TAXPAYER CERTAINTY AND DISASTER TAX RELIEF ACT OF 2019
SECTION-BY-SECTION

TITLE I—EXTENSION OF CERTAIN EXPIRING PROVISIONS
(all provisions extended through 2020 except where otherwise noted)

Subtitle A—Tax Relief and Support for Families and Individuals

Section 101. **Exclusion from gross income of discharge of qualified principal residence indebtedness.** The provision provides a maximum exclusion from gross income of $2,000,000 for a discharge of qualified principal residence indebtedness. Generally, indebtedness must be the result of acquisition, construction, or substantial improvement of primary residence. The provision also modifies the exclusion to apply to qualified principal residence indebtedness that is discharged pursuant to a binding written agreement entered into before January 1, 2021.

Section 102. Treatment of mortgage insurance premiums as qualified residence interest. The provision provides for the treatment of qualified mortgage insurance premiums as interest for purposes of the mortgage interest deduction. This deduction phases out for taxpayers with adjusted gross income (AGI) over $100,000 ($50,000 if married filing separately).

Section 103. Reduction in medical expense deduction floor. Before 2017, individuals could claim an itemized deduction for unreimbursed medical expenses to the extent that such expenses exceeded 10 percent of AGI. The provision extends the lower threshold of 7.5 percent, originally enacted for 2017 and 2018.

Section 104. Deduction of qualified tuition and related expenses. The provision provides an above-the-line deduction for qualified tuition and related expenses for higher education. The deduction is capped at $4,000 for an individual whose AGI does not exceed $65,000 ($130,000 for joint filers) or $2,000 for an individual whose AGI does not exceed $80,000 ($160,000 for joint filers).

Section 105. Black lung liability trust fund excise tax. The provision imposes an excise tax of $1.10 per ton for coal from underground mines and $0.55 per ton for coal from surface mines, each up to 4.4 percent of the sale price effective beginning on the first day of the first calendar month after date of enactment.

Subtitle B—Incentives for Employment, Economic Growth, and Community Development

Section 111. Indian employment credit. The provision provides a credit on the first $20,000 of qualified wages and qualified employee health insurance costs paid to or incurred by the employer with respect to each qualified employee who works on an Indian reservation. Generally, a qualified employee is someone who is an enrolled member of an Indian tribe or the spouse of an enrolled member; who performs substantially all of the services for the employer within an Indian reservation; and whose principal place of abode is on or near the reservation in which the services are performed. The credit is equal to 20 percent of the excess of eligible employee qualified wages and health insurance costs incurred during the current year over the amount of such wages and costs incurred by the employer during 1993.

Section 112. Railroad track maintenance credit. The provision provides a credit for 50 percent of qualified railroad track maintenance expenditures paid or incurred by an eligible taxpayer. Qualified railroad track maintenance expenditures are gross expenditures for maintaining railroad track (including roadbed, bridges, and related track structures) owned or leased as of January 1, 2015, by a Class II or Class III railroad. Determined by the Surface Transportation Board, a Class II railroad has annual operating revenues of less than $447,621,226 but in excess of $35,809,698, and a Class III railroad has annual operating revenues of $35,809,698 or less. The credit cannot exceed the product of $3,500 times the number of miles of railroad track owned or leased by the eligible taxpayer as of the close of the taxable year. The provision includes a safe harbor to provide that assignments of the credit for taxable years in 2018 shall be effective as of the close such taxable years if made pursuant to a written agreement entered into no later than 90 days following date of enactment. The credit is extend through 2022.

Section 113. Mine rescue team training credit. The provision provides employers a credit equal to the lesser of 20 percent of the training program costs incurred, or $10,000, with respect to the training program costs of each qualified mine rescue team employee.

Section 114. Classification of certain race horses as 3-year property.
The provision assigns a 3-year recovery period for race horses two years old or younger placed in service before 2021.

Section 115. 7-year recovery period for motorsports entertainment complexes. The provision provides a 7-year recovery period for motorsports entertainment complexes. A motorsports entertainment complex is defined as a racing track facility that is permanently situated on land and that hosts one or more racing events within 36 months of the month it is placed in service.

Section 116. Accelerated depreciation for business property on Indian reservation. The provision provides accelerated depreciation for qualified Indian reservation property. To qualify, property must be predominantly used for business purposes within a reservation, owned by someone unrelated to previous owner, and unrelated to gaming practices. The depreciation deduction allowed also extends to the alternative minimum tax.

Section 117. Extension of expensing rules for certain productions. The provision provides a deduction for qualified film, television, and theatrical productions of up to $15 million of the aggregate cost ($20 million for certain areas) of a qualifying film, television, or theatrical production in the year the expenditure was incurred.

Section 118. Empowerment zone tax incentives. The provision provides tax benefits for certain businesses and employers operating in empowerment zones. There are 41 specifically designated geographic areas designated as empowerment zones. The tax benefits available include tax-exempt bond financing, a Federal income tax credit for employers who hire qualifying employees, accelerated depreciation deductions on qualifying equipment under section 179, and deferral of capital gains tax on the sale of qualified assets sold and replaced.

Section 119. American Samoa economic development credit. The provision provides a credit to certain corporations in American Samoa that may be claimed against U.S. corporate income tax in an amount equal to the sum of certain percentages of a domestic corporation’s employee wages, employee fringe benefit expenses, and tangible property depreciation allowances for the taxable year in respect of the active conduct of a trade or business in American Samoa.

Subtitle C—Incentives for Energy Production, Efficiency, and Green Economy Jobs

Section 121. Biodiesel and renewable diesel. The provision provides a $1.00-per-gallon tax credit for biodiesel and biodiesel mixtures, and the small agri-biodiesel producer credit of 10 cents per gallon. Additionally, the provision treats renewable diesel the same as biodiesel, except there is no small producer credit. The credit is extended through 2022.

Section 122. Second generation biofuel producer credit. The provision provides a $1.01-per-gallon nonrefundable income tax credit for second generation biofuel sold at retail into the fuel tank of a buyer's vehicle, or second generation biofuel mixed with gasoline or a special fuel and sold or used as a fuel. The provision was formerly known as the "cellulosic biofuel producer credit."

Section 123. Nonbusiness energy property. The provision provides a credit for purchases of nonbusiness energy property. The provision allows a credit of 10 percent of the amounts paid or incurred by the taxpayer for qualified energy improvements to the building envelope (windows, doors, skylights, and roofs) of principal residences. The provision allows credits of fixed dollar amounts ranging from $50 to $300 for energy-efficient property including furnaces, boilers, biomass stoves, heat pumps, water heaters, central air conditioners, and circulating fans, and is subject to a lifetime cap of $500.

Section 124. Qualified fuel cell motor vehicles. The provision provides a credit for purchases of new qualified fuel cell motor vehicles. The provision allows a credit of between $4,000 and $40,000, depending on the weight of the vehicle, for the purchase of such vehicles. Other vehicles, depending on their fuel efficiency, may qualify for an additional $1,000 to $4,000 credit.

Section 125. Alternative fuel refueling property credit. The provision provides a credit for the installation of alternative fuel vehicle refueling property, which includes property that dispenses alternative fuels including ethanol, biodiesel, natural gas, hydrogen, and electricity, the credit is capped at $30,000 per location for business property and $1,000 for property installed at a principal residence.

Section 126. 2-wheeled plug-in electric vehicle credit. The provision provides a 10-percent credit for highway-capable, two-wheeled plug-in electric vehicles (capped at $2,500). Battery capacity within the vehicles must be greater than or equal to 2.5 kilowatt-hours.

Section 127. Credit for electricity produced from certain renewable resources. For renewable power facilities, the provision extends for three years (one year in the case of wind facilities) the beginning of construction deadline for the renewable electricity production credit and the election to claim the energy credit in lieu of the electricity production credit. For wind facilities the construction of which begins in calendar year 2020, the credit is reduced by 40 percent.

Section 128. Production credit for Indian coal facilities. The provision provides a credit $2 per ton production tax credit for coal produced on land owned by an Indian tribe. Adjusted for inflation, the credit was $2.423 per ton for 2017.

Section 129. Energy efficient homes credit. The provision provides a credit for manufacturers of energy-efficient residential homes. An eligible contractor may claim a tax credit of $1,000 or $2,000 for the construction or manufacture of a new energy efficient home that meets qualifying criteria.

Section 130. Special allowance for second generation biofuel plant property. The provision provides an additional first-year 50-percent bonus depreciation for cellulosic biofuel facilities.

Section 131. Energy efficient commercial buildings deduction. The provision provides a deduction for energy efficiency improvements to lighting, heating, cooling, ventilation, and hot water systems of commercial buildings. This includes a $1.80 deduction per square foot for construction on qualified property. A partial $0.60 deduction per square foot is allowed if certain subsystems meet energy standards but the entire building does not, including the interior lighting systems, the heating, cooling, ventilation, and hot water systems, and the building envelope.

Section 132. Special rule for sales or dispositions to implement FERC or State electric restructuring policy for qualified electric utilities. The provision provides taxpayers an election to recognize gain from qualifying electric transmission transactions ratably over an eight-year period beginning in the year of sale (rather than entirely in the year of sale) if the amount realized from such sale is used to purchase exempt utility property within the applicable period.

Section 133. Extension and clarification of excise tax credits relating to alternative fuels. The provision provides a $0.50-per-gallon excise-tax credit or payment for alternative fuel and a $0.50-per-gallon credit for alternative fuel mixed with traditional fuel. The alternative fuel credit is for fuel used in a motor vehicle, motor boat, or airplane and the mixture credit is not limited to transportation. Additionally, the provision modifies the mixture component of the credit by specifying that liquefied petroleum gas, compressed or liquefied natural gas, and compressed or liquefied gas derived from biomass, are not eligible to be included in an alternative fuel mixture.

Section 134. Oil spill liability trust fund rate. The provision imposes an excise tax of $0.09 per barrel on crude oil received at a refinery and petroleum products entered into the United States and deposited into the Oil Spill Liability Trust Fund effective beginning on the first day of the first calendar month beginning after the date of enactment.

Subtitle D—Certain Provisions Expiring at the End of 2019

Section 141. New Markets Tax Credit. The provision provides a $5 billion New Markets Tax Credit allocation for 2020. The proposal also extends for one year, through 2025, the carryover period for unused New Markets Tax Credits.

Section 142. Employer tax credit for paid family and medical leave. The provision provides an employer credit for paid family and medical leave, which permits eligible employers to claim an elective general business credit based on eligible wages paid to qualifying employees with respect to family and medical leave. The credit is equal to 12.5 percent of eligible wages if the rate of payment is 50 percent of such wages, and is increased by 0.25 percentage points (but not above 25 percent) for each percentage point that the rate of payment exceeds 50 percent. The maximum amount of family and medical leave that may be taken into account with respect to any qualifying employee is 12 weeks per taxable year.

Section 143. Work Opportunity Tax Credit. The provision provides an elective general business credit to employers hiring individuals who are members of one or more of ten targeted groups under the Work Opportunity Tax Credit program.

Section 144. Certain provisions related to beer, wine, and distilled spirits. The provision provides a reduction of certain excise taxes and simplified record-keeping requirements related to the taxation of beer, wine, and distilled spirits.

Section 145. Look-through rule for related controlled foreign corporations. The provision provides look-through treatment for payments of dividends, interest, rents, and royalties between related controlled foreign corporations.

Section 146. Credit for health insurance costs of eligible individuals. The provision provides a refundable credit (commonly referred to as the health coverage tax credit or "HCTC") equal to 72.5 percent of the premiums paid by certain individuals for coverage of the individual and qualifying family members under qualified health insurance.

TITLE II—DISASTER TAX RELIEF

Section 201. Definitions. The provision provides tax relief for individuals and businesses in Presidentially-declared disaster areas occurring between January 1, 2018 and 30 days following date of enactment of the legislation.

Section 202. Special disaster-related rules for use of retirement funds. The provision **p**rovides an exception to the 10 percent early retirement plan withdrawal penalty for qualified disaster relief distributions (not to exceed $100,000 in qualified hurricane distributions cumulatively). It allows for the re-contribution of retirement plan withdrawals for home purchases cancelled due to eligible disasters, and provides flexibility for loans from retirement plans for qualified hurricane relief.

Section 203. Employee retention credit for employers affected by qualified disasters. **The provision p**rovides a tax credit for 40 percent of wages (up to $6,000 per employee) paid by a disaster-affected employer to an employee from a core disaster area. The credit applies to wages paid without regard to whether services associated with those wages were performed.

Section 204. Other disaster-related tax relief provisions.

(a) **Temporary suspension of limitations on charitable contributions.** The provision temporarily suspends limitations on the deduction for charitable contributions associated with qualified disaster relief.

(b) **Special rules for qualified disaster-related personal casualty losses.** With respect to uncompensated losses arising in the disaster area, the provision eliminates the current law requirements that personal casualty losses must exceed 10 percent of Adjusted Gross Income to qualify for deduction. The bill would also eliminate the current law requirement that taxpayers must itemize deductions to access this tax relief.

(c) Special Rule for Determining Earned Income. The provision allows taxpayers in designated disaster areas to refer to earned income from the immediately preceding year for purposes of determining the Earned Income Tax Credit (EITC) and Child Tax Credit (CTC) in tax year 2018.

Section 205. Automatic extension of filing deadline. The provision provides any individual with a principal place of abode or any taxpayer with a principal place of business in a disaster area an automatic 60-day extension with regard to any tax filing.

Section 206. Modification of excise tax on private foundations. The provision modifies the private foundation excise tax rules. This simplification is intended to encourage private foundations to make larger one-time donations, such as is needed the case of disaster relief.

Section 207. Additional low-income housing tax credit allocations. The provision provides additional low-income housing credit allocations relating to qualified 2017 and 2018 California disasters.

Section 208. Treatment of Certain Possessions. The provision provides the Secretary of the Treasury the authority to make payments to Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa equal to the losses the territories would incur by reason of the application of the disaster relief provisions.

TITLE III—OTHER PROVISIONS

Section 301. Modification of income for purposes of determining tax-exempt status of certain mutual or cooperative telephone or electric companies. The provision modifies the definition of income used to determine the tax-exempt status of a mutual or cooperative telephone or electric company to exclude certain government grants, contributions, and assistance. Specifically, the provision excludes from income (1) grants, contributions, and assistance provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act or by local, state, or regional governmental entities for disasters or emergencies; and (2) certain grants or contributions provided by a government entity for electric, communications, broadband, internet, or other utility facilities or services.

Section 302. Repeal of increase in unrelated business taxable income for certain fringe benefit expenses. P.L. 115-97 required the unrelated business taxation income (UBTI) of tax-exempt organizations to be increased by expenses related to qualified transportation fringe benefits (the so-called “church parking tax”). This section repeals that requirement.