individuals who may be claimed as a dependent on another person's return, estates, or trusts.

A qualifying child is a child, stepchild, eligible foster child, brother, sister, stepbrother or stepsister, or a descendent of any of them (i) who is under age 17, (ii) who has not provided more than half of their own support, (iii) who has lived with the taxpayer for more than half of the year and (iv) who has not filed a joint return (other than only for a refund claim) with the individual's spouse for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

Individuals between the ages of 17 and 24 are ineligible to be claimed as qualifying children and may be unable to claim their own independent rebate if they are eligible dependents on their parents' tax return. Eligible dependents include children under the age of 19 or full-time students under the age of 24 who do not provide more than half of their own support and who live with the taxpayer for more than half the year.

In contrast to the CARES Act, the CRTRA provides that no advance refund amount shall be made for any taxpayer or qualifying child of the taxpayer if the taxpayer was deceased before January 1, 2020 (or in the case of a qualifying child, both taxpayers on a joint return were deceased before January 1, 2020).

Further, the CRTRA provides that in the case of a joint return where only one spouse has a valid Social Security number (SSN), that spouse is eligible to receive the $600 rebate if they meet all other requirements of joint filers above (i.e., AGI limitations). A qualifying child of such joint filers also may be eligible for a rebate payment provided they have their own SSN. The CRTRA amends the CARES Act to make these same provisions for joint filers with only one valid SSN.

TAXPAYER CERTAINTY AND DISASTER TAX RELIEF ACT OF 2020

The TCDTRA provides important tax relief for businesses and individuals. The TCDTRA makes certain provisions permanent, extends other provisions that were expiring or had expired under previously enacted legislation (including the CARES Act) and which would provide continued relief to taxpayers if retained. Discussed below are those provisions of most interest to individuals.

Medical Expenses

The TCDTRA makes permanent the 7.5% floor to deduct medical expenses.

Exclusion from Gross Income for the Discharge of Qualified Principal Residence Indebtedness

The exclusion from gross income for the discharge of qualified principal residence indebtedness is extended until January 1, 2026. For discharges of indebtedness after December 31, 2020, the maximum amount that may be excluded is reduced to $750,000 ($375,000 for married individuals filing separately).

Treatment of Mortgage Insurance Premiums as Qualified Residence Interest

The TCDTRA extends, through December 31, 2021, the current provisions treating certain premiums paid or accrued for qualified mortgage insurance as qualified residence interest.

Increased Income Limitation on Lifetime Learning Credit

For tax years beginning after December 31, 2020, the Lifetime Learning Credit and the American Opportunity Credit begin phasing out for individual taxpayers with a modified AGI of $80,000 ($160,000 for married filing jointly). The credits fully phase out for individual taxpayers with modified AGI of $90,000 ($180,000 for married filing jointly).

Depreciation of Certain Residential Rental Property Over 30-Year Period

The TCDTRA provides that residential real property placed into service before January 1, 2018 that is held by an electing real property trade or business and that was not tax-exempt or using the alternative depreciation system shall use the 30-year depreciation period beginning after December 31, 2017.

Certain Charitable Contributions Deductible by Non-Itemizers

Beginning in 2021, individuals who do not elect to itemize deductions on their tax return can deduct up to $300 ($600 in the case of joint filers) of certain cash contributions to public charities. Contributions to non-operating private foundations or donor advised funds are not eligible.

Modification of Limitations on Charitable Contributions

The suspension of the 60% AGI limitation under the CARES Act for qualifying cash contributions has been extended to include 2021. The five-year carry forward rule has remained unchanged. Cash contributions to non-operating private foundations and donor advised funds are not eligible for the 100% AGI limitation. The limitation for cash contributions to non-operating private foundations continues to be 30% of AGI and, for cash contributions to donor advised funds, the limitation continues to be 60% of AGI.

CONTACT

JOHN NUCKOLLS
Tax Managing Director
415-490-3393 / jnuckolls@bdo.com

TRACI KRATISH PUMO
Tax Partner
561-207-3239 / tpumo@bdo.com

KATHY WALTER
Tax Senior Manager
206-267-7687 / kwalter@bdo.com