HOUSE COMMITTEE ON
WAYS & MEANS

Subtitle G – Promoting Economic Security
Section-by-Section

Part 1 – 2021 Recovery Rebates

Sec. 9601 – 2021 Recovery rebates to individuals.

Provides a $1,400 refundable tax credit for each family member that shall be paid out in advance payments, similar to the Economic Impact Payments in the CARES Act and Consolidated Appropriations Act, 2021. The credit is $1,400 for a single taxpayer ($2,800 for joint filers), in addition to $1,400 per dependent. The credit phases out between $75,000 and $80,000 of adjusted gross income ($112,500 and $120,000 for head of household filers and $150,000 and $160,000 for joint filers).

For purposes of this credit, a dependent includes both children and non-child dependents. A taxpayer is eligible for a credit with respect to any individual in the household for whom a Social Security number is associated with such individual on the tax return.

Advance payments are generally not subject to administrative offset for past due federal or state debts, including offset for past-due child support.

Treasury is directed to issue this credit as an advance payment based on the information on 2019 or 2020 tax returns. Furthermore, Treasury is given broad authority to make payments to non-filer populations based on return information available to the Secretary. Treasury shall conduct outreach to non-filers to inform them of how to file for their advance payment.

Taxpayers receiving an advance payment that exceeds their maximum eligible credit based on 2021 tax return information will not be required to repay any amount of the payment to the Treasury. If a taxpayer's 2021 tax credit exceeds the amount of the advance payment, taxpayers can claim the difference on their 2021 tax returns.

Part 2 – Child Tax Credit

Sec. 9611 – Child Tax Credit improvements for 2021

Makes the child tax credit ("CTC") fully refundable for 2021 and increases the amount to $3,000 per child ($3,600 for a child under age 6). The provision also increases the age of qualifying children by one year for 2021, such that 17-year-olds qualify for the credit. For 2021, the excess of the child tax credit (i.e., the additional $1,000 or $1,600 per-child in excess of the present-law $2,000 per-child credit) is reduced by $50 for every $1000 in modified adjusted gross income in excess of $150,000 for joint filers ($112,500 for head of household filers and $75,000 for other filers). Once the excess credit amount is so reduced, the credit plateaus at $2,000, and then phases out at the present law levels established in the TCJA ($400,000 for joint filers, $200,00 for other filers).

Directs the Secretary of the Treasury to issue advance payments of the child tax credit, based on 2019 or 2020 tax return information, on a periodic basis. The advance payments under this section do not begin until July 1, 2021, and will comprise in total half of the child tax credit for which the taxpayer is otherwise entitled to for 2021 (with the remaining half claimed on the 2021 tax return). Thus, under the advance payment provision, if the Secretary made monthly payments, a taxpayer with two children above age 5 would receive $500 per month (2 x $3,000/12) for each of the six months remaining in calendar year 2021, for a total of $3,000. The remaining $3,000 would be claimed in 2021 on the taxpayer's tax return. If, however, the Secretary determined that it was feasible to make a payment every two months, each advance payment would total $1,000.

The taxpayer's child tax credit claimed on the 2021 tax return is reduced by the aggregate of advance payments paid by the Secretary. However, in the case of taxpayers who received an overpayment of the advance credit due to a child for whom the advance was paid in 2021, when in fact the child was no longer that taxpayer's dependent, the provision provides a hold-harmless amount on the repayment obligation. Under this hold-harmless amount, a taxpayer below the income threshold ($40,000 for a single taxpayer, $50,000 for a head of household, and $60,000 for a joint filer) will be protected from repaying up to $2,000 in overpayments per child that was incorrectly taken into account. The hold-harmless threshold is decreased to $0 as the taxpayer's income rises to double the threshold amount.

The Secretary is directed to establish an on-line portal to allow taxpayers to opt-out of receiving advanced payments and provide information regarding changes in income, marital status, and number of qualifying children for purposes of determining each taxpayer's maximum eligible credit.

Sec. 9612 – Application of Child Tax Credit in Territories

Instructs the Treasury Department to make payments to each "mirror code" territory for the cost of such territory's CTC. This amount is determined by Treasury based on information provided by the territorial governments. Puerto Rico, which does not have a mirror code, will receive the refundable credit by having its residents file for the CTC directly with the IRS, as they do currently for those residents of Puerto Rico with three or more children. For American Samoa, which does not have a mirror code, Treasury is instructed to make payments in an amount estimated by Treasury as being equal to the aggregate amount of benefits that would have been provided if American Samoa had a mirror code in place.

Part 3– Earned Income Tax Credit

Sec. 9621 – Strengthen the Earned Income Tax Credit for individuals with no qualifying children

Expands the eligibility and the amount of the earned income tax credit for taxpayers with no qualifying children (the "childless EITC") for 2021. In particular, the minimum age to claim the childless EITC is reduced from 25 to 19 (except for certain full-time students) and the upper age limit for the childless EITC is eliminated. This section also increases childless EITC amount by increasing the credit percentage and phaseout percentage from 7.65 to 15.3 percent, increasing the income at which the maximum credit amount is reached to $9,820, and increasing the income at which phaseout begins to $11,610 for non-joint filers. Under these parameters, the maximum credit amount in 2021 increases from $543 to $1,502. The provision contains special rules regarding the application of the credit for former foster youth and homeless youth.

Sec. 9622 – Taxpayer eligible for Earned Income Tax Credit in case of qualifying children who fail to meet certain identification requirements

Repeals the provision prohibiting an otherwise EITC-eligible taxpayer with qualifying children from claiming the childless EITC if he or she cannot claim the EITC with respect to qualifying children due to failure to meet child identification requirements (including a valid SSN for qualifying children). Accordingly, individuals who do not claim the EITC with respect to qualifying children due to failure to meet identification requirements would now be able claim the childless EITC.

Sec. 9623 – Credit allowed in case of certain separated spouses

Allows a married but separated individual to be treated as not married for purposes of the EITC if a joint return is not filed. Thus, the EITC may be claimed by the individual on a separate return. This rule only applies if the taxpayer lives with a qualifying child for more than one-half of the taxable year and either does not have the same principal place of abode as his or her spouse for the last six months of the year, or has a separation decree, instrument, or agreement and doesn't live with his or her spouse by the end of the taxable year. This change aligns the EITC eligibility requirements with present-day family law practice.

Sec. 9624 – Modification of disqualified investments income test

Increases the limitation on disqualified investment income for purposes of claiming the EITC from $3,650 (2020) to $10,000. The $10,000 amount is indexed for inflation.

Sec. 9625 – Application of Earned Income Tax Credit in Territories

Instructs Treasury to make payments to the territories that relate to the cost of each territory's EITC. In the case of Puerto Rico, which has an EITC, the payment is structured as a matching payment, wherein the Treasury will provide a match of up to three times the current cost of the Puerto Rico EITC, if Puerto Rico chooses to expand its current EITC. The other territories receive cost reimbursements of 75% of their EITC expenditures.

Sec. 9626 – Temporary special rule for determining earned income for purposes of the Earned Income Tax Credit

Allows taxpayers in 2021, for purposes of computing the EITC, to substitute their 2019 earned income for their 2021 earned income, if 2021 earned income was less than 2019 earned income.

Part 4 – Dependent Care Assistance

Sec. 9631 – Refundability and enhancement of Child and Dependent Care Tax Credit

Makes a number of modifications to the child and dependent care tax credit ("CDCTC") for 2021. Makes the credit fully refundable and increases the maximum credit rate to 50 percent. Amends the phaseout threshold to begin at $125,000 instead of $15,000. Increases the amount of child and dependent care expenses that are eligible for the credit to $8,000 for one qualifying individual and $16,000 for two or more qualifying individuals (such that the maximum credits are $4,000 and $8,000). At $125,000 the credit percentage begins to phase out, and plateaus at 20 percent. This 20-percent credit rate phases out for taxpayers whose AGI is in excess of $400,000, such that taxpayers with income in excess of $500,000 are not eligible for the credit.

Provides for a reimbursement of mirror code territories for the costs of this refundable credit in 2021. Additionally, for non-mirror code territories (Puerto Rico and American Samoa), provides a reimbursement for the aggregate value of such a credit, provided the territory develops a plan, approved by the Secretary, to distribute these amounts to its residents.

Sec. 9632 – Increase in exclusion for employer provided dependent care assistance

Increases the exclusion for employer-provided dependent care assistance from $5,000 to $10,500 (from $2,500 to $5,250 in the case of a separate return filed by a married individual) for 2021.

Part 5 - Credits for Paid Sick and Family Leave

Sec. 9641 – Payroll credits

Establishes refundable payroll tax credits allowed against the employer-side Hospital Insurance tax for paid sick time and paid emergency family and medical leave provided by employers from March 31, 2021 through September 30, 2021. Qualified sick leave wages include paid sick time which would be required by the Emergency Paid Sick Leave Act and qualified family leave wages include leave which would be required by the Emergency Family and Medical Leave Expansion Act if both Acts were applied as if they applied to the period when the credits are applicable.

The credits are generally limited to the same limitations within the Emergency Paid Sick Leave Act and Emergency Family and Medical Expansion Act, except that the Emergency Family and Medical Leave Expansion Act is applied up to a $12,000 aggregate limitation corresponding to 12 weeks of paid leave and without regard to the allowance that 10 days may be unpaid.

Certain pension and apprenticeship program contributions paid under collective bargaining agreements and certain health plan expenses allocable to qualified wages are eligible for the credit and not subject to the limitation.

Allows the family leave credit for the reasons of leave enumerated under the Emergency Paid Sick Leave Act. Expands the reasons for leave for both sick time and emergency paid leave to include leave when the employee is seeking or awaiting a COVID-19 test when they have either been exposed to COVID-19 or the employee's employer has requested such test. Further expands the reasons for leave to include leave to obtain a COVID-19 immunization or to recover from such immunization.

Qualified wages include health plan expenses properly allocable to the leave. The credits are increased by an amount equal to the sum of OASDI and HI taxes paid by the employer with respect to the leave.

No credit shall be allowed if the employer does not meet all requirements of the Emergency Paid Sick Leave Act and Emergency Family and Medical Leave Expansion Act or if the employer, with respect to the availability of the provision of leave, discriminates in favor of highly compensated employees, full-time employees or employees on the basis of employment tenure with the employer.

The credits are allowed to state, local, and tribal governments. The credits are not allowed to the federal government, except for federal instrumentalities that are described in section 501(c)(1) of the Internal Revenue Code.

Sec. 9642. Credit for sick leave for certain self-employed individuals

Provides a refundable tax credit equal to 100 percent of a qualified sick leave equivalent amount for eligible self-employed individuals who must self-isolate, obtain a diagnosis or comply with a self-isolation recommendation with respect to coronavirus; or for days when the self-employed individual is seeking or awaiting a COVID-19 test when the individual has been exposed to COVID-19, is obtaining a COVID-19 immunization, or is recovering from such an immunization. For eligible self-employed individuals caring for a family member or for a child whose school or place of care has been closed due to coronavirus, the section provides a refundable tax credit equal to 67 percent of a qualified sick leave equivalent amount.

For eligible self-employed individuals who must self-isolate, obtain a diagnosis, comply with a self-isolation recommendation, are awaiting testing or obtaining or recovering from a COVID-19 vaccine, the qualified sick leave equivalent amount is capped at the lesser of $511 per day or the average daily self-employment income for the taxable year (or, at the election of the taxpayer, the prior taxable year) per day.

For eligible self-employed individuals caring for a family member or for a child whose school or place of care has been closed due to coronavirus, the qualified sick leave equivalent amount is capped at the lesser of $200 per day or the average daily self-employment income for the taxable year (or, at the election of the taxpayer, the prior taxable year) per day.

The credit is available for days beginning after March 31, 2021 through September 30, 2021.

Sec. 9643. Credit for family leave for certain self-employed individuals

Provides a refundable tax credit equal to 100 percent of a qualified family and medical leave equivalent amount for eligible self-employed individuals who would be entitled to receive paid leave pursuant to the Emergency Family and Medical Leave Expansion Act if the individual was an employee of an employer (other than himself or herself).

The qualified family and medical leave equivalent amount is capped at the lesser of $200 per day or the average daily self-employment income for the taxable year (or, at the election of the taxpayer, the prior taxable year) per day.

The credit is available for days beginning after March 31, 2021 through September 30, 2021/

Part 6 – Employee Retention Credit

Sec. 9651 – Extension and Modification of employee retention credit

Extends the employee retention tax credit, as added by the CARES Act and expanded and extended in P.L. 116-260, through December 31, 2021. Modifies the credit such that, beginning after June 30, 2021, the credit will be structured as a refundable payroll tax credit against the hospital insurance tax. Amends the credit such that severely impacted businesses can claim the credit with respect to all employees, regardless of employer size, and provides rules allowing businesses that were not in existence in 2019 to claim the credit.

Part 7 – Premium Tax Credit

Sec. 9661 – Improving affordability by expanding premium assistance for consumer

Modifies the affordability percentages used for 36 (B) premium tax credits for 2021 and 2022 to increase credits for individuals eligible for assistance under current law and provides 36 (B) credits for taxpayers with incomes above 400 percent of the federal poverty line (FPL).

Sec. 9662 – Temporary modification of limitations on reconciliation of tax credits for coverage under a qualified health plan with advance payments of such credit.

For tax year 2020, modifies the repayment obligations for taxpayers receiving excess premium tax credits under Section 36 (B) so such payments are not subject to recapture.

Sec. 9663 – Application of premium tax credit in case of individuals receiving unemployment compensation during 2021

For 2021, provides advanced premium tax credits as if the taxpayer's income was no higher than 133 percent of the federal poverty line (FPL) for individuals receiving unemployment compensation as defined in section 85(B) of the Internal Revenue Code.

Part 8 – Miscellaneous Provisions

Sec. 9671 – Repeal of election to allocate interest, etc. on a worldwide basis

This provision repeals the election for U.S. affiliated groups to allocate interest expense on a worldwide basis. This change maintains pre-2021 policy regarding the allocation of expenses by eliminating the election that would be available starting in 2021. This change is effective for taxable years beginning in 2021.

Sec. 9672 – Tax treatment of targeted EIDL advances

Exempts Economic Injury Disaster Loan (EIDL) grants from tax and provides that such exclusion shall not result in a denial of deduction, reduction of tax attributes, or denial of increase in basis by reason of this exclusion from income. Directs the Secretary to prescribe rules for determining a partner's distributive share of amounts received through an EIDL grant.

Sec. 9673 – Tax treatment of Restaurant Revitalization Grants

Exempts Restaurant Revitalization Grants from tax and provides that such exclusion shall not result in a denial of deduction, reduction of tax attributes, or denial of increase in basis by reason of this exclusion from income. Directs the Secretary to prescribe rules for determining a partner's distributive share of amounts received through a Restaurant Revitalization Grant.

Sec. 9674 – Modification of Exceptions for Reporting of Third Party Network Transactions

Modifies the thresholds under which third party settlement organizations must report gross payments to payees within their networks, to align with the threshold for 1099-MISC reporting. Thus, under the provision, third party settlement organizations are required to report gross payments to payees who have received in excess of $600 from the third party settlement organization, without regard to the number of transactions between the third party settlement organization and the payee.

Sec. 9675 – Modification of Treatment of Student Loan Forgiveness

For taxable years 2021 through 2025, provides that the amount of any student loan indebtedness that is discharged by the lender shall not be included in the borrower's gross income. The provision does not apply if the discharge is compensation for services for the discharging party.