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The American Workers, Families, and Employers Assistance Act (S. 4318): Title II—Revenue Provisions and Other "HEALS Act" Tax Provisions

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Congress continues to consider proposals intended to alleviate the economic effects associated with the Coronavirus Disease 2019 (COVID-19) pandemic. One such proposal, the American Workers, Families, and Employers Assistance Act (S. 4318), was introduced in the Senate on July 27, 2020.

Title II of S. 4318 contains several provisions that would modify individual and business tax liability, including

- a one-time direct payment for eligible individuals, and modifications to the eligibility requirements for direct payments provided in the CARES Act;
- tax credits for employers and businesses vulnerable to COVID-19-related interruptions; and
- clarifications and modifications to other tax provisions enacted through the CARES Act.

Consideration of S. 4318 follows enactment of other laws targeting the effects of the COVID-19 crisis. Those laws are the

1. Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (P.L. 116-123);
2. Families First Coronavirus Response Act (FFCRA; P.L. 116-127);
3. Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136);[1] and
4. Paycheck Protection Program and Health Care Enhancement Act (P.L. 116-139).

Active legislation that would also broadly address the COVID-19 crisis includes the Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act (H.R. 6800), which was passed by the House on May 15, 2020.[2] **Table 1** summarizes the major tax provisions in Title II of S. 4318, as introduced. Links to CRS resources with additional relevant information are provided in the table when available. An additional provision from Title IV to provide state tax certainty for employers and employees is summarized in **Table 2**.

The American Workers, Families, and Employers Assistance Act is one component of what has been referred to as the Health, Economic Assistance, Liability Protection, and Schools (HEALS) Act.[3] Another component, the Supporting America's Restaurant Workers Act (S. 4319), would allow a full 100% deduction, as opposed to a 50% deduction, for business meals in 2020. The Restoring Critical Supply Chains and Intellectual Property Act (S. 4324) includes a provision that would allow an investment tax credit for qualifying medical personal protective equipment manufacturing projects. These provisions are summarized in **Table 3**. Links to CRS resources with additional relevant information are provided in the table when available.

[1] For more on tax provisions in the CARES Act, see CRS Report R46279, *The Coronavirus Aid, Relief, and Economic Security (CARES) Act—Tax Relief for Individuals and Businesses*, coordinated by Molly F. Sherlock. For more on other CARES Act provisions, see CRS Report R46299, *Coronavirus Aid, Relief, and Economic Security (CARES) Act: CRS Experts*, by William L. Painter and Diane P. Horn.

[2] For more information on tax provisions in the HEROES Act, see CRS Report R46358, *Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act: Division B—Revenue Provisions*, coordinated by Molly F. Sherlock.

[3] Majority Leader Mitch McConnell, "McConnell Outlines Historic Relief Proposal for 'An Important Crossroads in this Battle,'" press release, July 27, 2020, at https://www.mcconnell.senate.gov/public/index.cfm/2020/7/mcconnell-outlines-historic-relief-proposal-for-an-important-crossroads-in-this-battle.

Table 1. American Workers, Families, and Employers Assistance Act: Title II—Revenue Provisions

Assistance to Individuals, Families and Employers to Reopen the Economy

Section Title	Description	CRS Resources
Subtitle A—Relief for Individuals and Families		
Additional 2020 recovery rebates for individuals	Would enact additional direct payments for individuals. Payments would equal $1,200 per eligible individual ($2,400 for married joint filers), and $500 for each dependent. The payment would phase out at a rate of $5 per $100 of income above $75,000 ($112,500 for head of household filers, $150,000 for married joint filers). Individuals who died before January 1, 2020, would be ineligible for the payments. Individuals incarcerated at the time the payment is processed would be ineligible for these payments in 2020. (Individuals incarcerated for all of 2020 would also be ineligible to claim these payments on their 2020 income tax return.)[a] Generally, all individuals (including dependents) would need to have Social Security numbers (SSNs) associated with work authorization to receive the payment. (Among members of the Armed Forces, only one spouse would need to have such an SSN.) These payments would be structured as refundable tax credits against 2020 income taxes. They would be advanced (and hence received) in 2020, as opposed to 2021 (when 2020 income tax returns will be filed). Amount and eligibility for the advanced credit would generally be based on information from 2019 income tax returns (or 2018 returns, if 2019 had not been filed). These payments would generally be exempt from offset for debts owed to or collected by governmental agencies (except past-due child support). Offset generally reduces a payment before it is issued. These payments would also generally be protected from certain debt collection actions by certain creditors (such as certain garnishments or levies), including private creditors. (These types of actions generally occur after payments have been made.) For eligible individuals who did not file a 2019 or 2018 income tax return and who were recipients of Social Security, Supplemental Security Income (SSI), Railroad Retirement, or Department of Veterans Affairs (VA) benefits, Treasury would be directed to issue payments based on information provided by the Social Security Administration (SSA), Railroad Retirement Board (RRB), or VA.	For more, see • CRS Insight IN11473, *COVID-19: Summary of Direct Payments in the American Workers, Families, and Employers Assistance Act (S. 4318)*, by Margot L. Crandall-Hollick. • CRS Insight IN11282, *COVID-19 and Direct Payments to Individuals: Summary of the 2020 Recovery Rebates/Economic Impact Payments in the CARES Act (P.L. 116-136)*, by Margot L. Crandall-Hollick. • CRS Report R46467, *CARES Act Payments Use and Recipient Characteristics: In Brief*, by Mark P. Keightley. • CRS Insight IN11397, *COVID-19: Summary of the Direct Payments Proposed in the HEROES Act (H.R. 6800)*, by Margot L. Crandall-Hollick. • CRS Insight IN11358, *Older Children, Adult Dependents, and Eligibility for the 2020 Recovery Rebates*, by Margot L. Crandall-Hollick. • CRS Insight IN11290, *COVID-19 and Direct Payments to Individuals: Economic Impact Payments (EIPs) for Social Security and Supplemental Security Income Beneficiaries*, by Paul S. Davies and William R. Morton. • CRS Insight IN11375, *CARES Act Economic Impact Payments for Veterans Not Required to File Tax Returns*, by Heather M. Salazar. • CRS Insight IN11322, *The Child Support Federal Tax Offset of CARES Act Economic Impact Payments*, by Jessica Tollestrup. • CRS Report R46415, *CARES Act (P.L. 116-136) Direct Payments: Resources and*

Section Title	Description	CRS Resources
	Direct payments issued to a representative payee ("payee") or fiduciary on an eligible beneficiary's behalf would be required to be used for the sole benefit of the entitled beneficiary. Receiving the payments in 2020 would not affect income tax liabilities or tax refunds. If a taxpayer received a larger payment in 2020 than they were eligible for on their 2020 income tax return, they generally would not be required to pay it back. If an individual received a payment less than what they were eligible for on their 2020 income tax return, they could claim the difference on that return (filed in 2021).	*Experts*, coordinated by Margot L. Crandall-Hollick. • CRS Insight IN11457, *COVID-19 Pandemic's Impact on Household Employment and Income*, by Gene Falk.
Modifications to recovery rebates made under the CARES Act	Would make three modifications to the CARES Act direct payments: (1) would make individuals who died before January 1, 2020, ineligible for the CARES Act payments; (2) would make individuals incarcerated at the time the payment is processed ineligible for the CARES Act payments issued in 2020. (Individuals incarcerated for all of 2020 would also be ineligible to claim these payments on their 2020 income tax return);[a] and (3) would expand the CARES Act provisions that currently protect these payments from offset (reduction before payment are issued) by also exempting these payments from garnishment, levy, attachment, and other similar debt collection actions by certain creditors, including by private creditors. These types of actions (i.e., garnishment, levy, attachment) generally occur after payments have been made.	For more, see • CRS Insight IN11473, *COVID-19: Summary of Direct Payments in the American Workers, Families, and Employers Assistance Act (S. 4318)*, by Margot L. Crandall-Hollick. • CRS Report R46415, *CARES Act (P.L. 116-136) Direct Payments: Resources and Experts*, coordinated by Margot L. Crandall-Hollick.

Section Title	Description	CRS Resources
Subtitle B—Job Creation and Employment		
Enhanced employee hiring and retention payroll tax credit	Would modify the employee retention tax credit (ERTC), first enacted in the CARES Act, to (1) increase the credit rate from 50% to 65%; (2) increase the amount of wages that can qualify for the credit from $10,000 to $10,000 per calendar quarter (limited to $30,000 for the year); (3) reduce the decline in gross receipts threshold for credit eligibility from 50% to 25%, and allow certain employers to determine third or fourth quarter eligibility using the prior quarter's gross receipts; (4) increase the threshold for which the credit can only be claimed for wages paid when services are not provided from 100 to 500 full-time employees; and (5) allow employers receiving Paycheck Protection Program (PPP) loans to claim the ERTC (subject to certain limitations). These changes would generally be effective beginning in the calendar quarter of enactment. Additional changes, retroactive to the CARES Act, would (1) clarify that group health plan expenses are considered qualifying wages, even when no other wages are paid; and (2) modify the definition of gross receipts to include gross receipts of a tax-exempt organization.	For more, see • CRS Insight IN11299, *COVID-19: The Employee Retention Tax Credit*, by Molly F. Sherlock. • CRS Insight IN11324, *CARES Act Assistance for Employers and Employees—The Paycheck Protection Program, Employee Retention Tax Credit, and Unemployment Insurance Benefits: Overview (Part 1)*, coordinated by Molly F. Sherlock. • CRS Insight IN11329, *CARES Act Assistance for Employers and Employees—The Paycheck Protection Program, Employee Retention Tax Credit, and Unemployment Insurance Benefits: Assessment of Alternatives (Part 2)*, coordinated by Molly F. Sherlock.
Expansion of work opportunity credit	Would temporarily expand the Work Opportunity Tax Credit (WOTC) by creating a new targeted group for a "qualified 2020 COVID-19 unemployment recipient." The provision would also increase the credit rate and maximum eligible wages for this new targeted group if hired or rehired and starting work prior to January 1, 2021. These changes would result in a maximum WOTC per employee of $5,000 (50% of the first $10,000 of wages) compared to the current maximum for existing WOTC groups of $2,400 per employee (40% of the first $6,000 of wages).	For background, see • CRS Report R43729, *The Work Opportunity Tax Credit*, by Benjamin Collins and Sarah A. Donovan.

Section Title	Description	CRS Resources
Safe and healthy workplace tax credit	Would provide a refundable payroll tax credit for qualified employee protection, workplace reconfiguration, and workplace technology expenses. The credit would be 50% of qualified expenses, limited to $1,000 for each of the first 500 employees, plus $750 for each employee between 500 and 1,000 employees, plus $500 for each employee above 1,000 employees. Qualified employee protection expenses include amounts paid for testing, protective equipment (such as gloves and masks), and cleaning products or disinfectants. Qualified workplace reconfiguration expenses include expenses associated with redesigning or reconfiguring workplaces or retail spaces to prevent the spread of COVID-19. Qualified workplace technology expenses include technology systems used to prevent the spread of COVID-19. Governmental employers would not be eligible for this credit. Self-employed individuals would be allowed a refundable income tax credit of up to $500 for similar expenses. Credit could be claimed for qualified expenses paid or incurred after March 12, 2020, and before January 1, 2021. A general fund transfer of revenue to the Old-Age and Survivors Insurance Trust Fund, Federal Disability Insurance Trust Fund, and Railroad Retirement Trust Fund would be made to maintain trust fund balances.	

Section Title	Description	CRS Resources
COVID-19 assistance provided to independent contractors	Would allow marketplace platform operators to provide certain benefits (such as equipment, supplies, training, and testing to prevent the spread of COVID-19) to service providers (e.g., gig economy workers) without jeopardizing the provider's independent contractor status. These benefits, other than cash payments, would not be taxable to the providers. The provision applies to benefits provided after March 12, 2020, and before January 21, 2021.	For background, see • CRS Report R44365, *What Does the Gig Economy Mean for Workers?*, by Sarah A. Donovan, David H. Bradley, and Jon O. Shimabukuro.
Subtitle C—CARES Act Clarifications and Corrections		
Application of special rules to money purchase pension plans	This provision would clarify that the distributions from retirement plans for coronavirus-affected individuals in the CARES Act apply to money purchase plans. Money purchase plans are defined contribution plans that require employers to contribute a certain percentage of the employee's salary to the plan. The CARES Act provides an exception to the 10% early withdrawal penalty for distributions up to $100,000 for coronavirus-affected individuals. Income from such distributions can be recognized over three years, and taxpayers can recontribute funds to an eligible retirement plan in the first year or within three years without regard to the year's contribution cap. For coronavirus-affected individuals, loan limits from retirement plans are increased from $50,000 to $100,000 and the repayment deadline is delayed for loans that are due in 2020.	For more, see • CRS In Focus IF11472, *Withdrawals and Loans from Retirement Accounts for COVID-19 Expenses*, by John J. Topoleski and Elizabeth A. Myers. • CRS In Focus IF11482, *Retirement and Pension Provisions in the Coronavirus Aid, Relief, and Economic Security Act (CARES Act)*, by John J. Topoleski and Elizabeth A. Myers. • CRS Report R45864, *Tax Policy and Disaster Recovery*, by Molly F. Sherlock and Jennifer Teefy. • CRS In Focus IF11447, *COVID-19: Social Insurance and Other Income-Support Options for Those Unable to Work*, coordinated by Laura Haltzel.
Clarification of delay in payment of minimum required contributions	The CARES Act delayed minimum contributions for single employer retirement plans for 2020. This provision would make the due date January 4, 2021, rather than January 1, 2021.	For more, see • CRS Report R46366, *Single-Employer Defined Benefit Pension Plans: Funding Relief and Modifications to Funding Rules*, by John J. Topoleski and Elizabeth A. Myers.
Employee certification as to eligibility for increased CARES Act loan limits from employer plan	The CARES Act allowed employees to self-certify eligibility for coronavirus-related distributions from retirement plans that received benefits such as exclusion from the 10% early withdrawal penalty, a delay in paying income taxes, and the ability to recontribute funds. This provision would extend that self-certification to increased loan limits.	For more, see • CRS In Focus IF11472, *Withdrawals and Loans from Retirement Accounts for COVID-19 Expenses*, by John J. Topoleski and Elizabeth A. Myers.

Section Title	Description	CRS Resources
Election to waive application of certain modifications to farming losses	Would allow farmers who elected a two-year net operating loss carryback prior to the CARES Act to elect to retain that two-year carryback rather than claim the five-year carryback provided in the CARES Act. This provision would apply retroactively as if included in the CARES Act. It also would allow farmers who had previously waived an election to carry back a net operating loss to revoke that waiver.	For more, see • CRS Insight IN11296, *Tax Treatment of Net Operating Losses (NOLs) in the Coronavirus Aid, Relief, and Economic Security (CARES) Act*, by Jane G. Gravelle. • CRS Insight IN11240, *COVID-19: Potential Role of Net Operating Loss (NOL) Carrybacks in Addressing the Economic Effects*, by Mark P. Keightley. • CRS Report R46377, *The Tax Treatment and Economics of Net Operating Losses*, by Mark P. Keightley.
Oversight and audit reporting	Would expand the CARES Act list of "appropriate congressional committees" that would be briefed by and receive reports from the Comptroller General to include the House Ways and Means Committee and the Senate Finance Committee. Under the CARES Act, the Comptroller General is directed to conduct monitoring and oversight of the federal response to the COVID-19 pandemic and provide briefings and reports to "appropriate congressional committees."	For background, see • CRS Report R46315, *Congressional Oversight Provisions in the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136)*, by Ben Wilhelm and William T. Egar. • CRS Insight IN11271, *Congressional Oversight Provisions in P.L. 116-127, the Families First Coronavirus Response Act*, by Ben Wilhelm. • CRS Insight IN11236, *Oversight Provisions in H.R. 6074, the Coronavirus Preparedness and Response Supplemental Appropriations Act*, by Ben Wilhelm.

Source: CRS analysis of S. 4318.

Note:

a. For the purposes of this provision, incarcerated individuals are those as defined under 42 U.S.C. 402(x)(1)(A).

Table 2. American Workers, Families, and Employers Assistance Act: Tax Provision in Title IV

Section Title	Description	CRS Resources
Title IV—Additional Flexibility and Accountability for Coronavirus Relief Fund Payments and State Tax Certainty for Employers and Employees		
State tax certainty for employers and employees	Would provide that employees who perform employment duties in more than one state be subject to income taxes only in their state of residence and any state in which they are present and performing employment duties for more than a limited time (generally 30 days) during the calendar year. The provision would set a 90-day threshold for income earned in states other than the taxpayer's state of residence due to the COVID-19 pandemic (during 2020). The provision would not apply to professional athletes, professional entertainers, qualified film or television production employees, or certain public figures. This treatment would apply through December 31, 2024. Would provide that taxpayers working remotely in a taxing jurisdiction that differs from that of their primary employer can have wages deemed earned at their primary work location. This treatment would apply until employees of the employer generally return to the work location or through December 31, 2020.	

Source: CRS analysis of S. 4318.

Table 3. Tax Provisions in Other "HEALS Act" Legislation

Section Title	Description	CRS Resources
Supporting America's Restaurant Workers Act (S. 4319)		
Temporary allowance of full deduction for business meals	The proposed modification would allow a 100% deduction for business meals for the remainder of 2020. Businesses can deduct expenses for meals associated with the active conduct of the taxpayer's trade or business. This deduction is generally limited to 50% of the amount spent.	For more, see • CRS Insight IN11313, *Business Deductions for Entertainment and Meals*, by Donald J. Marples.
Restoring Critical Supply Chains and Intellectual Property Act (S. 4324)		
Investment credit for qualifying medical personal protective equipment manufacturing projects	Would provide a competitively awarded tax credit to qualifying medical personal protective equipment manufacturing projects. Qualifying projects would be those that reequip, expand, establish, or continue a manufacturing facility for the production of personal protective equipment. The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, would allocate the credits by considering several factors: (1) the potential to result in domestic job creation, (2) the potential to increase medical personal protective equipment in the Strategic National Stockpile, (3) the potential to help achieve medical manufacturing independence for the United States, and (4) the potential to handle surges in the demand for personal protective equipment. The total allocation of tax credits is capped at $7.5 billion and the maximum credit rate allowed is 30%. Unused credits could be reallocated and allocations awarded would be publicly disclosed.	
Special rules for transfers of intangible property relating to medical personal protective equipment to United States shareholders	Would allow firms to transfer intangible property abroad (such as patents, formulas, designs, and processes) to the United States without a tax on the distribution, if related to manufacturing personal protective equipment and eligible for the 30% investment tax credit under the investment credit for qualifying medical personal protective equipment manufacturing project of this act.	For background, see • CRS Report R45186, *Issues in International Corporate Taxation: The 2017 Revision (P.L. 115-97)*, by Jane G. Gravelle and Donald J. Marples

Source: CRS analysis of S. 4319 and S. 4324.

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