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## Five-Minute Tax Briefing<sup>®</sup>

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No. 2020-06

### Highlights

**Congress Passes Families First Coronavirus Response Act:** Congress has passed, and President Trump has signed, the Families First Coronavirus Response Act. Among other things, the Act (1) requires certain employers to provide paid leave benefits to employees affected by the coronavirus outbreak; (2) expands unemployment benefits and offers grants to states to process and pay claims; and (3) mandates coverage of coronavirus testing with no cost-sharing. The Act also provides a payroll tax credit to employers that pay sick leave wages for qualified purposes. The credit for each employee equals up to 100% of his or her wages, limited to \$511 per day for self-care, or \$200 if the sick leave is to care for a family member or child whose school is closed. Businesses with more than 500 employees are exempt from the mandate to pay leave benefits. A third stimulus package is expected to be drafted by the Senate in the near future. H.R. 6201.

**IRS Announces Waivers for Offer in Compromise Applications:** The IRS announced the release of final regulations (TD 9894) that increase the Offer in Compromise (OIC) application fee from \$186 to \$205 and provide an additional way for the IRS to waive the OIC application fee for low-income taxpayers based on their Adjusted Gross Income (AGI). Under the Taxpayer First Act, a low-income taxpayer is one whose AGI does not exceed 250% of the applicable poverty level. Normally, the IRS determines if taxpayers fall at or below 250% of the poverty level by looking at their household's size and gross monthly income. Now, the IRS also will look at a taxpayer's AGI from the most recent tax return to determine if it is at or below 250% of the poverty level. For more

information, see "Offer in Compromise" at [www.irs.gov/payments/offer-in-compromise](http://www.irs.gov/payments/offer-in-compromise) . News Release IR 2020-55 .

**IRS Creates Coronavirus Tax Relief Website:**The IRS has created a website dedicated to the COVID-19/Coronavirus. According to the agency, the site focuses on steps to help taxpayers, businesses, and others affected by the virus. So far, the site features recent guidance issued in Notice 2020-15 and News Release IR 2020-54, which permit High Deductible Health Plans (HDHPs) to cover coronavirus costs without a deductible or cost-sharing. The site also references other IRS online resources (mostly pertaining to tax compliance), such as "Free File" and "Where's My Refund?" The IRS will update its coronavirus tax relief website as new information is available. The site can be accessed at [www.irs.gov/coronavirus](http://www.irs.gov/coronavirus) .

**IRS Provides 90-day Payment Extension:**The IRS has announced that the due date for making federal income tax payments has been postponed from 4/15/20 to 7/15/20. For consolidated groups and stand-alone C corporations, up to \$10 million of tax payments can be deferred. For all other taxpayers, up to \$1 million can be deferred, regardless of filing status. The relief only applies to federal income tax payments (including self-employment tax payments) due on 4/15/20 for the 2019 tax year, and federal estimated income tax payments due on 4/15/20 for the 2020 tax year. Payments made within the 90-day deferral period will automatically be exempt from interest and penalties. The IRS has not provided an extension for the payment or deposit of any other type of federal tax, or for the filing of any tax return or information return. Notice 2020-17 .

## Other Current Releases

**Applicable Federal Rates for April:**The Section 7520 rate for April 2020 is 1.2%, while the Applicable Federal Rates (AFRs) are as follows (Rev. Rul. 2020-9):

	Annual	Semiannual	Quarterly	Monthly
Short-term ( $\leq 3$ years)	0.91%	0.91%	0.91%	0.91%
Mid-term ( $> 3$ years but $\leq 9$ years)	0.99%	0.99%	0.99%	0.99%
Long-term ( $> 9$ years)	1.44%	1.43%	1.43%	1.43%

**Health Care—High Deductible Health Plans Can Cover Coronavirus Costs:**The IRS has announced that a health plan will not fail to be a High Deductible Health Plan (HDHP) under IRC Sec. 223(c)(2)(A) merely because it provides health benefits associated with testing for, and treatment of, the COVID-19/Coronavirus without a deductible, or with a deductible below the minimum deductible (self only or family) for an HDHP. Therefore, an individual with an HDHP that covers these costs may continue to contribute to a Health Savings Account (HSA). Also, as in the past, any vaccination costs continue to count as preventive care and can be paid for by the HDHP. According to the IRS, such relief is needed to avoid administrative delays or financial disincentives that might otherwise impede treatment of the coronavirus for participants in HDHPs. The relief,

however, does not modify previous guidance on other HDHP requirements. Notice 2020-15 and News Release IR 2020-54.

**Identity Theft—Scam Alert on Fake IRS Email:**The IRS has identified a new version of a phishing email scam targeting tax professionals. The fake email states the preparer's EFIN has been temporarily put on hold and warns that the EFIN will be suspended unless the preparer opens an embedded document to confirm or deny that they submitted a Form 1040 . The embedded document likely contains malware. The IRS reminds all tax professionals that they are targets of cybercriminals seeking to steal client data or the practitioners' identities. Thieves use many variations of phishing emails such as this. The fake emails are characterized by an urgent message ("your EFIN will be suspended") and try to entice recipients to open a link or attachment. The IRS urges all tax professionals to be on alert and take security steps to protect their clients and their businesses. Review Publication 4557 (Safeguarding Taxpayer Data) for how to protect this information. QuickAlerts for Tax Professionals (3/18/20).

**IRS Announces Two New Compliance Campaigns:**In January 2017, the IRS Large Business and International (LB&I) division announced the identification and selection of 13 initial compliance campaigns. With the new compliance campaigns, LB&I shifted to exams based on compliance issues that presented greater levels of compliance risk. Since January 2017, multiple new issues have been added to the IRS's audit strategy for improved return selection for audit purposes. The LB&I division has recently added two new campaigns that focus on fuel credits and research issues. The fuel credit campaign will concentrate on taxpayers who received fuel mixture credits under IRC Sec. 6426, but did not treat the credits as a reduction of their excise tax liability under IRC Sec. 4081 . The research issues campaign will address the research credit and deduction for research and experimental expenditures under IRC Secs. 41 and 174 . For the list of currently active campaigns, see [www.irs.gov/businesses/corporations/lbi-active-campaigns](http://www.irs.gov/businesses/corporations/lbi-active-campaigns) .

**IRS Releases Annual Report on Low Income Taxpayer Clinics:**The IRS's Low Income Taxpayer Clinic (LITC) Program Office has released its annual report describing casework, educational activities, and other advocacy efforts that occurred in 2018. During that year, LITCs represented 19,513 taxpayers, provided consultation or advice to 16,595 taxpayers, brought 3,199 taxpayers into filing compliance, and brought 4,261 taxpayers into collection compliance. Also, over \$4.7 million in refunds were secured for low-income taxpayers, and over \$123 million in liabilities were decreased or corrected. This was accomplished by more than 1,800 volunteers who contributed some 57,000 hours of their time to service LITCs. The IRS's LITC program is committed to providing representation, education, and advocacy for taxpayers who are low income or speak English as a second language. The full report can be accessed at [www.irs.gov/pub/irs-pdf/p5066.pdf](http://www.irs.gov/pub/irs-pdf/p5066.pdf) .

**Procedure—Tax Court Takes Precautions against Coronavirus:**The U.S. Tax Court has announced that it is taking precautions against the spread of the COVID-19/Coronavirus. Effective 3/13/20, and until further notice, the Tax Court building is closed to visitors. The Court will continue

to receive and process mail. Petitions may be hand delivered between the hours of 10 a.m. and 2 p.m., Monday through Friday. No applications for admission to practice or requests for copies of documents will be processed. In addition, certain trial sessions scheduled for April 2020 have been cancelled. For more information, see [www.ustaxcourt.gov/press/03132020.pdf](http://www.ustaxcourt.gov/press/03132020.pdf) .

**Procedure—Tax Relief for Victims of Tennessee Tornadoes:**The IRS has provided tax relief for victims of tornadoes and severe storms that occurred in parts of Tennessee, including Nashville. The relief postpones various tax filing and payment deadlines that occurred starting on 3/3/20. Affected individuals and businesses now have until 7/15/20 to file returns and pay any taxes that were originally due during the relief period. This includes quarterly estimated tax payments, 2019 income tax returns, and quarterly payroll and excise tax returns. In addition, penalties on payroll and excise tax deposits due on or after 3/3/20 and before 3/18/20 will be abated, as long as the deposits are made by 3/18/20. The relief is automatically available to any taxpayer with an IRS address of record located in an area designated by the Federal Emergency Management Agency (FEMA) as qualifying for individual assistance. The current list of eligible localities is available at [www.irs.gov/newsroom/tax-relief-in-disaster-situations](http://www.irs.gov/newsroom/tax-relief-in-disaster-situations) . News Release IR 2020-51 .

**Retirement Plans—Early Withdrawal Penalty Doesn't Violate U.S. Constitution:**The taxpayer, who wasn't yet 59 1/2 years old or disabled, received nine distributions totaling \$61,777 from a qualified retirement plan. She included the distributions on her tax return, but neither reported nor paid the 10% early withdrawal penalty imposed by IRC Sec. 72(t). The taxpayer argued that applying the penalty to her distributions violated the equal protection component of the Due Process Clause of the Fifth Amendment to the U.S. Constitution. Specifically, she maintained that the age-related and disability exceptions to IRC Sec. 72(t) violated the Constitution's guarantee of equal treatment under the law. The Tax Court disagreed, holding that the age and disability classifications established by the statute bore a reasonable relationship to a legitimate government purpose. Therefore, the 10% early withdrawal penalty was sustained. *Sandra M. Conard*, 154 TC No. 6 (Tax Ct.).

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