

**SUMMARY OF COVID PHASE 3
UNEMPLOYMENT INSURANCE AND TAX PROVISIONS
March 24, 2020**

Title II - Assistance for American Workers, Families and Businesses

Subtitle A - Unemployment Insurance

Sec. 2101. Short Title.

Relief for Workers Affected By Coronavirus Act

Sec. 2102. Pandemic Unemployment Assistance.

This provision would create a new program modeled on Disaster Unemployment Assistance that would provide unemployment benefits to individuals who do not qualify for regular unemployment compensation and are unable to work because of the COVID-19 public health emergency. Pandemic Unemployment Assistance will cover self-employed workers (including gig workers and independent contractors), part-time workers, and those with limited work histories. The changes made in sections 2104 and 2107 to increase the size of regular unemployment benefits and make them available for additional weeks will also apply to benefits received through the Pandemic Unemployment Assistance program. Pandemic Unemployment Assistance will be state-administered but fully federally funded. Except as otherwise provided in this section, federal regulations for Disaster Unemployment Assistance will apply to Pandemic Unemployment Assistance. The program is effective through December 31, 2020.

Sec. 2103. Emergency Unemployment Relief for Governmental Entities and Nonprofit Organizations.

This provision would reduce the amount by which nonprofits, Indian Tribes, and governmental entities are required to reimburse states for benefits paid to their workers who claim unemployment insurance by 50 percent through December 31, 2020. This provision would also allow the Secretary of Labor to issue guidance to states to provide flexibility for employers in making reimbursement payments.

Sec. 2104. Emergency Increase in Unemployment Compensation.

This provision would add an additional \$600 in Federal Pandemic Unemployment Compensation to every weekly unemployment benefit, effective until July 31, 2020. This \$600 benefit will be taxable (like regular unemployment benefits), but it will be disregarded in determining Medicaid or CHIP eligibility.

Sec. 2105. Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week.

This provision would allow states to enter into an agreement with the federal government to receive full reimbursement for the total amount of unemployment compensation paid to individuals for their first week of unemployment, provided that the state does not have a waiting week between applying for and receiving benefits, effective until December 31, 2020.

Sec. 2106. Emergency State Staffing Flexibility.

This provision would allow states to waive personnel standards through December 31, 2020 to expedite hiring of new staff to process unemployment claims, including by allowing the hiring of independent contractors to process claims.

Sec. 2107. Pandemic Emergency Unemployment Compensation.

This provision would make an additional 13 weeks of federally-funded unemployment compensation for individuals who have exhausted their state unemployment benefits available immediately through December 31, 2020.

Sec. 2108. Temporary Financing of Short-Time Compensation in States with Programs in Law.

This provision would provide 100 percent federal reimbursement to states for payments made under qualifying short-time compensation programs (also known as work sharing programs) through December 31, 2020.

Sec. 2109. Temporary Financing of Short-Time Compensation Agreements.

This provision would permit states without formal short-time compensation laws to enter into agreements with the Department of Labor to enact a short-time compensation plan and receive a 50 percent federal reimbursement for payments through December 31, 2020.

Sec. 2110. Grants for Short-Time Compensation Programs.

This provision would create a grant program through which the federal government can provide grants to states for the purpose of implementing or improving a short-time compensation program.

Sec. 2111. Assistance and Guidance in Implementing Programs.

This provision would direct the Department of Labor to build on existing guidance to assist states in developing their work sharing programs.

Sec. 2112. Waiver of the 7-Day Waiting Period for Benefits Under the Railroad Unemployment Insurance Act.

This provision would eliminate the waiting week between applying for and receiving Railroad Unemployment Insurance benefits through December 31, 2020.

Sec. 2113. Enhanced Benefits under the Railroad Unemployment Insurance Act.

This provision would provide an additional \$1200 payment to individuals receiving railroad unemployment benefits for each two-week registration period during which the individual receives benefits through July 31, 2020.

Sec. 2114. Extended Unemployment Benefits under the Railroad Unemployment Insurance Act.

The provision would extend the availability of Railroad Unemployment Insurance benefits by 13 weeks through December 31, 2020.

Sec. 2115. Funding for the DOL Office of the Inspector General for Oversight of Unemployment Provisions.

The provision would provide \$25,000,000 for the DOL Office of the Inspector General to oversee programs authorized in the subtitle.

Sec. 2116. Implementation.

The Paperwork Reduction Act will not apply to the provisions of this subtitle. The Secretary of Labor may issue guidance necessary to carry out the provisions of this subtitle.

Subtitle B - Individual Provisions

Sec. 2201. Recovery Rebates for Individuals.

This provision would provide \$1,200 for singles and heads of households (\$2,400 for married couples filing joint returns). The provision also provides \$500 per qualifying child dependent under age 17 (using the rules under the Child Tax Credit). A family of four would receive \$3,400.

Rebates phase out at a 5% rate above adjusted gross incomes of \$75,000 (single)/ \$122,500 (head of household)/ \$150,000 (joint). There is no income floor or phase-in – all recipients will receive the same amounts, provided they are under the phaseout threshold.

Tax filers must provide Social Security Numbers (SSN) for each family member claiming a rebate (adoption taxpayer identification numbers accepted for adopted children). An exception on SSN is made for spouses of active military members. The rebates are fully available to residents of U.S. Territories, including Puerto Rico.

The rebates will be paid out as advance refunds (in the form of checks or direct deposit) on the basis of taxpayers' filed tax year 2019 returns (or tax year 2018, if a 2019 return has not yet

been filed). Nonfilers generally need to file a tax return in order to claim a rebate, although IRS may coordinate with other federal agencies in some instances to get checks out.

The provision is estimated to reduce revenues by \$292.4 billion over 10 years.

Sec. 2202. Special Rules for Use of Retirement Funds.

This provision would waive the additional 10 percent tax on early distributions from IRAs and defined contribution plans (such as 401(k) plans) in the case of coronavirus-related distributions. A coronavirus-related distribution may be made between January 1 and December 31, 2020, by an individual who is (or whose family) is infected with the coronavirus or who is economically harmed by the coronavirus. Distributions are limited to \$100,000, and may be re-contributed to the plan or IRA. Employers are permitted to amend defined contribution plans to provide for these distributions. Additionally, defined contribution plans are permitted to allow plan loans up to \$100,000 and repayment of existing plan loans is extended for employees who are affected by the coronavirus.

This provision is estimated to reduce revenues by \$2.6 billion over 10 years.

Sec. 2203. Temporary Waiver of Required Minimum Distribution Rules for Certain Retirement Plans and Accounts.

This provision would waive required minimum distributions that are required to be made in 2020 from defined contribution plans (such as 401(k) plans) and IRAs. The waiver includes required minimum distributions that are due by April 1, 2020, because the account owner turned 70 ½ in 2019.

This provision is estimated to reduce revenues by \$4.5 billion over 10 years.

Sec. 2204. Partial Above-the-line Deduction for Charitable Contributions During 2020.

This provision would provide a \$300 above-the-line deduction for cash contributions generally to public charities in 2020.

This provision is estimated to reduce revenues by \$1.5 billion over 10 years.

Sec. 2205. Modification of Limitations on Charitable Contributions During 2020.

This provision would increase the limitation on charitable deductions from 60% to 100% of modified income for cash contributions generally to public charities in 2020. It would also increase the limitation for food contributions by corporations from 15% to 25% of modified income.

This provision is estimated to reduce revenues by \$1.1 billion over 10 years.

Sec. 2206. Exclusion for Certain Employer Payments of Student Loans.

Under current law, an employee may exclude \$5,250 from income for an employer sponsored educational assistance program. The provision would expand the definition of expenses to include an employer paying student loan debt. The provision is effective for student loan payment made before January 1, 2021.

Subtitle C - Business Provisions

Sec. 2301. Employee Retention Credit for Employers Subject to Closure or Experiencing Economic Hardship Due to COVID-19.

This provision would provide a refundable payroll tax credit for 50 percent of wages paid by eligible employers to certain employees during the COVID-19 crisis. The credit is available to employers, including non-profits, whose operations have been fully or partially suspended as a result of a government order limiting commerce, travel or group meetings. The credit is also provided to employers who have experienced a greater than 50 percent reduction in quarterly receipts, measured on a year-over-year basis.

Wages of employees who are furloughed or face reduced hours as a result of their employers' closure or economic hardship are eligible for the credit. For employers with 100 or fewer full-time employees, all employee wages are eligible, regardless of whether an employee is furloughed. The credit is provided for wages and compensation, including health benefits, and is provided for the first \$10,000 in wages and compensation paid by the employer to an eligible employee. Wages do not include those taken into account for purposes of the payroll credits for required paid sick leave or required paid family leave, nor for wages taken into account for the employer credit for paid family and medical leave (IRC sec. 45S).

The Secretary of the Treasury is granted authority to advance payments to eligible employers and to waive applicable penalties for employers who do not deposit applicable payroll taxes in anticipation of receiving the credit. The credit is not available to employers receiving Small Business Interruption Loans.

The credit is provided through December 31, 2020.

This provision is estimated to reduce revenues by \$54.6 billion over 10 years.

Sec. 2302. Delay of Payment of Employer Payroll Taxes.

This provision would allow taxpayers to defer paying the employer portion of certain payroll taxes through the end of 2020, with all 2020 deferred amounts due in two equal installments,

one at the end of 2021, the other at the end of 2022. Deferral is not provided to employers that avail themselves of SBA 7(a) loans designated for payroll.

Payroll taxes that can be deferred include the employer portion of FICA taxes, the employer and employee representative portion of Railroad Retirement taxes (that are attributable to the employer FICA rate), and half of SECA tax liability.

This provision is estimated to reduce revenues by \$12.3 billion over 10 years.

Sec. 2303. Modification of Net Operating Losses (NOLs).

The 2017 Tax Law limited net operating losses (NOLs) arising after 2017 to 80 percent of taxable income and eliminated the ability to carry NOLs back to prior taxable years.

First, this provision would modify the treatment of NOL carrybacks. In the case of taxable years beginning before 2021, taxpayers will be eligible to carry back NOLs to the prior five taxable years. Effectively, this delays the 80 percent taxable income limitation until 2021 and temporarily extends the carryback period from zero to five years. The provision also temporarily disregards NOL carrybacks for the section 965 transition tax. C corporations may elect to file for an accelerated refund to claim the carryback benefit.

Second, this provision would modify the treatment of NOL carryforwards. In the case of taxable years beginning before 2021, taxpayers will be entitled to an NOL deduction equal to 100% of taxable income (rather than the 80 percent limitation in present law). In the case of taxable years beginning after 2021, taxpayers will be eligible for: (1) a 100 percent deduction of NOLs arising in tax years prior to 2018, and (2) a deduction limited to 80 percent of modified taxable income for NOLs arising in tax years after 2017.

The provision would also include a technical correction to the 2017 Tax Law, relating to the effective date of the NOL carryback repeal.

This provision is estimated to reduce revenues by \$25.5 billion over 10 years.

Sec. 2304. Modification of Limitation on Losses for Taxpayers other than Corporations.

This provision would retroactively turn off the excess active business loss limitation rule implemented with 2017 Tax Law by amending the provision to apply to tax years beginning after December 31, 2020 (rather than December 31, 2017). It also turns off active farming loss rules for tax years beginning after December 31, 2017 and before December 31, 2020.

An active business loss is defined as deductions in excess of income and gain attributable to a trade or business in which the taxpayer actively participates plus \$250,000 (\$500,000 for joint

filers) (i.e. active business losses in excess of \$250,000 (\$500,000 for joint filers) were disallowed by the 2017 Tax Law and treated as NOL carryforwards in the following tax year).

The provision includes technical corrections to 2017 Tax Law. The provision clarifies that excess business losses do not include any deduction under 172 or 199A or any deductions related to performing services as an employee. The provision also clarifies that, because capital losses cannot offset ordinary income under the NOL rules, capital loss deductions are not taken into account in computing the section 461(l) limitation, and that the amount of capital gain taken into account in calculating the section 461(l) limitation cannot exceed the lesser of capital gain net income from a trade or business or capital gain net income.

This provision is estimated to reduce revenues by \$169.6 billion over 10 years.

Sec. 2305. Modification of Credit for Prior Year Minimum Tax Liability of Corporations.

The 2017 Tax Law repealed the corporate alternative minimum tax (AMT) and allowed corporations to claim outstanding AMT credits subject to certain limits for tax years prior to 2021, at which time any remaining AMT credit may be claimed as fully-refundable. This provision allows corporations to claim 100% of AMT credits in 2019 as fully-refundable and provides an election to accelerate claims to 2018, with eligibility for accelerated refunds.

This provision is estimated to have no revenue effect over 10 years.

Sec. 2306. Modification of Limitation on Business Interest.

The 2017 Tax Law generally limited the amount of business interest allowed as a deduction to 30% of adjusted taxable income (ATI). This provision generally allows businesses to elect to increase the interest limitation from 30% of ATI to 50% of ATI for 2019 and 2020, and allows businesses to elect to use 2019 ATI in calculating their 2020 limitation.

A special rule for partnerships allows 50% of any excess business interest allocated to a partner in 2019 to be deductible in 2020 and not subject to the 50% (formerly 30%) ATI limitation. The remaining 50% of excess business interest from 2019 is subject to the ATI limitation. The 2019 ATI limitation remains at 30% of partnership ATI rather than 50% of ATI. The ATI limitation for 2020 is 50% of partnership ATI and partnerships may elect to use 2019 partnership ATI in calculating their 2020 limitation.

This provision is estimated to reduce revenues by \$13.4 billion over 10 years.

Sec. 2307. Qualified Improvement Property Technical Correction.

This provision is a technical correction to the 2017 Tax Law that would allow the interior improvements of buildings to be (1) immediately expensed in the case of restaurant, retail, and

most other property (classified as 15-year property), or (2) depreciated over 20 years in the case of a real property trade or business.

This provision is estimated to have no revenue effect over 10 years.

Sec. 2308. Temporary Suspension of Alcohol Taxes on Spirits Denatured Outside of a DSP and Used in the Emergency Production of Hand Sanitizer in Compliance with FDA Guidance.

Under present law, distilled spirits are generally subject to an excise tax of between \$2.70 and \$13.50 per proof gallon upon removal from the premises of a distilled spirits plant (DSP), however, denatured spirits for non-beverage use may be removed free of tax. Denaturing requires the spirits be mixed with an unappetizing or emetic ingredient to prevent improper or accidental ingestion.

Hand sanitizer is classified as an over-the-counter drug regulated by the Food and Drug Administration (FDA) under the Federal Food, Drug, and Cosmetic Act. FDA has issued guidance on March 14, 20, and 24, on the emergency production of hand sanitizer in connection with the COVID-19 outbreak, which taken together, provides that undenatured spirits may be produced by a DSP for use in the production of hand sanitizer, provided such spirits are later denatured prior to use in such production. In the case that undenatured spirits are removed from a DSP and later denatured off-premises, such spirits may be subject to excise tax liability as a beverage alcohol product. This provision would exempt from tax spirits removed during 2020 and used for the production of hand sanitizer in compliance with all FDA guidance.

Title III - Supporting America's Health System in the Fight Against the Coronavirus

Sec. 3607. Amendments to Tax Credits for Employers for Coronavirus-Related Paid Leave.

This provision would authorize Treasury to provide advance payment of tax credits that are available to private sector employers that are required to provide up to 12 weeks of coronavirus-related paid leave to their employees.

This provision is estimated to have no revenue effect.

Sec. 3609. Single Employer Pension Plans.

This provision would delay the required quarterly contributions for 2020 for single employer pension plans to the end of the year. The provision would also allow plans to use 2019 funded status for purposes of determining funding-based limits on plan benefits for plan years that include 2020.

Sec. 3610. Minimum Funding Rules for Certain Charities.

The minimum funding rules for pension plans sponsored by charitable organizations whose primary purpose is to provide medical care and assistance to mothers and children would be modified to allow for more flexibility in the amount of required payments.

Sec. 3701. Telehealth and HSAs.

Under current law, taxpayers may only make contributions to health savings accounts (HSAs) while they are covered by a high deductible health plan. This provision would allow a high deductible health plan to provide telehealth and remote care services without a deductible for 2020 and 2021.

This provision is estimated to reduce revenues by \$92 million over 10 years.

Sec. 3702. Tax-free Reimbursement of Feminine Hygiene Products.

This provision would permit tax-free reimbursement of feminine hygiene products from health savings accounts (HSAs), health reimbursement arrangements (HRAs), health flexible spending accounts (health FSAs), and Archer medical savings accounts (Archer MSAs).

This provision is estimated to reduce revenues by \$8.8 billion over 10 years.

Title IV -- Economic Stabilization and Assistance to Severely Distressed Sectors of the United States Economy

Sec. 4007. Suspension of Aviation Excise Taxes.

Under current law, there are several taxes related to aviation, including the 7.5 percent ticket tax and domestic and international segment taxes paid by passengers, as well as the 6.25 percent tax on the transportation of air cargo and the per gallon aviation fuel excise taxes, which range from 4.3 to 21.8 cents per gallon.

This provision would suspend the collection of these taxes from the date of enactment through January 1, 2021.

This provision is estimated to reduce revenues by \$4.3 billion over 10 years.

Title V - Coronavirus Relief Funds

Sec. 5001. Coronavirus Relief Fund.

The relief fund provides \$150 billion to states for necessary expenditures incurred in responding to the coronavirus outbreak -- including building field hospitals and buying

ventilators -- as well as to offset the cost of other essential government services not budgeted for in the wake of the economic downturn. (Unlike the federal government, states must balance their budgets each year). The funds apply to expenditures incurred between March 1, 2020 and December 31, 2020. The U.S. Treasury must allocate funds to states (within 30 days) based on a state's population (provided by the Census Bureau), although every state will be guaranteed at least \$1.25 billion. (Oregon would receive \$1.635 billion). The bill reserves 45 percent of the state's total allotment for localities of 500,000 or more. These localities may apply directly to the Treasury for their relative share by population of this amount (e.g., Portland could apply for its share of \$736 million, which is 45% of Oregon's allotment). It would not be administratively feasible for every locality to apply to the Treasury directly for funds, although localities can work with their states to access funding. \$8 billion will be reserved for Indian Tribes, who may apply directly to the Treasury for their allotment. \$3 billion in total will be reserved for Washington, DC and the U.S territories (and allocated by population share).

This provision is estimated to reduce revenues by \$150 billion over 10 years.