Taxpayer Certainty and Disaster Tax Relief Act of 2019
Disaster Tax Relief and Other Provisions

For purposes of the disaster tax relief provisions of the Taxpayer Certainty and Disaster Tax Relief Act of 2019 (Title II of the Act, which includes Act Sections 201–208), Section 201 of Title II provides the following applicable definitions.

- *Qualified disaster area.* Any area with respect to which a major disaster was declared, during the period beginning on January 1, 2018 and ending on February 18, 2020, by the President under Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act if the incident period of the disaster with respect to which such declaration is made begins on or before December 20, 2019. **Note:** To prevent potential double tax benefits, a qualified disaster area does not include the California wildfire disaster area as defined in the Bipartisan Budget Act of 2018 (see *Victims of California Wildfire* on Page 4-21 of the *Individuals—Special Tax Situations Quickfinder® Handbook*).
- *Qualified disaster zone.* The portion of any qualified disaster area that was determined by the President, during the period beginning on January 1, 2018 and ending on February 18, 2020, to warrant individual or individual and public assistance from the federal government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of the qualified disaster with respect to such disaster area.
- *Qualified disaster.* With respect to any qualified disaster area, the disaster by reason of which a major disaster was declared with respect to such area.
- *Incident period.* With respect to any qualified disaster, the period specified by the Federal Emergency Management Agency as the period during which such disaster occurred (but not beginning before January 1, 2018 or ending after January 19, 2020).

Act Sec.	*General Rule*	*Disaster Tax Relief Provision*
Retirement Plans and IRAs		
202(a)	Distributions from qualified retirement plans and IRAs are generally taxable unless they are rolled over to an eligible retirement plan or IRA within 60 days after the funds are received [IRC Secs. 402(c)(3)(A) and 408(d)(3)(A)]. Unless an exception applies, taxable distributions from qualified retirement plans and IRAs before the taxpayer reaches age 59½ are subject to an early withdrawal penalty [IRC Sec. 72(t)]. Mandatory 20% federal income tax (FIT) withholding is normally required on the taxable portion of a distribution from a qualified retirement plan, unless the distribution is rolled over tax-free via a direct trustee-to-trustee transfer [IRC Sec. 3405(c)].	The following tax relief is provided for qualified disaster distributions: • Up to $100,000 of such distributions are exempted from the early withdrawal penalty. • All or a part of a distribution can be recontributed tax-free (rolled over) to eligible retirement plans or IRAs any time during the three-year period beginning on the day after the distribution is received. • To the extent a distribution is not recontributed, the taxable amount is taken into gross income ratably over three years beginning with the year in which the distribution is received unless the taxpayer elects out of this treatment. • Such distributions are not subject to the mandatory 20% FIT withholding requirement. A *qualified disaster distribution* is a distribution from most types of tax-favored retirement plans, including IRAs, made on or after the first day of the incident period of a qualified disaster and before June 18, 2020 to an individual whose principal residence was in the qualified disaster area at any time during the incident period and who sustained economic loss due to the qualified disaster.
202(b)	If the plan permits, 401(k) and 403(b) plans can distribute elective deferrals on account of hardship before the participant reaches age 59½ or terminates employment. Hardship distributions are taxable and cannot be rolled over [IRC Sec. 402(c)(4)]. A *qualified first-time homebuyer* distribution is an IRA distribution of up to $10,000 that is used within 120 days to buy, build, or rebuild the first home of a first-time homebuyer. Such distributions are taxable, but not subject to the early withdrawal penalty [IRC Sec. 72(t)(8)].	Any individual who received a qualified distribution to buy or build a home can roll the money back into an eligible retirement plan (including an IRA) tax free during the applicable period (the period beginning on the first day of the incident period of a qualified disaster and ending on June 18, 2020). A *qualified distribution* is a hardship distribution from a 401(k) or 403(b) plan or a qualified first-time homebuyer distribution from an IRA that was: (1) received during the period (a) beginning 180 days before the first day of the incident period of the qualified disaster and (b) ending 30 days after the last day of the incident period and (2) intended for the purchase or construction of a principal residence in a qualified disaster area that didn't take place due to the qualified disaster.

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Disaster Tax Relief and Other Provisions (Continued)

Act Sec.	*General Rule*	*Disaster Tax Relief Provision*
Retirement Plans and IRAs (Continued)		
202(c)	Qualified retirement plan loans cannot exceed the lesser of: (1) $50,000 or (2) 50% of the present value of the participant's (borrower's) vested accrued benefit, or, if greater $10,000. They generally must be repaid over five years or less unless secured by the participant's residence [IRC Sec. 72(p)(2)].	For plan loans made to a qualified individual during the period beginning on December 20, 2019 and ending on June 18, 2020, the maximum loan amount is increased to the lesser of: (1) $100,000 or (2) 100% of the present value of the participant's vested accrued benefit. A *qualified individual* is any person whose principal residence was in a qualified disaster area at any time during the incident period of the qualified disaster and who sustained economic loss due to the qualified disaster. Also, for any qualified individual who has a plan loan (1) outstanding on or after the first day of the incident period of a qualified disaster, (2) for which the due date of any repayment occurs during the period (a) beginning on the first day of the incident period of the qualified disaster and (b) ending 180 days after the last day of the incident period, the due date for such repayment is extended one year (or, if later, until June 18, 2020).
202(d)	N/A	If the Taxpayer Certainty and Disaster Act Relief Act of 2019 provisions for retirement plans and IRAs affect the operation of any plan or IRA, it's treated as being operated in accordance with the law as long as the relevant document is amended to reflect the Act rules by: (1) the last day of the first plan year that begins on or after January 1, 2020 or (2) any later date that may be set forth in future IRS guidance.
Employee Retention Tax Credit		
203	Certain business incentive credits are combined into one general business credit (GBC) for purposes of determining each credit's allowance limitation for the tax year. A GBC (claimed on Form 3800) is allowed against income tax for a particular tax year and equals the sum of: (1) the business credit carryforwards carried to the tax year, (2) the current year GBC, and (3) the business credit carrybacks carried to the tax year (IRC Sec. 38).	*Eligible employers* can claim a *2018 through 2019 qualified disaster employee retention credit* equal to 40% of up to $6,000 of qualified wages per eligible employee. The credit is a GBC. *Eligible employers* include those that conducted an active business in a qualified disaster zone at any time during the incident period of the qualified disaster, if the business was inoperable at any time during the period beginning on the first day of the incident period and ending on December 20, 2019 as a result of damage sustained because of the qualified disaster. An *eligible employee* of such employers is one whose principal place of employment with the eligible employer, immediately before the qualified disaster, was in the qualified disaster zone. *Qualified wages* include wages paid or incurred by an eligible employer with respect to an eligible employee at any time (1) on or after the date the business first became inoperable at the employee's principal place of employment; and (2) before the earlier of (a) the date the business resumes significant operations at such principal place of employment or (b) 150 days after the last day of the incident period of the qualified disaster, whether or not the employee performs any services.
Charitable Contribution Deduction Limitations Suspended		
204(a)	Individuals who itemize can generally deduct cash contributions made to publicly supported charities or foundations up to 60% of their adjusted gross income (AGI). A C corporation generally can deduct charitable contributions up to 10% of its contribution base—taxable income with certain adjustments [IRC Sec. 170(b)].	*Qualified contributions* made by individuals (including from pass-through entities) and C corporations are not subject to the income limits that normally apply. *Qualified contributions* are cash donations made to Section 170(b)(1)(A) charities (generally includes public charities, certain private foundations, and certain governmental units) from January 1, 2018 through February 18, 2020 for relief efforts in one or more qualified disaster areas for which the taxpayer receives contemporaneous written acknowledgement from the charity stating that the contribution was (or is to be) used for such efforts. **Practice Tip:** This break is available to all individual and corporate taxpayers regardless of their location.

Taxpayer Certainty and Disaster Tax Relief Act of 2019
Disaster Tax Relief and Other Provisions (Continued)

Act Sec.	General Rule	Disaster Tax Relief Provision
Personal Casualty Losses		
204(b)	Losses to personal-use property resulting from a casualty may be deductible (IRC Sec. 165). The amount of the casualty loss is generally the lesser of: (1) the adjusted basis of the property immediately before the casualty event or (2) the decrease in the property's FMV due to the casualty. For 2018–2025, personal casualty losses are not deductible unless attributable to a federally declared disaster or, if the taxpayer has a personal casualty gain, to the extent of such gain. The casualty loss (reduced by applicable insurance proceeds) must be further reduced by $100 per casualty event. After applying the $100 reduction, the taxpayer's personal casualty losses for the year are combined. The next step is to reduce the combined loss figure by 10% of AGI. Any loss remaining after these reductions can be claimed as an itemized deduction.	If an individual has a net disaster loss for any year— • The $100 reduction is increased to $500. • The 10% of AGI reduction does not apply to the net disaster loss. • The taxpayer's standard deduction is increased by the *net disaster loss*. In other words, the taxpayer does not have to itemize deductions to claim the loss. Additionally, the net disaster loss portion of the standard deduction is deductible for alternative minimum tax (AMT) purposes. An individual has a net disaster loss for any year that *qualified disaster-related personal casualty losses* exceed personal casualty gains. *Qualified disaster-related personal casualty losses* are personal casualty losses that arise in a qualified disaster area on or after the first day of the incident period of the qualified disaster, and which are attributable to such qualified disaster.
Look-Back Election for Earned Income and Refundable Child Credits		
204(c)	An eligible individual is allowed an earned income credit (EIC) equal to a percentage of his earned income up to an "earned income amount" for the tax year (IRC Sec. 32). Individuals with one or more qualifying children may be able to claim a child tax credit (CTC) of up to $2,000 per qualifying child (IRC Sec. 24). A portion of the CTC is refundable for certain taxpayers. The refundable CTC (or additional CTC) is the smaller of: (1) the CTC remaining after reducing regular tax and AMT to zero or (2) 15% of the taxpayer's earned income in excess of $2,500 or, for taxpayers with three or more qualifying children, the result of a separate computation if greater.	A *qualified individual* can elect to calculate, for an applicable tax year, his EIC and refundable CTC using earned income of the preceding tax year, if greater. This may result in a greater credit amount. A *qualified individual* is any person whose principal place of abode at any time during the incident period of any qualified disaster was located, with respect to the qualified disaster: 1) In the qualified disaster zone or 2) In the qualified disaster area (but outside the qualified disaster zone) and the individual was displaced from the abode by reason of the qualified disaster. An *applicable tax year* is, for a qualified individual whose principal place of abode is described in item 1, any tax year that includes any portion of the incident period of the qualified disaster. For a qualified individual whose principal place of abode is described in item 2, an *applicable tax year* is any tax year that includes any portion of the period that the individual was displaced from the abode.

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Act Sec.	General Rule	Disaster Tax Relief or Other Provision
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Automatic Extension of Filing Deadlines		
205	The IRS may extend deadlines for filing and paying tax up to one year in an area affected by a federally declared disaster or a terroristic or military action [IRC Sec. 7508A(a)]. Interest is automatically abated if the IRS extends the due date for filing or paying tax [IRC Sec. 6404(i)].	For a qualified taxpayer, a mandatory (automatic) 60-day filing deadline extension period [in addition to or in conjunction with the discretionary up-to-1-year period under IRC Sec. 7508A(a)] applies [IRC Sec. 7508A(d)(1)]. A *qualified taxpayer* is [IRC Sec. 7508(d)(2)]: • An individual whose principal residence is located in a disaster area. • Any taxpayer whose principal place of business (other than performing services as an employee) is located in a disaster area. • An individual relief worker affiliated with a recognized government or philanthropic organization and who is assisting in a disaster area. • Any taxpayer whose records necessary to meet a deadline for an act described in IRC Sec. 7508(a)(1) are maintained in a disaster area. • An individual visiting a disaster area who was killed or injured as a result of the disaster. • For a joint return, the spouse of an individual described above. In addition, for a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such a plan, a mandatory 60-day extension applies for performing certain specified acts [IRC Sec. 7508A(d)(4)].
Miscellaneous Disaster Tax Relief Provisions		
206	For tax years beginning before December 21, 2019, tax-exempt private foundations were subject to a 2% excise tax on net investment income. The excise tax was reduced to 1% if a foundation made certain required distributions for charitable purposes.	For tax years beginning after December 20, 2019, tax-exempt private foundations are subject to a 1.39% excise tax on net investment income [IRC Sec. 4940(a)]. In addition, the excise tax reduction provision is repealed. This simplification is intended to encourage private foundations to make larger one-time donations, such as is needed in the case of disaster relief.
207	N/A	Additional low-income housing credit allocations are provided relating to qualified 2017 and 2018 California disasters.
208	N/A	The Secretary of the Treasury is authorized 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.
Other Provisions		
301	N/A	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 is modified. 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 [IRC Sec. 501(c)(12)(J)]. This change applies to tax years beginning after December 31, 2017.
302	N/A	The Tax Cuts and Jobs Act of 2017 (TCJA) required the unrelated business taxable income (UBTI) of tax-exempt organizations to be increased by expenses incurred in providing qualified transportation fringe benefits, including qualified parking (the so-called "church parking tax") [former IRC Sec. 512(a)(7)]. This Act section repeals that requirement for amounts paid or incurred after December 31, 2017.