



# An Analysis of Changes in Federal Tax Laws for the year 2019



Prepared by the Taxation Strategic Committee  
Oregon Society of CPAs



# Oregon Society of Certified Public Accountants

## **Taxation Strategic Committee**

Chair: Kathryn A. Ashford

Vice Chair: Adam R. Abplanalp

## **Legislative Analysis Subcommittee**

Adam R. Abplanalp

Chad B. Crawford

John D. Hawkins

Douglas R. Henne

Gary A. Holcomb

Heather L. Jackson

Jason R. Orme

Katrina Z. Powell

Kimberly A. Spaulding

Oregon Society of Certified Public Accountants

PO Box 4555

Beaverton, OR 97076-4555

503-641-7200 / 800-255-1470

Fax: 503-626-2942

[orcpa.org](http://orcpa.org) / [oscpc@orcpc.org](mailto:oscpc@orcpc.org)



# Introduction

*On behalf of the Oregon Society of CPA's Taxation Strategic Committee, it is both an honor and a pleasure that we present an Analysis of Changes in Federal Tax Laws.*

## **Oregon Society of CPAs (OSCPA) Legislative Analysis**

This OSCPAs Legislative Analysis presents Federal tax law changes enacted since the Legislature adjourned from the 2019 session. Our committee has been presenting the Legislature with this analysis for many years. Our primary objective is to be a technical resource to the Legislature and, secondarily, to promote taxpayer compliance by striving to keep Oregon tax law tied to the Internal Revenue Code. This connect is accomplished by using both a "fixed date conformity" and a "permanent connection."

Oregon has a long history of conforming to the Internal Revenue Code, and to do so each Legislative Assembly analyzes the implications of recent Federal law changes. Occasionally, Federal Acts passed during the last several plus current year should be considered by the Legislature due to tax implications and the dates associated with the Act(s).

Oregon's "permanent connection" applies only to the definition of taxable income. Typically, we recommend that Federal changes to provisions that fall outside the definition of taxable income also be changed to conform to the Internal Revenue Code. Some examples of the types of items requiring a law change are tax credits, estimated tax provisions, and net operating loss rules. Many of these provisions are currently tied to definitions in the Internal Revenue Code as of Dec. 31, 2018 and the tie date should generally be updated to Dec. 31, 2019. For years beginning on or after Jan. 1, 2011, Oregon is permanently connected to the Internal Revenue Code for the definition of Federal taxable income. However, the Legislature has enacted certain exceptions such as disconnecting from the provisions related to the deduction for federal subsidies for prescription drug plans under IRC 139A, the deduction related to pass-through income under IRC 199A, and certain provisions related to IRC 529 tuition savings plans. Certain clarifications have also been added by the Legislature as it relates to global intangible low-taxed income (GILTI), foreign derived intangible income (FDII), and IRC Section 245A foreign-source portion dividends that were enacted as part of the Tax Cuts and Jobs Act of 2017.

This roadmap shows how the tax code was changed by the "Setting Every Community Up for Retirement Enhancement Act of 2019" (the "SECURE Act") and the "Taxpayer Certainty and Disaster Tax Relief Act of 2019" (the "Disaster Act") which are both passed on December 20, 2019 as part of the Further Consolidated Appropriations Act, 2020". (Pub. L. No. 116-94).



# Recommendations Key

## A

**General reconnect:** Oregon automatically reconnects to the Federal change. Oregon generally subscribes to the provisions being amended, and therefore, we do not recommend any change. No modification is necessary to tie to the Federal change.

## B

**No ORS change necessary:** No change is necessary to the ORS. This provision affects a credit, penalty, administrative rule, or other provision as Oregon has its own rules which apply only to the Federal tax system, does not apply to the determination of taxable income, or is automatically modified by provisions in the ORS. Oregon does not automatically adopt these provisions; however, no modification of ORS is necessary.

## C

**Note: There are no C recommendations**

**ORS change necessary:** A change to the ORS is necessary in order to conform to this Federal provision. To increase taxpayer compliance, it is recommended that Oregon Statutes conform as closely as possible to Federal changes.

## D

**No ORS change necessary:** These provisions reference the tax code, but do not impact tax law. We have analyzed any relevant tax provisions and they are included in Recommendations A through B above.

## E

The table in this section represents the "extenders" which were **passed** as part of the Taxpayer Certainty and Disaster Tax Relief Act of 2019. The list of provisions that have been extended is extensive and presented in this section for quick reference.

## F

The table in this section represents the "extenders" which have recently **expired**. This list is short and presented in this section for quick reference.



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# Table of Contents

Recommendation – A	Pages 6-18
Recommendation – B	Pages 19-24
Recommendation – C	Page 25
Recommendation – D	Pages 26-28
Recommendation – E	Pages 29-36
Recommendation – F	Pages 37-38



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# Recommendations – A

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## Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act)

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Topic	Prior Law	SECURE Act	Act Sections	I.R.C. Sections
<b>Multiple Employer Plans and Pooled Employer Plans</b>	<p>The Unified Plan Rule (one-bad-apple rule) provides that the failure of one participating employer in a multiple employer retirement plan (MEP) to meet plan qualification requirements in I.R.C. §401(a) generally causes the entire MEP to become unqualified. On July 3, 2019, the IRS issued proposed regulations that would provide relief from the one-bad-apple rule.</p> <p>Employers participating in MEPs must generally share a common characteristic, such as being in the same industry to participate in a MEP.</p> <p>On July 31, 2019, the Department of Labor issued final MEP regulations that require employers to be in the same industry or geographic location and does not allow “open MEPs” to be established covering employees of unrelated employers.</p>	<p>Provides relief from the one-bad-apple rule by treating assets in failed plan as generally being transferred to another plan maintained by the employer sponsoring the failed plan.</p> <p>Allows employers to establish “open MEPs” that do not require them to share a common characteristic that are administered by pooled service providers.</p> <p>Effective in plan years beginning after December 31, 2020.</p>	Div. O, §101	<p>§413(e) (new), §408(c)(3) (new)</p> <p>ERISA §3(2)(C)</p> <p>ERISA §3(43), 3(44) (new)</p> <p>ERISA §103(g), §104(a)(2)</p>
<b>Increase in 10 Percent Cap for Automatic Enrollment Safe Harbor After 1st Plan Year</b>	Safe harbor required automatic escalation of employee elective deferrals to be capped at 10% of employee pay.	<p>Increases safe harbor automatic escalation cap to 15% of employee pay after the first plan year.</p> <p>Effective for plan years beginning after December 31, 2019.</p>	Div. O, §102	§401(k)(13)
<b>Election of Safe Harbor Status</b>	A design-based safe harbor 401(k) plan generally complies with applicable nondiscrimination tests if the cash or deferred arrangement (CODA) satisfies: (1) a safe harbor contribution (matching or nonelective) requirement; (2) certain withdrawal and vesting requirements; (3) notice requirements, and (4) timing requirements for adoption of, and duration, of safe harbor status.	<p>Limits the safe harbor notice to matching contribution plans (CODAs).</p> <p>Permits amendments to nonelective status at any time before the 30th day before close of plan year. Later amendments are permitted if the amendments provide a nonelective</p>	Div. O, §103	§401(k)(12), §401(k)(13)

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<b>Election of Safe Harbor Status (cont.)</b>	Written notice, sufficiently accurate and comprehensive to inform eligible employees of their rights and obligations under the CODA, is required to be given to each eligible employee within a reasonable period of time before each plan year.	contribution of at least 4% of compensation for all eligible employees, and the plan is amended no later than the last day for distributing excess contributions for the applicable plan year.  Effective for plan years beginning after December 31, 2019.		
<b>Certain Non-Tuition Fellowship and Stipend Payments Treated as Compensation for IRA Purposes</b>	The total amount that an individual may contribute to one or more IRAs for a year is generally limited to the lesser of: (1) a dollar amount; and (2) the amount of the individual's compensation that is includible in gross income for the year. In the case of an individual who has attained age 50 by the end of the year, the dollar amount is increased by \$1,000. In the case of a married couple, contributions can be made up to the dollar limit for each spouse if the combined compensation of the spouses that is includible in gross income is at least equal to the contributed amount.  An individual may make contributions to a traditional IRA (up to the contribution limit) without regard to adjusted gross income.	For purposes of IRA contributions, treats an amount includible in an individual's income and paid to the individual to aid in the pursuit of graduate or postdoctoral study or research (such as a fellowship, stipend, or similar amount) as compensation for tax years beginning after December 31, 2019. This will allow graduate and postdoctoral students use of an IRA to save for retirement.	Div. O, §106	§219
<b>Repeal of Maximum Age for Traditional IRA Contributions</b>	Beneficiary must be under age 70 ½ to make a deductible contribution to a traditional IRA.  Up to \$100,000 per year of qualified charitable distributions from a traditional or Roth IRA are excluded from tax.	Repeals the prohibition on deductible contributions to a traditional IRA by an individual who has attained age 70 ½.  Reduces the qualified charitable distribution exclusion by the excess of the allowed IRA deduction for all taxable	Div. O, §107	§219(d), §408(d)(8)(A)

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Topic	Prior Law	SECURE Act	Act Sections	I.R.C. Sections
<b>Repeal of Maximum Age for Traditional IRA Contributions (cont.)</b>		years ending on or after age 70 ½ over the amount of all prior year reductions.  Effective for contributions and distributions made for taxable years beginning after December 31, 2019.		
<b>Qualified Employer Plans and Loan Prohibition</b>	Employer-sponsored retirement plans may provide loans to participants, but the amount of the loan is considered a deemed distribution unless (1) the loan does not exceed the lesser of 50% of the participant’s account balance or \$50,000; and (2) the loan must provide for repayment within 5 years (unless to acquire participant’s principal residence), with substantially level amortization.  There is no prohibition against distributing plan loans through a credit card or similar arrangement.	Treats plan loans made through the use of a credit card or similar arrangement as a deemed distribution.  Effective for loans made after December 20, 2019 (the date of enactment).	Div. O, §108	§72(p)(2)
<b>Portability of Lifetime Income Options</b>	A distribution from an employer-sponsored retirement plan generally may be rolled over on a nontaxable basis to another such plan or to an IRA, either by a direct transfer or by rollover within 60 days. Some investments impose a charge or fee when the investment is liquidated (e.g., an annuity contract or other lifetime income product imposes a surrender charge when discontinued).	Clarifies that if a lifetime income investment is no longer authorized to be held as an investment option under a defined contribution plan, §403(b) plan, or governmental §457(b) plan, the plan may allow qualified distributions of a lifetime income investment, or distributions of a lifetime income investment in the form of a qualified plan distribution annuity contract, within 90 days before the date the lifetime income investment is no longer authorized to be held as a plan investment option. Applies to plan years beginning after December 31, 2019.	Div. O, §109	§401(a)(38) (new), §401(k)(2), §403(b), §457(d)(1)

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<p><b>Treatment of Custodial Accounts on Termination of §403(b) Plans</b></p>	<p>Termination of a §403(b) plan generally requires all accumulated benefits to be distributed to all participants and beneficiaries as soon as administratively practicable after plan termination.</p> <p>Assets associated with §403(b) plans often consist of annuity contracts issued in the name of the particular participant or mutual funds held in a custodial account in the participant's name. This may prevent an employer from distributing these assets to effectuate a plan termination.</p> <p>Rev. Rul. 2011-7 provides guidance regarding plan termination and the tax treatment of delivery of a fully paid individual annuity contract to participants or beneficiaries.</p>	<p>Mandates Treasury to issue guidance providing a mechanism under which plan termination may proceed while assets that cannot otherwise be distributed remain in a tax-favored retirement savings vehicle.</p> <p>Treasury must issue such guidance not later than 6 months after December 20, 2019 (the date of enactment) to provide that: (1) if an employer terminates a §403(b) plan under which amounts are contributed to custodial accounts, the plan custodian may distribute an individual custodial account in kind to a plan participant or beneficiary and must maintain the distributed account on a tax-deferred basis as a §403(b)(7) custodial account, similar to the treatment of fully-paid annuity contracts under Rev. Rul. 2011-7, until amounts are actually paid; (2) distributed custodial account's §403(b)(7) status is generally maintained if it adheres to the §403(b) requirements in effect at distribution; and (3) a custodial account would not be considered distributed if the employer has any material retained rights under the account. Guidance must be retroactively effective for taxable years beginning after December 31, 2008.</p>	<p>Div. O, §110</p>	<p>§403(b)</p>

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<b>Clarification of Retirement Income Account Rules Relating to Church-Controlled Organization</b>	<p>Some rules prohibiting discrimination in favor of highly compensated employees apply to §403(b) plans generally but not to a plan maintained by a church or qualified church controlled organization. The law does not state whether employees of nonqualified church controlled organizations may be covered under a §403(b) plan that consists of a retirement income account.</p>	<p>Clarifies that a retirement income account may cover: a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry; an employee of an organization that is tax-exempt under §501 and is controlled by or associated with a church or a convention or association of churches; and an employee who is included in a church plan under certain circumstances after separation from the service of a church, a convention or association of churches, or an organization described above.</p> <p>Effective for years beginning before, on, or after December 20, 2019 (date of enactment).</p>	<p>Div. O, §111</p>	<p>§403(b)(9)</p>

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Topic	Prior Law	SECURE Act	Act Sections	I.R.C. Sections
<b>Qualified Cash or Deferred Arrangements Must Allow Long-Term Employees Working More Than 500 but Less Than 1,000 Hours Per Year to Participate</b>	<p>A qualified retirement plan generally may exclude from participation employees who do not attain age 21 or complete a year of service (a 12-month period with at least 1,000 hours of service) during a plan year.</p> <p>Qualified plans also can provide that an employee is not entitled to an allocation of employer nonelective or matching contributions for a plan year unless the employee completes either 1,000 hours of service during the plan year or is employed on the last day of the year even if the employee previously completed 1,000 hours of service in a prior year.</p>	<p>Allows long-term, part-time workers who work for at least 500 hours per year with an employer for at least three consecutive years that meet age 21 by the end of the three consecutive year period to become eligible to participate in their employer’s qualified retirement plans.</p> <p>Employers may exclude employees who are eligible to participate in the plan solely due to this provision from the nondiscrimination and coverage rules and the application of the top-heavy rules.</p> <p>The provision is effective for plan years beginning after December 31, 2020, except for determining whether the three consecutive year period is met, 12-month periods beginning before January 1, 2021 are not taken into account.</p>	Div. O, §112	§401(k), §410
<b>Increase in Age for Required Beginning Date for Mandatory Distributions</b>	<p>Employer-provided qualified retirement plans, traditional IRAs, and individual retirement annuities are subject to required minimum distribution rules.</p> <p>Required minimum distributions generally must begin on April 1 of the calendar year following the later of the calendar year in which the individual reaches age 70 ½ or retires.</p>	<p>Increases age for required minimum distributions to age 72.</p> <p>Applies to distributions required to be made after December 31, 2019, with respect to individuals who attain age 70 ½ after such date.</p>	Div. O, §114	§401(a)(9)

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Topic	Prior Law	SECURE Act	Act Sections	I.R.C. Sections
<p><b>Election to Apply Alternative Minimum Funding Standards to Certain Single Employer Community Newspaper Plans</b></p>	<p>Defined benefit plans must generally meet minimum funding requirements, and when plan assets do not meet a plan’s target funding level, a funding shortfall exists.</p> <p>Plans with funding shortfalls must make ameliorative contributions over a 7-year period to restore plan assets to the target funding level. Shortfall funding contributions must include target normal costs.</p> <p>Interest rates used to determine the funding target and target normal cost are as set forth under §430(h)(2).</p>	<p>Provides alternative minimum funding standards to certain community newspaper plan sponsors with funding shortfalls. Such plans may extend ameliorative contributions over a 30-year period to restore plan assets to the target funding level. Also increases the interest rates used to determine the funding target and target normal cost to 8%.</p> <p>Plan sponsors of community newspaper plans may elect to apply the alternative funding status if no participant has had an accrued benefit increase after December 31, 2017. Any election would apply for all subsequent plan years after the date of election, unless revoked with permission of the Treasury Secretary. Generally effective for plan years ending after December 31, 2017.</p>	<p>Div. O, §115</p>	<p>§430(m) (new)</p> <p>ERISA §303(m) (new)</p>

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Topic	Prior Law	SECURE Act	Act Sections	I.R.C. Sections
<b>Treating Excluded Difficulty of Care Payments as Compensation For Determining Retirement Contribution Limitations</b>	<p>A qualified foster care payment that is a “difficulty of care” payment is compensation that the State determines is needed to provide additional care for qualified foster individuals with a disability. The payments are excluded from income. Home healthcare workers receiving only these payments cannot participate in qualified retirement plans or IRAs because the payments are not considered compensation or earnings upon which contributions may be made.</p>	<p>Allows individuals who exclude difficulty of care payments from income to elect to increase the nondeductible contribution limit for an IRA to include those payments.</p> <p>Applies to contributions made after December 20, 2019 (the date of enactment).</p> <p>Allows individuals who exclude difficulty of care payments from income to treat the excluded amount as compensation in determining their defined contribution plan contribution for a year. The amount is treated as an after-tax contribution.</p> <p>With respect to defined contribution plans, the provision applies to plan years beginning after December 31, 2015, and with respect to IRAs, the provision applies to contributions after December 20, 2019 (the date of enactment).</p>	<p>Div. O, §116</p>	<p>§408(o)(5) (new), §415(c)(8) (new)</p>

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Topic	Prior Law	SECURE Act	Act Sections	I.R.C. Sections
<b>Plan Adopted by Filing Due Date for Year May Be Treated as in Effect as of Close of Year</b>	A qualified retirement plan must be in existence by the last day of a taxable year to be treated as maintained for that taxable year. Section 401(b) does not permit a plan to be made retroactively effective, for qualification purposes, for a taxable year prior to the taxable year of the employer in which the plan was adopted.	Provides that an employer may elect to treat a qualified retirement plan adopted after the close of a taxable year but before the employer’s tax return is due (including extensions) as having been adopted as of the last day of the taxable year.  Effective for plans adopted for taxable years beginning after December 31, 2019.	Div. O, §201	§401(b)
<b>Modification of Nondiscrimination Rules to Protect Older, Longer Service Participants</b>	<p>Tax-qualified plans must meet tests to demonstrate that benefits and contributions do not discriminate in favor of highly compensated employees. Funding concerns may prompt a plan sponsor to freeze a defined benefit plan. A “soft” freeze permits no new participants, but some or all existing participants continue to accrue benefits. The plan must continue to satisfy all qualification requirements.</p> <p>Under the “minimum participation” rule, a qualified defined benefit plan generally must benefit on each day of the plan year at least the lesser of: (1) 50 employees, or (2) the greater of two employees (or if there is only one employee, that employee) or 40% of all employees.</p>	<p>Provides special nondiscrimination rules to test defined benefit plans with closed classes of participants.</p> <p>Also, provides that defined contribution plans that provide make-whole contributions to a closed class whose defined benefit plan accruals have been reduced or eliminated and meet other requirements may be tested on a benefits basis.</p> <p>A plan that is amended to cease all benefit accruals or to provide future accruals only to a closed class satisfies the general minimum participation rule if the amendment was adopted before April 5, 2017, or the plan was in effect for 5 or more years before it closed and had not had a substantial increase in coverage or benefits in 5 years.</p>	Div. O, §205	§401(a)(26), §401(o) (new)

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<b>Modification of Nondiscrimination Rules to Protect Older, Longer Service Participants (cont.)</b>		<p>Generally effective on December 20, 2019 (the date of enactment), without regard to whether amendment related plan modifications are adopted or effective before, on, or after the date of enactment.</p> <p>Plan sponsors may elect to apply the rules to plan years beginning after December 31, 2013.</p>		
<b>Benefits Provided to Volunteer Firefighters and Emergency Medical Responders</b>	Volunteer firefighters and emergency medical responders could exclude from gross income qualified state and local tax benefits and qualified payments for services performed as a member of a qualified volunteer emergency response organization for taxable years beginning in 2008 through 2010.	<p>Reinstates the exclusions from gross income for one year and increases the qualified payment exclusion amount from \$30 to \$50 for each month during which a volunteer performs services.</p> <p>Effective for taxable years beginning after December 31, 2019.</p>	Div. O, §301	§139B
<b>Expansion of Section 529 Plans</b>	Qualified higher education expenses reimbursed by a qualified tuition program include: tuition, fees, books, supplies, and equipment required for a designated beneficiary's enrollment or attendance at an eligible educational institution; special needs services expenses for a special needs beneficiary that are incurred in connection with enrollment or attendance; room and board for students who are enrolled at least halftime; and computer technology or equipment, or Internet access or related services, to be used primarily by the beneficiary during any years of enrollment.	<p>Provides that tax-free treatment for higher education expense distributions also applies to certain expenses for: (1) a registered apprenticeship program's required fees, books, supplies, and equipment; and (2) qualified education loan repayments of up to \$10,000, with a separate accounting for siblings. The deduction for student loan interest is reduced by distributions for loans that are treated as qualified higher education expenses.</p> <p>Effective for distributions made after December 31, 2018.</p>	Div. O, §302	§221(e)(1), §529(c)

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<p><b>Modification of Minimum Required Distribution Rules for Designated Beneficiaries</b></p>	<p>In general, the date by which distributions of retirement plan benefits must be made to the participant’s beneficiary is controlled by the pay status of plan benefits at the time of the participant’s death and the participant’s choice of beneficiary. If the participant dies before distributions have begun, the participant’s entire benefit must be distributed by December 31 of the calendar year that contains the fifth anniversary of the participant’s death (the five-year rule), unless either the designated beneficiary exception or the spousal exception applies.</p>	<p>Requires the entire interest to be distributed to a designated beneficiary within 10 years after the death of the employee, whether or not distributions of the employee’s interests have begun. An exception exists for eligible designated beneficiaries that generally allows distributions over the life or life expectancy of the eligible beneficiary beginning in the year following the year of the employee’s death. eligible designated beneficiaries include (1) surviving spouses, (2) children who have not reached the age of majority, and (3) disabled and chronically ill beneficiaries. Surviving spouses can still elect to delay distributions until the end of the year that the employee (or IRA owner) would have attained age 70 ½ (or age 72, as appropriate).</p> <p>Generally, applicable to distributions with respect to employees who die after December 31, 2019. Certain exceptions exist (e.g., governmental plans).</p>	<p>Div. O, §401</p>	<p>§401(a)(9)</p>

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<b>Provisions Relating to Plan Amendments</b>	A qualified retirement plan has a remedial amendment period during which, under certain circumstances, it may be amended retroactively to comply with the qualification requirements. The anti-cutback rule generally prohibits plan amendment that reduce accrued benefits.	Provides that compliance with the qualification requirements and relief from the anti-cutback rule generally is available for an amendment to any retirement plan or annuity contract made pursuant to any amendment made by the Act or a Treasury or Labor regulation issued under the Act, if made on or before the last day of the first plan year beginning on or after January 1, 2022 (2024 for governmental plans under §414(d) and certain collectively bargained plans), or a later date prescribed by the Treasury Secretary.	Div. O, §601	



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Topic	Prior Law	SECURE Act	Act Sections	I.R.C. Sections
<b>Increase in Credit for Small Employer Pension Plan Startup Costs</b>	<p>A nonrefundable income tax credit is available for qualified startup costs of an eligible small employer that adopts a new qualified retirement plan, SIMPLE IRA plan, or SEP (referred to as an eligible employer plan), provided that the plan covers at least one non-highly compensated employee (NHCE).</p> <p>The credit is equal to the lesser of (1) a flat dollar amount of \$500 per year or (2) 50 percent of the qualified startup costs. The credit applies for up to three years beginning with the year the plan is first effective, or, at the election of the employer, with the year preceding the first plan year.</p>	<p>Increases the credit limitation by changing the flat dollar amount calculation to the greater of (1) \$500 or (2) the lesser of (a) \$250 multiplied by the number of NHCEs of the eligible employer who are eligible to participate in the plan or (b) \$5,000. The credit applies for up to three years, as under prior law.</p> <p>Effective for tax years beginning after December 31, 2019.</p>	Div. O, §104	§45E
<b>Small Employer Automatic Enrollment Credit</b>	No existing provision.	<p>Adds a \$500 per year general business tax credit for employers with no more than 100 employees receiving at least \$5,000 of compensation for the preceding year. The employer may take the credit for up to three years for (1) startup costs for a qualified employer plan (e.g., §401(k), SIMPLE IRA) that includes automatic enrollment (in addition to the §45E credit), or (2) for costs for converting an existing plan to an automatic enrollment design.</p> <p>Effective for taxable years beginning after December 31, 2019.</p>	Div. O, §105	§45T (new), §38(b)

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## Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act)

### Recommendation - B

**No ORS change necessary:** No change is necessary to the ORS. This provision affects a credit, penalty, administrative rule, or other provision as Oregon has its own rules which apply only to the Federal tax system, does not apply to the determination of taxable income, or is automatically modified by provisions in the ORS. Oregon does not automatically adopt these provisions; however, no modification of ORS is necessary.

Topic	Prior Law	SECURE Act	Act Sections	I.R.C. Sections
<b>Penalty-Free Withdrawals from Retirement Plans for Individuals in Case of Birth of Child or Adoption</b>	A distribution from a qualified retirement plan, a tax-sheltered annuity plan (a §403(b) plan), an eligible deferred compensation plan of a state or local government employer or an IRA generally is included in income for the year distributed. In addition, unless an exception applies, a distribution from a qualified retirement plan, a §403(b) plan, or an IRA received before age 59 ½ is subject to a 10-percent additional tax (the “early withdrawal tax”) on the amount includible in income.	<p>Provides an exception to the 10% early withdrawal tax for qualified birth or adoption distributions from an applicable eligible retirement plan made after December 31, 2019. The maximum aggregate amount that may be treated as qualified birth or adoption distributions by any individual is \$5,000.</p> <p>A qualified birth or adoption distribution is a distribution from an applicable eligible retirement plan to an individual if made during the 1-year period beginning on the date on which the individual’s child is born or on which the legal adoption of an eligible adoptee is finalized.</p> <p>Qualified birth or adoption distributions may be recontributed to an individual’s applicable eligible retirement plans, subject to certain requirements. Eligible retirement plans include the following plans, other than defined benefit plans: qualified defined contribution plans, §403(b) plans, governmental §457(b) plans, and IRAs.</p>	Div. O, §113	§72(t), §401, 403, §408, §457, §3405

## Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act)

### Recommendation - B

**No ORS change necessary:** No change is necessary to the ORS. This provision affects a credit, penalty, administrative rule, or other provision as Oregon has its own rules which apply only to the Federal tax system, does not apply to the determination of taxable income, or is automatically modified by provisions in the ORS. Oregon does not automatically adopt these provisions; however, no modification of ORS is necessary.

Topic	Prior Law	SECURE Act	Act Sections	I.R.C. Sections
<b>Combined Annual Report for Group of Plans</b>	I.R.C. §6058 requires an employer maintaining a qualified retirement plan generally to file an annual return containing information related to the qualification, financial condition, and operation of the plan. ERISA §104 requires plan sponsors to file Form 5500, Annual Return/Report of Employee Benefit Plan, with the Labor Department, which shares information with the IRS. A separate Form 5500 is required for each plan.	<p>Requires the Secretaries of Labor and the Treasury, in cooperation, not later than January 1, 2022, for plan years beginning after December 31, 2021, to modify the returns required under I.R.C. §6058 and ERISA §104 so that all members of a group of identical individual account or defined contribution plans (same trustee, named fiduciaries, administrator, and plan year start date) may file a single aggregated annual return or report that satisfies both I.R.C. §6058 and ERISA §104.</p> <p>Also requires that, in determining whether mandatory electronic filing is triggered for a return required under §6058, information regarding each plan for which information is provided on such return is treated as a separate return.</p> <p>Effective for returns required to be filed with respect to plan years beginning after December 31, 2019.</p>	Div. O, §202	§6011(e)

## Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act)

### Recommendation - B

**No ORS change necessary:** No change is necessary to the ORS. This provision affects a credit, penalty, administrative rule, or other provision as Oregon has its own rules which apply only to the Federal tax system, does not apply to the determination of taxable income, or is automatically modified by provisions in the ORS. Oregon does not automatically adopt these provisions; however, no modification of ORS is necessary.

Topic	Prior Law	SECURE Act	Act Sections	I.R.C. Sections
<b>Increase in Penalty for Failure to File</b>	Where an income tax return is more than 60 days late, the failure to file penalty cannot be less than \$205, adjusted for inflation, or the tax required to be shown on the return (whichever is lesser), unless the failure is due to reasonable cause and not willful neglect. For returns required to be filed after December 31, 2019, the statutory penalty amount cannot be less than \$330, adjusted for inflation.	Further increases the statutory amount under §6651(a) and §6651(j) from \$330 to \$435.  Applicable to returns the due date for which (including extensions) is after December 31, 2019.	Div. O, §402	§6651(a), §6651(j)
<b>Increased Penalties for Failure to File Retirement Plan Returns</b>	A penalty of \$1 per day of delinquency is imposed upon the plan administrator for each participant for whom there is failure to file a Form 8955-SSA, up to a maximum of \$5,000, unless the failure is due to reasonable cause.  The IRS may impose a penalty of \$25 per day, up to a maximum of \$15,000, for failure to file an annual report, unless the failure is due to reasonable cause.  The payor of a designated distribution must provide notice of the right to elect out of §3405 withholding. There is a \$10 penalty tax, up to a maximum of \$5,000 per calendar year, on each failure to provide notice, unless the failure is due to reasonable cause and not willful neglect.	Increases penalties ten-fold (e.g., \$10 per day up to a maximum of \$50,000 for failure to file Form 8955SSA, \$250 per day, up to a maximum of \$150,000 for failure to file an annual report, and \$100 a day up to a maximum of \$50,000 for failure to provide notice to elect out of §3405 withholding).  Applicable to returns, statements, and notifications required to be filed, and notices required to be provided, after December 31, 2019.	Div. O, §403	§6652(d), §6652(e), §6652(h)

## Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act)

### Recommendation - B

**No ORS change necessary:** No change is necessary to the ORS. This provision affects a credit, penalty, administrative rule, or other provision as Oregon has its own rules which apply only to the Federal tax system, does not apply to the determination of taxable income, or is automatically modified by provisions in the ORS. Oregon does not automatically adopt these provisions; however, no modification of ORS is necessary.

Topic	Prior Law	SECURE Act	Act Sections	I.R.C. Sections
<b>Increase Information Sharing to Administer Excise Taxes</b>	<p>Generally, tax returns and return information are confidential, and may not be disclosed unless the I.R.C. specifically authorizes it.</p> <p>I.R.C. §6103 provides exceptions to the general rule of confidentiality, detailing permissible disclosures. Under §6103(h)(1), tax information is open to inspection by or disclosure to Treasury officers and employees whose official duties require the inspection or disclosure for tax administration purposes.</p>	<p>Allows the IRS to share returns and return information with employees of U.S. Customs and Border Protection for purposes of administering and collecting the heavy vehicle use tax.</p> <p>Effective December 20, 2019 (date of enactment).</p>	Div. O, §404	§6103(o), §6103(p)(4)
<b>Modification of Rules Relating to the Taxation of Unearned Income of Certain Children</b>	<p>The “kiddie tax” taxes certain unearned income of a child as if it’s the parents’ income. For tax years beginning after 2017 and before 2026, the Tax Cuts and Jobs Act (TCJA), Pub. L. No. 115-97, modifies the kiddie tax to effectively apply ordinary and capital gains rates applicable to trusts and estates to the net unearned income of a child.</p>	<p>Strikes the TCJA amendment to the tax rates under the kiddie tax.</p> <p>Applies to taxable years beginning after December 31, 2019. Taxpayers may elect, as provided by the IRS, to also apply to taxable years beginning in 2018, 2019, or both. Coordinating amendment to the alternative minimum tax applies to taxable years beginning after December 31, 2017.</p>	Div. O, §501	§1(j), §55(d)(4)





# Recommendations – C

Note: There are no C recommendations this year.

**ORS change necessary:** A change to the ORS is necessary in order to conform to this Federal provision. To increase taxpayer compliance, it is recommended that Oregon Statutes conform as closely as possible to Federal changes.



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# Recommendations – D

**No ORS change necessary:** These provisions reference the tax code, but do not impact tax law. We have analyzed any relevant tax provisions and they are included in Recommendations A through B above.

## Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act)

### Recommendation - D

**No ORS change necessary:** These provisions reference the tax code, but do not impact tax law. We have analyzed any relevant tax provisions and they are included in Recommendations A through B above.

Topic	Prior Law	SECURE Act	Act Sections	I.R.C. Sections
<b>Disclosure Regarding Lifetime Income</b>	The administrator of a defined contribution plan must provide benefit statements to participants annually, or if a participant has the right to direct the investment of assets in the account, quarterly. A benefit statement for a defined contribution plan is not required to include a lifetime income disclosure.	Requires the Labor Secretary to (1) issue a model lifetime income disclosure, (2) prescribe assumptions that individual account plan administrators may use to convert total accrual benefits into lifetime income stream equivalents for purpose of the disclosure, and (3) issue interim final rules not later than 1 year after December 20, 2019 (the date of enactment).  Pension benefit statements must include disclosures regarding lifetime income effective for pension benefit statements furnished more than 12 months after the latest of the three actions described above.	Div. O, §203	ERISA §105(a)(2)
<b>Fiduciary Safe Harbor for Selection of Lifetime Income Provider</b>	An ERISA plan fiduciary has core duties of loyalty, prudence, investment diversification, and following the terms of plan documents that comply with ERISA. Labor Department regulations provide a safe harbor for a fiduciary to satisfy the prudence requirement in selecting an annuity provider and a contract for benefit distributions from a defined contribution plan. ERISA and the regulations do not establish a fiduciary standard for selection of a lifetime income provider.	Sets forth measures that a plan fiduciary has the option to take to ensure that the prudence requirement is satisfied in selecting an insurer to provide a guaranteed retirement income contract to the plan.  Effective December 20, 2019 (date of enactment).	Div. O, §204	ERISA §404(e) (new)

## Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act)

### Recommendation - D

**No ORS change necessary:** These provisions reference the tax code, but do not impact tax law. We have analyzed any relevant tax provisions and they are included in Recommendations A through B above.

Topic	Prior Law	SECURE Act	Act Sections	I.R.C. Sections
<b>Modification of PBGC Premiums for CSEC Plans</b>	Plan sponsors of single employer and multiemployer plans, including cooperative and small employer charity plans (CSEC plans), must participate in the Pension Benefit Guaranty Corporation (PBGC) insurance program. PBGC premium rules require flat rate, per participant premiums and variable rate premiums based on unfunded vested benefits (UVB). Although CSEC plans are subject to less stringent minimum funding rules, they must pay the same premium rates as non-CSEC plans.	Lowers the flat-rate and variable rate premiums for CSEC plans to \$19 and to \$9 per \$1,000 of UVBs, respectively, and provides a separate definition of UVBs for CSEC plans.  Effective for plan years beginning after December 31, 2018.	Div. O, §206	ERISA §4006(a)



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# Recommendations – E

The table in this section represents the “extenders” which were **passed** as part of the Taxpayer Certainty and Disaster Tax Relief Act of 2019. The list of the provisions that have been extended is extensive and presented in this section for quick reference

## Taxpayer Certainty and Disaster Tax Relief Act of 2019

### Recommendation – E

The table in this section represents the “extenders” which were **passed** as part of the Taxpayer Certainty and Disaster Tax Relief Act of 2019. The list of the provisions that have been extended is extensive and presented in this section for quick reference.

Credit	IRC Section	Expiration
Research Credit	§41	Extended permanently
New Markets	§45D(f)	December 31, 2020
Contribution to ABLE account eligible for retirement savings credit	§25B(d)(1)(D)	December 31, 2025
Health Insurance Costs	§35(b)	December 31, 2020
Railroad Track Maintenance	§45G(f)	December 31, 2022
Energy [Increased credit for business solar]	§48(a)(2)(A)(i)(II)	December 31, 2021
Energy [Solar lighting]	§48(a)(3)(A)(ii)	December 31, 2021
Energy [Geothermal heat pump]	§48(a)(3)(A)(vii)	December 31, 2021
Investment Credit in Lieu of the Production Credit [Other than wind]	§48(a)(5)(C)(ii)	December 31, 2020
Investment Credit in Lieu of the Production Credit [Wind]	§48(a)(5)(C)(ii)	December 31, 2020
Energy [Fuel cell]	§48(c)(1)(D)	December 31, 2021
Energy [Wind]	§48(c)(4)(C)	December 31, 2021
Energy [Combined heat and power]	§48(c)(3)(A)(iv)	December 31, 2021
Energy [Microturbine]	§48(c)(2)(D)	December 31, 2021
Second generation biofuel producer credit	§40(b)(6)(J)	December 31, 2020
Biodiesel and Renewable Diesel Fuel	§40A(g)	December 31, 2022
Nonbusiness Energy Property	§25C(g)	December 31, 2020
Residential Energy Efficient Property	§25D(h)	December 31, 2021
New Energy Efficient Home	§45L(g)	December 31, 2020
Alternative Motor Vehicle [qualified fuel cell]	§30B(k)(1)	December 31, 2020
Alternative Fuel Vehicle Refueling Property	§30C(g)	December 31, 2020

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## Taxpayer Certainty and Disaster Tax Relief Act of 2019

### Recommendation – E

The table in this section represents the “extenders” which were **passed** as part of the Taxpayer Certainty and Disaster Tax Relief Act of 2019. The list of the provisions that have been extended is extensive and presented in this section for quick reference.

Credit	IRC Section	Expiration
New Qualified Plug-In Electric Drive Motor Vehicles [two- and three-wheeled]	§30D(g)(3)(E)(ii)	December 31, 2020
Advanced Nuclear Power Facilities	§45J(d)(1)(B)	December 31, 2020
Enhanced Child Tax	§24(h)	December 31, 2025
Work Opportunity	§51(c)(4)	December 31, 2020
Indian Employment	§45A(f)	December 31, 2020
Empowerment Zone Employment	§1396, §1391(d)(1)(A)(i)	December 31, 2020
American Opportunity	§25A	Extended permanently
Mine Rescue Team Training	§45N(e)	December 31, 2020
Renewable Energy [Wind]	§45(d)(1)	December 31, 2020
Renewable Energy [Biomass]	§45(d)(2)(A), 45(d)(3)(A)	December 31, 2020
Renewable Energy [Indian coal]	§45(e)(10)	December 31, 2020
Renewable Energy [Geothermal]	§45(d)(4)(B)	December 31, 2020
Renewable Energy [Landfill Gas Facilities]	§45(d)(6)	December 31, 2020
Renewable Energy [Trash Facilities]	§45(d)(7)	December 31, 2020
Renewable Energy [Qualified Hydropower Facility]	§45(d)(9)	December 31, 2020
Renewable Energy [Marine and Hydrokinetic Renewable Energy Facilities]	§45(d)(11)(B)	December 31, 2020
Designation of Empowerment Zones	§1391(d)(1)(A)(i)	December 31, 2020
Empowerment Zone Tax Exempt Bonds	§1394, §1391(d)(1)(A)(i)	December 31, 2020
American Samoa economic development credit	Pub. L. No. 109-432, Sec. 119, as amended	December 31, 2020
Employer Credit for Paid Family and Medical Leave	§45S(i)	December 31, 2020

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## Taxpayer Certainty and Disaster Tax Relief Act of 2019

### Recommendation – E

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Credit	IRC Section	Expiration
Indian Coal Production	§45(e)(10)(A)	December 31, 2020
Qualified Carbon Oxide Sequestration Facilities	§45Q(d)(1)	December 31, 2023
Suspension of personal exemption	§151(d)(5)	December 31, 2025
Limitation on deduction of taxes	§164(b)(6)	December 31, 2025
Personal casualty losses limited to federally declared disaster areas	§165(h)(5)	December 31, 2025
Modification of wagering losses	§165(d)	December 31, 2025
Three-year depreciation for race horses two years old or younger	§168(e)(3)(A)	December 31, 2020
Five-year cost recovery for solar illumination property and geothermal heating and cooling equipment	§168(e)(3)(B)(vi)(I), §48(a)(3)(A)	December 31, 2021
Five-year cost recovery for machinery and equipment used in farming business	§168(e)(3)(B)(vii)	Permanent for property placed in service after December 31, 2017
Seven-year recovery period for motorsports entertainment complexes	§168(e)(3)(C)(ii), §168(i)(15)(D)	December 31, 2020
Accelerated depreciation for business property on an Indian reservation	§168(j)(9)	December 31, 2020
Special depreciation allowance for second generation biofuel plant property	§168(l)(2)(D)	December 31, 2020
Increased charitable contribution deduction limitation	§170(b)(1)(G)	December 31, 2025
Treatment of certain qualified film and television productions	§181(g)	December 31, 2020
Medical expense 7.5% deduction	§213(f)	December 31, 2020
Suspension of moving expense deduction	§217(k)	December 31, 2025
Qualified tuition and related expenses	§222(e)	December 31, 2020

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## Taxpayer Certainty and Disaster Tax Relief Act of 2019

### Recommendation – E

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Credit	IRC Section	Expiration
Mortgage insurance premium treated as qualified mortgage interest	§163(h)(3)(E)(iv)	December 31, 2020
Limitation on qualified residence interest deduction	§163(h)(3)(F)	December 31, 2025
Energy Efficient Commercial Buildings Deduction	§179D(h)	December 31, 2020
Election to Expense Advanced Mine Safety Equipment	§179E(g)	December 31, 2017
Increased standard deduction	§63(c)(7)	December 31, 2025
Empowerment Zone Increased 179 Expensing	§1397A, §1391(d)(1)(A)(i)	December 31, 2020
Suspension of miscellaneous itemized deductions	§67(g)	December 31, 2025
Suspension of limitations on itemized deductions	§68(f)	December 31, 2025
Qualified business income deduction	§199A(i)	December 31, 2025
Employer meals and eating facilities	§274(o)	December 31, 2025
Qualified transfer of pension assets	§420(b)(4)	December 31, 2025
Suspension of excess business loss deduction of noncorporate taxpayer	§461(l)	December 31, 2025
Additional first-year depreciation [qualified property]	§168(k)(2)(A)(iii), §460(c)(6)(B)	December 31, 2026 (December 31, 2027 for certain longer-lived and transportation property)
Additional first-year depreciation [plants bearing fruits and nuts]	§168(k)(5)(A)	December 31, 2026
Expensing of cost of replanting citrus plants lost by casualty	§263A(d)(2)(C)(ii)	December 22, 2027
Exclusion of discharge of indebtedness income on principal residence	§108(a)(1)(E)	December 31, 2020
Nonrecognition of gain from rollover of empowerment zone investments	§1397B, §1391(d)(1)(A)(i)	December 31, 2020

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## Taxpayer Certainty and Disaster Tax Relief Act of 2019

### Recommendation – E

The table in this section represents the “extenders” which were **passed** as part of the Taxpayer Certainty and Disaster Tax Relief Act of 2019. The list of the provisions that have been extended is extensive and presented in this section for quick reference.

Credit	IRC Section	Expiration
Look-through treatment of payments between related CFCs under foreign PHC rules	§954(c)(6)(C)	December 31, 2020
Modified individual income tax rates	§1(j)	December 31, 2025
Individual AMT exemption and phaseout	§55	December 31, 2025
Special rule for dispositions to implement FERC or state electric restructuring policy	§451(k)(3)	December 31, 2020
Tax exemption for student loan discharges on account of death or disability	§108(f)(5)	December 31, 2025
Treatment of certain individuals performing services in the Sinai Peninsula of Egypt	§112; Pub. L. No. 115-97, Sec. 11026	December 31, 2025
Suspension of exclusion for reimbursement of bicycle commuting	§132(f)(8)	December 31, 2025
Suspension of exclusion for moving expense reimbursement	§132(g)(2)	December 31, 2025
Rollovers from qualified tuition program to ABLE account permitted	§529(c)(3)(C)(i)(III)	December 31, 2025
Increased limit for contributions to ABLE account	§529A(b)(2)(B)	December 31, 2025
Increased estate and gift tax exemption	§2010(c)(3)(C)	December 31, 2025
Deferral of capital gains invested in a qualified opportunity zone	§1400Z-2(a)(2)	December 31, 2026
Excise tax credits and outlay payments for biodiesel fuel mixtures	§6426(c)(6)	December 31, 2022
Excise tax credits and outlay payments for biodiesel fuel mixtures	§6427(e)(6)(B)	December 31, 2022
Excise tax credits and outlay payments for alternative fuel	§6426(d)(5)	December 31, 2020
Excise tax credits and outlay payments for alternative fuel	§6427(e)(6)(C)	December 31, 2020
Excise tax credits for alternative fuel mixtures	§6426(e)(3)	December 31, 2020

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## Taxpayer Certainty and Disaster Tax Relief Act of 2019

### Recommendation – E

The table in this section represents the “extenders” which were **passed** as part of the Taxpayer Certainty and Disaster Tax Relief Act of 2019. The list of the provisions that have been extended is extensive and presented in this section for quick reference.

Credit	IRC Section	Expiration
Oil Spill Liability Trust Fund financing rate	§4611(f)(2)	December 31, 2020
Black Lung Disability Trust Fund: Coal Tax	§4121(e)(2)	December 31, 2020
Temporary increase in limit on cover over of rum excise tax revenues (from \$10.50 to \$13.25 per proof gallon) to Puerto Rico and the Virgin Islands	§7652(f)	December 31, 2021
Airport and Airway Trust Fund excise taxes: All but 4.3 cents-per-gallon of taxes on noncommercial aviation kerosene and noncommercial aviation gasoline	§4081(d)(2)(B), §4083(b)	September 30, 2023
Airport and Airway Trust Fund excise taxes: Domestic and international air passenger ticket taxes and ticket tax exemption for aircraft in fractional ownership aircraft programs	§4261(k)	September 30, 2023
Airport and Airway Trust Fund excise taxes: Domestic and international air passenger ticket taxes and ticket tax exemption for aircraft in fractional ownership aircraft programs	§4261(j)	September 30, 2023
Airport and Airway Trust Fund excise taxes: Air cargo tax	§4271(d)	September 30, 2023
Provisions modifying the rates of taxation of beer, wine and distilled spirits, and certain other rules	§263A(f)(4)(B), §5001, §5041, §5051, §5212, and §5414	December 31, 2020
Surtax on fuel used in aircraft in a fractional ownership program	§4043(d)	September 30, 2023
Highway Trust Fund excise tax rates: All but 4.3 cents-per-gallon of the taxes on highway gasoline, diesel fuel, kerosene, and alternative fuels	§4041(a), §4081(d)(1)	September 30, 2022
Highway Trust Fund excise tax rates: Reduced rate of tax on partially exempt methanol or ethanol fuel	§4041(m)	September 30, 2022
Highway Trust Fund excise tax rates: Tax on retail sale of heavy highway vehicles	§4051(c)	September 30, 2022

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## Taxpayer Certainty and Disaster Tax Relief Act of 2019

### Recommendation – E

The table in this section represents the “extenders” which were **passed** as part of the Taxpayer Certainty and Disaster Tax Relief Act of 2019. The list of the provisions that have been extended is extensive and presented in this section for quick reference.

Credit	IRC Section	Expiration
Highway Trust Fund excise tax rates: Tax on heavy truck tires	§4071(d)	September 30, 2022
Leaking Underground Storage Tank (LUST) Trust Fund financing rate	§4041(d)(4), §4042(b)(4), and §4081(d)(3)	September 30, 2022
Highway Trust Fund excise tax rates: Annual use tax on heavy highway vehicles	§4481(f)	September 30, 2023
Specified health insurance policy fee	§4375(e)	September 30, 2029
Self-insured health plan fee	§4376(e)	September 30, 2029

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# Recommendations – F

The table in this section represents the “extenders” which have recently **expired**. This list is short and presented in this section for quick reference.

## Taxpayer Certainty and Disaster Tax Relief Act of 2019

### Recommendation - F

The table in this section represents the “extenders” which have recently **expired**. This list is short and presented in this section for quick reference.

Credit	IRC Section	Expiration
Qualified School Construction Bonds	§54F	Repealed, December 31, 2017
Build America Bonds	§54AA	Repealed December 31, 2017
Credit to Holders of CREBs	§54	Repealed, December 31, 2017
New CREBs	§54C	Repealed, December 31, 2017
Qualified Forestry Conservation Bonds	§54B	Repealed, December 31, 2017
Qualifying Energy Conservation Bonds	§54D	Repealed, December 31, 2017
QZABs	§54E	Repealed, December 31, 2017
Old QZABs	§1397E	Repealed, December 31, 2017
Gulf Tax Credit Bonds	§1400N(l)	Repealed, December 31, 2017
Midwestern Tax Credit Bonds	§1400N(l)	Repealed, December 31, 2017
Issuer of Qualified Bonds	§6431	Repealed, December 31, 2017
Income Attributable to Domestic Production Activities	§199	Repealed, December 31, 2017
Alimony	§215	Repealed, December 31, 2018
Special rate for qualified timber gains	§1201(b)	Repealed, December 31, 2017