

Tax Alert



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Maryland RELIEF Act

04-20-21

This alert supersedes previous alert issued 03-04-21 A. It has been updated to address the federal American Rescue Plan Act of 2021, which provides, in part, that, if adjusted gross income of a taxpayer does not exceed \$150,000, up to \$10,200 of unemployment compensation per individual taxpayer may be excluded from federal adjusted gross income. This change can be found on page 3.

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What's New?

This alert addresses changes brought by passage of the Maryland Recovery for the Economy, Livelihoods, Industries, Entrepreneurs, and Families (RELIEF) Act. It discusses changes to the filing of individual and business taxes, the issuance of Maryland relief payments to certain individuals, and the tax treatment of COVID-19 relief measures such as grants and loans.

Additional and updated instructions will be provided with any forms revised as a result of this legislation. Please carefully review the instructions for any filing impacted by the RELIEF Act, as formatting and calculations may have changed.

Tax professionals and practitioners should review the complete text of the bill posted on the Maryland General Assembly's website.

Introduction

On February 15th, 2021, Governor Lawrence J. Hogan signed Senate Bill 496, Recovery for the Economy, Livelihoods, Industries, Entrepreneurs, and Families Act, referred to as the RELIEF Act. The bill's purpose is to relieve some of the adverse economic effects of the coronavirus pandemic. To that end, the RELIEF Act authorizes economic impact payments to certain Maryland residents, as well as separately providing for adjustments to both individual and business tax filings.

The Comptroller began accepting tax year 2020 returns for processing prior to the enactment of the RELIEF Act. Due to the emergency nature of this bill, both individual and business tax forms have been created or modified to account for its provisions. The Comptroller strongly recommends any filer impacted by this bill delay filing until revised forms have been published, in order to take full advantage of the relief offered.

The guidance provided in this Tax Alert should be considered secondary to any tax forms, filing instructions, or regulations promulgated by the Comptroller of Maryland.

Maryland Economic Impact Payments

In order to assist Maryland citizens, the RELIEF Act authorizes economic impact payments (EIP) to individuals who received the Maryland earned income tax credit (EITC) in tax years 2019. With the exception of some members of the military, these payments are limited to current Maryland residents.¹ These payments will not be subject to Maryland tax; however, the payments might be subject to federal income tax.

The amount of the payments is determined as follows:

- Individual taxpayers will receive an economic impact payment of \$300.
- Spouses who filed a joint return, surviving spouses, and heads of household as defined by the Internal Revenue Code will receive an economic impact payment of \$500.

For taxpayers who received their tax refund by direct deposit, the state economic impact payment will be sent to the same bank account. If the payment is rejected, a paper check will be issued to the taxpayer's address on file. Eligible individuals who received their 2019 income tax refund by paper check or who received a 2019 State earned income tax credit but did not receive a 2019 refund will receive their EIP by paper check.

Except as relating to child support, EIP funds are not subject to garnishment, holds, liens, or setoffs by a taxpayer's financial institution.

¹ The residency status of active-duty military members shall follow the ordinary rules; Maryland residents presently deployed out of state will still be treated as residents for purpose of EIP eligibility.

Individuals

Subtractions From Income

The RELIEF Act allows Maryland taxpayers to subtract certain amounts from their federal adjusted gross income (FAGI). In order to be eligible for the subtraction, these amounts must be included in a taxpayer's FAGI for the same year. Please note certain payroll protection programs under the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act have already been excluded from FAGI under federal law. Additionally, certain portions of unemployment compensation have been excluded from FAGI. As these amounts are not included in a taxpayer's FAGI, they are not eligible for subtraction on the Maryland return.

In order to claim these subtractions, individuals must complete Maryland Form 502LU and file it along with their return.

The following subtractions from income are available under the RELIEF Act for tax years 2020 and 2021:

- **Unemployment Benefits.** To the extent included in federal adjusted gross income, taxpayers may subtract the amount of unemployment benefits received² during the taxable year on their Maryland return. This subtraction is only available to taxpayers with a filing status of single, married filing separate, or dependent with a FAGI that does not exceed \$75,000, and filers with married filing joint, head of household, or surviving spouse status with a FAGI that does not exceed \$100,000.

New On March 11, 2021, the American Rescue Plan Act (ARPA) was signed into law. ARPA permits exclusion of up to \$10,200 in unemployment compensation from FAGI. For married taxpayers, each spouse receiving unemployment compensation may exclude up to \$10,200 of their own unemployment compensation.

The federal exclusion is limited to taxpayers whose modified adjusted gross income is less than \$150,000.³ The same \$150,000 modified adjusted gross income cap applies to both single filers and married taxpayers filing jointly; married filing joint taxpayers may not double the modified adjusted gross income cap.

Any amount of unemployment compensation in excess of \$10,200 that is included at the federal level is eligible for the subtraction at the Maryland level, subject to Maryland's income caps for the subtraction. Taxpayers who qualify for the federal exclusion, but do not qualify for the Maryland subtraction, need not add back the amount excluded from FAGI; the exclusion flows to the Maryland return.

² Unemployment compensation from Maryland or from a jurisdiction with which the State has a reciprocal taxation agreement may be subtracted. Maryland has reciprocal agreements with Pennsylvania, Virginia, West Virginia, and the District of Columbia. This provision is not new but was not included in the original publication.

³ Modified adjusted gross income is calculated without including unemployment compensation.

Examples

1. A taxpayer filing single has modified adjusted gross income of \$54,000, and received \$20,000 of unemployment compensation. \$10,200 may be excluded from FAGI on the federal return; \$9,800 is included in FAGI. Their FAGI is \$63,800. Because \$9,800 is included in FAGI, and their FAGI is less than \$75,000, the Maryland unemployment compensation subtraction is \$9,800.
2. A taxpayer filing single has modified adjusted gross income of \$69,000, and received \$5,000 of unemployment compensation. The entire \$5,000 may be excluded from FAGI on the federal return; no unemployment compensation is included in FAGI. Their FAGI is \$69,000. Because no amount of unemployment compensation is included in FAGI, they are not eligible for the Maryland unemployment compensation subtraction, even though their FAGI is under \$75,000.
3. A taxpayer filing single has modified adjusted gross income of \$69,000, and received \$20,000 of unemployment compensation. \$10,200 may be excluded from FAGI on the federal return; \$9,800 is included in FAGI. Their FAGI is \$78,800. Because their FAGI exceeds \$75,000, they are not eligible for the Maryland unemployment compensation subtraction, even though \$9,800 is included in FAGI. No addition modification is required to add-back the unemployment compensation excluded from FAGI, even though the taxpayer's FAGI exceeds the Maryland income threshold for the subtraction. The federal exclusion flows to the Maryland return.
4. A taxpayer filing single has modified adjusted gross income of \$85,000, and received \$15,000 of unemployment compensation. \$10,200 may be excluded from FAGI on the federal return; \$4,800 of unemployment compensation is included in FAGI. Their FAGI is \$89,800. Because their FAGI is above \$75,000, they are not eligible for the Maryland unemployment compensation subtraction, even though \$4,800 of unemployment compensation was included in FAGI. No addition modification is required to add back the unemployment compensation excluded from FAGI, even though the taxpayer's FAGI exceeds the Maryland income threshold for the subtraction. The federal exclusion flows to the Maryland return.
5. A taxpayer filing single has modified adjusted gross income of \$160,000, and received \$5,000 of unemployment compensation. None of the unemployment compensation is excludable from FAGI because their income exceeds the federal threshold; all \$5,000 is included in FAGI. Because the taxpayer's FAGI is over \$75,000, the taxpayer is not eligible for the Maryland unemployment compensation subtraction, even though \$5,000 of unemployment compensation was included in FAGI.
6. Married taxpayers filing jointly have modified adjusted gross income of \$70,000. Spouse A received \$20,000 of unemployment compensation; Spouse B received \$5,000 of unemployment payments. \$10,200 of Spouse A's unemployment compensation may be excluded from FAGI; all \$5,000 of Spouse B's unemployment compensation may be excluded from FAGI. \$9,800 of unemployment compensation is included in FAGI. Their FAGI is \$79,800. Because their FAGI is under \$100,000, they are eligible for a Maryland unemployment compensation subtraction of \$9,800, the amount of unemployment compensation included in FAGI.
7. Married taxpayers filing jointly have modified adjusted gross income of \$80,000. Spouse A received \$20,000 of unemployment compensation; Spouse B received \$15,000 of unemployment payments. \$10,200 of Spouse A's unemployment compensation may be excluded from FAGI; \$10,200 of Spouse B's unemployment compensation may be excluded from FAGI. \$14,600 of unemployment compensation (\$9,800 of Spouse A's + \$4,800 of Spouse B's) is included in

FAGI. Their FAGI is \$94,600. Because their FAGI is under \$100,000, they are eligible for a Maryland unemployment compensation subtraction of \$14,600, the amount of unemployment compensation included in FAGI.

8. Married taxpayers filing jointly have modified adjusted gross income of \$95,000. Spouse A received \$20,000 of unemployment compensation; Spouse B received \$5,000 of unemployment payments. \$10,200 of Spouse A's unemployment compensation may be excluded from FAGI; all \$5,000 of Spouse B's unemployment compensation may be excluded from FAGI. \$9,800 of unemployment compensation is included in FAGI. Their FAGI is \$104,800. Because their FAGI is over \$100,000, they are not eligible for the Maryland unemployment compensation subtraction, even though \$9,800 of unemployment compensation is included in FAGI. No addition modification is required to add back the unemployment compensation excluded from FAGI, even though the taxpayer's FAGI exceeds the Maryland income threshold for the subtraction. The federal exclusion flows to the Maryland return.
9. Married taxpayers filing jointly have modified adjusted gross income of \$130,000. Spouse A received \$20,000 of unemployment compensation; Spouse B received \$5,000 of unemployment compensation. \$10,200 of Spouse A's unemployment compensation may be excluded from FAGI; all \$5,000 of Spouse B's unemployment compensation may be excluded from FAGI. \$9,800 of unemployment compensation is included in FAGI. Their FAGI is \$114,800. Because their FAGI is over \$100,000, they are not eligible for the Maryland unemployment compensation subtraction.
10. Married taxpayers filing jointly have modified adjusted gross income of \$160,000. Spouse A received \$20,000 of unemployment compensation; Spouse B received \$5,000 of unemployment compensation. None of their unemployment compensation is excludable from FAGI; all \$25,000 is included in FAGI. Because their FAGI is over \$100,000, they are not eligible for the Maryland unemployment compensation subtraction, even though \$25,000 of unemployment compensation is included in FAGI.

The IRS has indicated that it will adjust the returns of those taxpayers who filed prior to the enactment of the ARPA to allow them the benefit of the federal exclusion of unemployment compensation. Should such a federal adjustment bring a taxpayer's FAGI to below the threshold for Maryland's unemployment compensation subtraction, and should the taxpayer's adjusted FAGI include some unemployment compensation, the taxpayer must file an amended Maryland return to get the benefit of the Maryland subtraction. The Comptroller's office will not make adjustments on the taxpayers' behalf.

For example, a single taxpayer with FAGI of \$80,000, which included \$20,000 of unemployment compensation, filed federal and State returns prior to the enactment of ARPA. At the time of filing, there was no federal exclusion of unemployment compensation, so FAGI was \$80,000. The taxpayer is not eligible for the Maryland unemployment subtraction, because FAGI exceeds \$75,000. After the passage of ARPA, this taxpayer may exclude \$10,200 of unemployment compensation from FAGI. The IRS makes the adjustment, and the new FAGI is \$69,800. Taxpayer is now eligible for the Maryland unemployment compensation subtraction. Taxpayer must amend the Maryland return to take the subtraction of \$9,800.

- **Coronavirus Relief Payments:** To the extent included in federal adjusted gross income, taxpayers may subtract coronavirus relief payments on their Maryland return. Coronavirus relief payments

include grants or loans applied for after March 5, 2020, that were provided to assist with coronavirus-related economic hardships. The subtraction also includes any coronavirus relief loan amounts that were forgiven. The taxpayer must submit a 1099 as proof of the grant income or loan forgiveness amount along with Form 502LU.

The Comptroller has published a list of COVID-19 relief payments eligible for this subtraction at marylandtaxes.gov. This list is subject to ongoing maintenance as state, local, and municipal authorities report additional eligible programs. Please contact the Comptroller regarding any potentially eligible relief payment absent from this list.

Additionally, the RELIEF Act provides for a subtraction from income for Maryland economic impact payments, discussed above, for tax year 2021:

- **State Economic Impact Payments:** To the extent included in federal adjusted gross income, taxpayers may subtract Maryland economic impact payments on their Maryland return. This subtraction applies to tax years beginning after December 31, 2020 but before January 1, 2022. Please note, because State economic impact payments are being issued in tax year 2021, this subtraction will be taken on returns filed for tax year 2021 during calendar year 2022.

The subtraction for State economic impact payments will be addressed on the income tax forms for tax year 2021.

Enhanced State Refundable EITC

Maryland filers claiming the federal EITC may also be eligible for a refund of a percentage of this amount through their Maryland tax return. The RELIEF Act increases this percentage from 28% for tax year 2019 to 45% for tax years 2020 through 2022, resulting in an increased refund amount for some taxpayers. Additionally, for tax years 2020 through 2022, taxpayers without qualifying children will be allowed to use the full amount of their federal EITC as a refundable credit against Maryland income tax, up to a maximum of \$530.

These changes do not require any action on behalf of taxpayers or preparers and will be incorporated into the revised forms and instructions pursuant to passage of the Act. Individuals who qualify for the enhanced state REIC but who have already filed need not take any action. The Comptroller will make any adjustment necessary based on the law change and will adjust the amount of the credit, including sending an additional refund if applicable.

Unemployment Determination Grants

The RELIEF Act established the Recovery Now Fund for the purpose of distributing certain funds to assist Maryland enterprises affected by the COVID-19 pandemic. Additionally, the Recovery Now Fund provides for a \$1,000 grant to any individual whose claim for unemployment benefits is pending a determination of eligibility and has been in adjudication for at least 30 days, except for a claim where the failure to determine eligibility is related to an allegation of fraud.

The Maryland Department of Labor shall determine who is eligible for this grant and provide lists of qualifying individuals to the Comptroller's Office, the first of which is due by March 3, 2021. On or around

that date, the Comptroller's Office shall publish additional information relating to the disbursement of these grants. The Maryland Department of Labor shall provide subsequent lists to the Office of the Comptroller on April 5, 2021, May 5, 2021, June 3, and July 6, 2021.⁴

An unemployment determination grant is considered a coronavirus relief payment, and, to the extent included in FAGI, the payment is eligible for the coronavirus relief payment subtraction on the Maryland return for the year in which the payment was received.

Businesses

Subtraction From Income

Like the subtractions from income available to individuals, the RELIEF Act allows certain businesses to subtract certain amounts included in their federal taxable income. In order to be eligible for the subtraction, these amounts must be included in a taxpayer's federal taxable income for the same year.

Corporations will claim this subtraction on form 500LU. Corporate tax returns will include instructions on how to take this subtraction.

Pass-through entities are reminded that subtractions must be passed to members on Schedule K-1. For more information, see Maryland Schedule K-1 (510) and instructions.

The subtraction from income is available under the RELIEF Act for tax years 2020 and 2021:

- **Coronavirus Relief Payments:** To the extent included in federal taxable income, corporations may subtract coronavirus relief payments on their Maryland return. Coronavirus relief payments includes grants or loans applied for after March 5, 2020, that were provided to assist with coronavirus-related economic hardships. The subtraction also includes any coronavirus relief loan amounts that were forgiven.

The Comptroller has published a list of COVID-19 relief payments eligible for this subtraction at marylandtaxes.gov. This list is subject to ongoing maintenance as state, local, and municipal authorities report additional eligible programs. Please contact the Comptroller's Office regarding any potentially eligible relief payment absent from this list.

Sales and Use Tax Discount

The RELIEF Act provides for an alternative credit against the gross amount of sales and use tax owed by some vendors. This credit is available for each of the three (3) following months: March, April, and May 2021. In order to qualify for this credit, all of the following conditions must be true:

- The vendor's return is timely filed;

⁴ In the version of this Tax Alert published on February 16, 2021, June 3 was inadvertently omitted from this paragraph, and the fourth date was erroneously listed as July 5, instead of July 6.

- The vendor's return is filed using the Comptroller's bFile system;
- The gross amount of sales and use tax required to be paid with the return does not exceed \$6,000; and
- The vendor has not taken the credit allowed under § 11-105 of the Tax-General Article (also known as the vendor discount) for the same period.

Additionally, the credit does not apply to sales by a marketplace seller, as defined under § 11-101 of the Tax-General Article. Marketplace facilitators reporting sales by a marketplace seller are not eligible to claim the credit.

The credit amount is equal to the lesser of \$3,000 or the sales and use tax collected during the month for which the vendor qualifies for the credit. The Comptroller's Office shall issue revised forms and instructions consistent with the creation of this credit.

Please note the Comptroller has extended the filing deadlines for sales and use tax returns. The RELIEF Act credit applies to returns for March, April, and May. The March return is due by April 20. The Comptroller had extended the deadline to file sales and use tax returns that are due between January 20, 2021 and April 14, 2021 to April 15, 2021. The first due date for which the RELIEF credit is available is April 20, therefore, the RELIEF Act credit is not affected by the extended sales and use tax deadline. For more information on the extension, see Tax Alert 01-06-21.

Business Unemployment Contributions

The RELIEF Act adjusts certain business' calculation of unemployment contributions. Questions regarding this provision should be addressed to the Department of Labor, Contributions Division, via their contact information here.

PTE Entity Tax and Member Addition

The RELIEF Act made certain changes to the pass-through entity tax election described in § 10-102.1, 10-306, and 10-701.1 of the Tax-General article. Members of pass-through entities electing this tax treatment should note the addition to income now required under 10-205 of the Tax-General article, which is equal to the amount of tax paid by the electing pass-through entity and is attributable to the member's share. Affected members must take the addition using Form 502LU. Senate Bill 787 of the Acts of 2021 also contains provisions that impact how Electing pass-through entities define a pass-through entity's taxable income.

For more information on this elective tax treatment by pass-through entities, see Maryland Income Tax Administrative Release No. 6.

EPIP Loan Forgiveness

The bill authorizes the Small Business Development Financing Authority to forgive loans from the Equity Participation Investment Program (EPIP) by converting the loans to grants. Loans provided under the program during fiscal years 2021 and 2022 are eligible for forgiveness. More information on how to have

your loan forgiven may be obtained by contacting the Maryland Small Business Development Financing Authority.

RELIEF Act Site

In order to support taxpayers and preparers navigating the changes brought by the RELIEF Act, the Comptroller's Office has prepared a dedicated site: MarylandTaxes.gov/ReliefAct. This site contains announcements, updates, and frequently-asked-questions on a variety of topics covered by the Act. Additionally, it offers a tool which taxpayers may use to check their eligibility for an Economic Impact Payment issued under the Act.

Any further questions or concerns regarding the Comptroller's Office's implementation of the Act should be directed to 1-833-345-0787 or our dedicated email address reliefact@marylandtaxes.gov