Supplement to J.K. Lasser's Small Business Taxes 2020

By Barbara Weltman

The tax law is not static. Since the publication of this book, Congress has enacted a massive spending measure—the Further Consolidated Appropriations Act, 2020. Part of this measure is the Taxpayer Certainty and Disaster Tax Relief Act of 2019, which makes changes impacting returns for 2018, 2019, and 2020. These include "extenders," which are tax breaks that expired at the end of 2017 but have been retroactively reinstated and extended through 2020 (or longer), along with a few other breaks that expired at the end of 2019 but have been given one more year. And it includes tax relief for victims of certain disasters. Also part of the massive spending measure is the Setting Every Community Up for Retirement Enhancement (SECURE) Act, which makes dramatic changes in retirement plans starting in 2020 or later; the changes do not impact 2019 returns but clearly impact tax planning for 2020 and beyond. What's more, there have been judicial and administrative changes, with the courts handing down decisions and the IRS providing guidance on various provisions that may impact 2019 tax returns as well as tax planning for 2020.

Given the retroactive extension of various provisions and certain disaster tax relief, small businesses may want to file amended returns to claim a tax refund for 2018. In doing so, keep in mind that in general the period for filing a refund claim is 3 years from the time the return was filed or 2 years from the time the tax was paid, whichever is later. Weigh the amount of the refund against the cost of professional fees for filing an amended return if you don't do it yourself, as well as the risk of exposing any questionable positions taken on the original return to IRS scrutiny. Potential refund opportunities are noted in this Supplement.

The changes presented in this Supplement are tied to the chapters in the book.

Introduction

Forms and schedules. When this edition was published, final versions of forms were not yet available. Find final versions of forms and schedules here.

Schedule K-1 for partners. The IRS has provided relief to partnerships, giving them one more year to comply with a requirement about reporting negative tax basis capital accounts (Notice 2019-66). Originally, the requirement to report the capital account on the tax basis method was supposed to be done on the Schedule K-1 for 2019, but because of the difficulty in compliance (the partnership must go back to the partner's entry in the business to compute the capital account), the IRS agreed to waive penalties for not putting this information on a timely-filed Form 1065, which includes a Schedule K-1 for each partner. For 2019 returns, partnerships must report partner capital accounts consistent with the reporting requirements in the 2018 forms and instructions.

Chapter 1—Business Organization

AAA accounts for S corporations. The Accumulated Adjustment Account (AAA) account (referred to as the Triple A account) maintained by S corporations includes amounts that were taxed to shareholders but not yet distributed. Distributions from the Triple A account to shareholders are tax free because they've already paid tax on these amounts. When an S corporation terminates its election and becomes a C corporation, there is a post-termination transition period (PTTP) during which the Triple A account can be drained tax free. Once this period ends, distributions are taxable dividends from the C corporation to the extent there is earnings and profits (E&P). Generally, the PTTP is one year from the date that the election terminates. But the Tax Cuts and Jobs Act extended this period for an electing S corporation (ETSC). More specifically, under a proposed regulation issued in November 2019, if a distribution is made after the PTTP has ended, the distribution is treated as chargeable to the ETSC Triple A account and its accumulated E&P in a ratio (the amount of the ETSC's AAA bears to the amount of its accumulated E&P). The proposed regulations use a "snapshot approach" which means the AAA and E&P accounts are those in effect on the date of revocation.

This extended distribution rule applies only if all of the following conditions are met:

- The corporation was an S corporation on December 21, 2017 (the date before enactment of the Tax Cuts and Jobs Act).
- The corporation revoked its S election during a 2-year period beginning on December 22, 2017.
- The owners of the stock of the corporation on December 22, 2017, are the same owners on the date of the revocation of the S election (although there are some limited circumstances where this requirement doesn't apply).

Note that the proposed regulations hint at the possibility that a no-newcomer rule could be added, which would bar tax-free distributions to a shareholder who acquired stock after December 21, 2017. Wait for final regulations to be sure about this.

A federal district court in Oregon made it clear that the AAA account does not survive past the PTTP. In the case, the S corporation terminated its election to become an C corporation, and then later re-elected S status. The shareholders could not use the original AAA to make tax-free distributions to them under the re-election.

Chapter 4—Income or Loss from Business Operations

Income from farming. The IRS has extended the livestock replacement period for certain drought-affected areas. Counties for 2019 can be found in Notice 2019-54.

S corporation basis. The AICPA suggestion to the IRS to create a tax form for tracking a shareholder's basis in stock and debt has not yet been acted upon. However, if a shareholder is claiming a loss on the return, Schedule E (where the loss is reported) must include an attachment showing the computation of the shareholder's adjusted basis of stock and any debts the corporation owes to the shareholder.

Income earned abroad. The time requirement for the foreign earned income exclusion is waived for certain countries. The list of countries for 2019 has not yet been released.

Correction. References in "Where to Report Income" to Schedule A should read Form 1025-A.

Chapter 5—Capital Gains and Losses

Taxable income breakpoints for capital gain rates in 2020. The following table (Table 5.1) shows the break points for capital gain rates for 2020; this does not apply to 2019 returns.

Rate	**Married filing jointly (and surviving spouse)**	**Head of household**	**Single**	**Married filing separately**
0%	Up to $80,000	Up to $53,600	Up to $40,000	Up to $40,000
15%	$80,000 - $496,600	$53,600 - $469,050	$40,000 - $441,550	$40,000 - $248,300
20%	Over $496,600	Over $469,040	Over $441,550	Over $248,300

Opportunity zone investments. Generally, gain on the sale of assets can be deferred by investing them in a qualified opportunity fund (QOF) within 180 days. Deferral continues until the earlier of an inclusion event or December 31, 2026. And if there is an inclusion event, a rollover of gain from a QOF is permissible. Final regulations issued in December 2019 provide a list of inclusion events, which include:

- *Inclusion events*: A disposition of a QOF interest, gift of a QOF interest, transfer to a spouse incident to divorce, loss of QOF status (a decertification of the fund as qualified, either voluntarily or involuntarily), a partnership distribution of a QOF to the extent that cash or the fair market value exceeds the partner's outside basis in the QOF; a QOF becomes worthless.
- *Non-inclusion events*: Death (but heirs do not get a stepped-up basis; they recognize the deferred gain in 2026), contribution to a partnership.

Note that not all states allow for QOF deferral. California and Massachusetts require state income tax on gains from the sale of QOF investments. (Out-of-state investors in California a QOF with projects in that state may also be subject to California income tax; it's not yet clear.)

Chapter 7—Employee Compensation

Adoption assistance. For planning purposes, the dollar limit on the exclusion for employer assistance for adoption costs in $14,300 for 2020 (up from $14,080 in 2019).

Flexible spending accounts for medical expenses. For planning purposes, the maximum elective deferral to medical FSAs in 2020 is $2,750, which is $50 more than in 2019.

Employee use of company car. For planning purposes, in valuing employee use of a company car in 2020, the IRS standard mileage rate is 57.5¢ per mile, down from 58¢ per mile in 2019.

The fixed and variable rate allowance (FAVR) in 2020 is limited to $50,400 for cars, trucks, and vans. The rate in 2019 was also $50,400.

Car and truck values taken into account by employers using the cents-per-mile valuation rule or the fleet valuation rule for valuing personal use of a company vehicle in 2020 is $50,400.

Qualified transportation fringe benefits. Employers cannot deduct these fringe benefits, but if they choose to provide them or they permit employees to pay for these costs on a pre-tax basis, employees can exclude up to $270 for free parking, transit passes, and van pooling for 2020 (up from $265 in 2019). Since employers cannot deduct these fringe benefits, they may be barred from deducting rent payments related to free parking (see information below for Chapter 12). The IRS has been encouraged to simplify the rules for determining deductible rents but has not done so do date.

Frequent flyer miles. To date, the IRS has not taken any action to tax frequent flyer miles.

Employment-related tax credits. The following tax credits, which expired at the end of 2017, have been extended retroactively for 2018 and 2019, and apply for 2020 as well:

- Empowerment zone employment credit
- Indian employment credit

Consider whether it makes sense to file an amended return for 2018 to claim a credit, where applicable.

The following employment-related tax credits, which were set to expire at the end of 2019, but Congress extends them through 2020:

- Paid family and medical leave credit
- Work opportunity credit

Employer retention credit. Under the spending measure enacted in December 2019, for 2018 and 2019, there is a tax credit for employers that continue to pay employees affected by a qualified disaster. The credit is part of the general business credit, which is subject to a one-year carryback (to produce a tax refund) and, if not used up, a 20-year carryforward.

The credit is limited to eligible employers who pay eligible employees. An eligible employer is one with an active business in a qualified disaster zone (an area declared eligible for federal disaster relief) that becomes inoperable as a result of the disaster. An eligible employee is one whose principal place of employment is with an eligible employer (in the disaster area).

The credit is 40% of wages up to $6,000 that are paid from the time the business is inoperable until the date it resumes operations or 150 days after the incident, whichever is earlier.

An employee can only be taken into account once, so if the work opportunity credit is used for wages paid to an employee, the employee retention credit can't be use for the same employee.

Consider whether it makes sense to file an amended return for 2018 to claim the credit, if applicable.

Chapter 8—Travel, Meals, and Gift Expenses

Business travel per diem rates. The maximum federal per diem rate for travel starting October 1, 2019, through September 30, 2020, covering lodging and meals and incidental expenses (M&IE) within the continental United States (CONUS) in most locations is $151 per day ($96 for lodging and $55 for M&IE). These rates are higher than the prior 12-month period when the rate was $149 per day ($94 for lodging and $55 for M&IE). The per diem rates for travel to certain areas have been increased. These rates can be found here.

The high-low substantiation rates for areas within CONUS for the period October 1, 2019, through September 30, 2020, are $297 for travel to high-cost localities and $200 for travel to all other areas within CONUS. Of these rates, the meal portion is $71 for high-cost areas and $60 for all other areas within CONUS. The list of high-cost areas has been changed (see Notice 2019-55 for details).

Chapter 9—Car Expenses

Section 179 deduction and bonus depreciation. For 2020, the first-year expense allowance (Section 179 deduction) applies to equipment purchases (e.g., new vehicles) up to $1,040,000. However, this dollar limit phases out dollar for dollar when purchases for the year exceed $2,590,000. Thus, no expensing deduction can be claimed if equipment purchases for the year are $3,630,000 million or more.

Heavy SUVs are not subject to the dollar limits, but the first-year expense deduction is limited to $25,900 in 2020 ($400 more than for 2019).

Standard mileage rate. The IRS announced the standard mileage rate, used in lieu of deducting the actual costs of business driving; for 2020 it is 57.5¢ per mile (down from 58¢ per mile in 2019).

Those who own their vehicles and use the standard mileage rate for 2020 must reduce the vehicle's basis by 27¢ per mile (up from 26¢ per mile in 2019).

2-wheel vehicles. The credit for a 2-wheel plug-in electric vehicle, which expired at the end of 2017, has been extended retroactively for 2018 and 2019. The credit also applies through 2020. Consider whether it makes sense to file an amended return for 2018 to claim this credit, if applicable.

Chapter 10—Repairs, Maintenance, and Energy Improvements

The following tax breaks that expired at the end of 2017, have been retroactively extended for 2018 and 2019. They also apply for 2020.

- ***Deduction for energy-efficient commercial buildings.*** The $1.80 per square foot deduction for commercial buildings that achieve at 50% energy-saving target.
- ***Alternative fuel vehicle refueling property credit.***

Consider whether it makes sense to file an amended return for 2018 to claim either or both of these tax breaks, if applicable.

Chapter 13—Taxes and Interest

Self-employment tax. The Social Security wage base limit, which applies for self-employment taxes, is $137,700 in 2020 (up from $132,900 in 2019). The tax rate for the Social Security portion of self-employment tax is 12.4% on net earnings up to this dollar limit. The tax rate for the Medicare portion of self-employment tax is 2.9% on all net earnings. The tax deduction is limited to one-half of the self-employment tax.

For those with net earnings over the applicable threshold amount of $200,000 for singles and $250,000 for joint filers (these dollar limits are not adjusted annually for inflation), there is also a Medicare surtax of 0.9% on excess earnings. This applies only to the so-called employee portion, so it is *not* deductible.

Employment taxes—FICA. The wage base limit for the Social Security portion of FICA in 2020 is $137,700 (up from $132,900 in 2019). The rate for the employee's Social Security portion of FICA is unchanged at 6.2%.

Employment taxes—FUTA tax. For purposes of FUTA in 2019, there are no "credit reduction states."

Interest payments. Net business interest expense over 30% of adjusted taxable income is not deductible. This net interest disallowance rule applies at the owner level for pass-through entities, but there is a special rule that applies at the entity level. However, there is an exemption from the interest limit for small businesses, which in 2020 are those with average annual gross receipts for the 3 prior years not exceeding $26 million (unchanged from 2019).

Farming businesses and real estate businesses that do not qualify for the small business exception (their gross receipts are too high) but want to elect out of the interest deduction limitation must use the ADS recovery periods in depreciating property that is already owned as well as newly-acquired property. The IRS has said that businesses making the election do not have to file for a change in accounting method.

Correction. For tax years beginning after 2017, the business interest deduction is limited to the sum of business interest **income**, floor plan financing (used by dealerships of cars and other vehicles), and 30% of adjusted taxable income.

Chapter 14—First-Year Expensing, Depreciation, Amortization, and Depletion

First-year expensing. The expensing limit for 2020 is $1,040,000. The limit phases out when purchases for the year exceed $2,590,000. Thus, no expensing can be used if purchases for the year $3,630,000 million or more.

Modified accelerated cost recovery system—recovery periods. Special recovery periods for the following types of property expired at the end of 2017, but have been extended retroactively for 2018 and 2019. They apply as well for 2020:

- The 3-year recovery period for racehorses 2 years or younger.
- The 7-year recovery period for motorsports entertainment complexes.

Consider whether it makes sense to file an amended return for 2018 to claim a refund resulting from the use of the faster recovery period, if applicable.

Qualified improvement property. Congress did not correct the error in the Tax Cuts and Jobs Act that left the recovery period for qualified improvement property at 39 years, instead of the 15 years that had been intended. The IRS did not attempt to correct this error administratively, so the bottom line is a 39-year recovery period for such property and no bonus depreciation can be used for it.

Chapter 16—Retirement Plans

Contribution limits. Various limits have been increased for 2020, although some are unchanged from 2019. The following apply to 2020 (not to 2019 returns):

- 401(k) plan elective deferrals: $19,500 (up $500), plus $6,500 for those who are age 50 and older by December 31, 2020 (up $500).
- Savings incentive match plan for employees (SIMPLE) elective deferrals: $13,500 (up $500), plus $3,000 for those who are age 50 and older by December 31, 2020 (unchanged).
- Defined contribution plans (profit-sharing plans and simplified employee pension plans [SEPs]): the limit is $57,000 (up from $56,000 in 2019).
- Defined benefit (pension) plans: the limit is $230,000 (up from $225,000 in 2019).
- Compensation taken into account in figuring contributions and benefits: the limit is $285,000 (up from $280,000 in 2019).
- IRAs: the contribution limits for 2020 are $6,000 (unchanged from 2019), plus $1,000 for those age 50 or older by December 31, 2020 (unchanged). However, the adjusted gross income limits for making deductible contributions for those who are active participants in qualified retirement plans have been increased slightly.

Changes from the SECURE Act and other legislation. This law made numerous changes impacting retirement plan choices and other changes for small businesses. These include:

- *Lowered age for in-service distributions.* If you have a defined benefit (pension) plan, you're permitted to make distributions to employees who are still working for you as long as they've attained age 59½ (down from age 62). This applies to plan years beginning after December 31, 2019.
- *MEPs.* A new retirement plan option where two or more businesses can join together in a multiple employer plan (MEP). Those joining gain economies of scale (lower administrative costs; greater investment choices for participants). The plan must be headed up by a fiduciary called the pooled plan provider. MEPs are for individual account plans, such as 401(k)s. MEPs are effective for plan years beginning after December 31, 2020. Expect to see considerable guidance on them from the IRS and DOL in the coming months.
- *Increase in the automatic enrollment safe harbor.* If you have a 401(k) safe harbor, after the first year you can increase the salary reduction cap to 15% (up from 10%). This is for plan years beginning after December 31, 2019.
- *Credits for starting retirement plans.* The current credit has been increased and a new credit has been introduced:
    - The tax credit for small businesses that start a retirement plan is increased to the greater of $500 or the lesser of (a) $250 for each employee not highly compensated who's eligible to participate or (b) $5,000 (up from the current flat $500 credit). Like the old credit, it can be claimed for up to 3 years. This applies for taxable years beginning after December 31, 2019.
    - A new credit for creating or adopting automatic enrollment feature can claim a new credit of $500 each year for up to 3 years. This credit is in addition to the credit above and also applies for taxable years beginning after December 31, 2019.
- *Loans through credit cards.* You are no longer allowed to make loans from qualified retirement plans through credit or debit cards. This applies to loans made after December 20, 2019.
- *Increase in RMD beginning age.* The age at which required minimum distributions must begin is age 72 (up from 70½). The new age 72 rule applies after December 31, 2019, for those who attain age 70½ after this date. However, employees who are not more-than-5% owners and continue to work in your company after age 70½ or 72 (whichever applies) can postpone RMDs until retirement if the plan allows it.
- *Failure to file penalty.* The penalty for failure to file Form 5500 or provide required notices has increased tenfold for returns, statements, and notifications required to be filed and notices required to be provided after December 31, 2019 (e.g., the 2019 Form 5500 for a calendar year plan required to be filed by July 31, 2020).
- *Plan amendments.* Documents must be updated to reflect law changes by the SECURE Act. Amendments are required for the first plan year beginning on or after January 1, 2022. If you use a prototype plan (documents provided by the

financial institution with which you maintain the plan), these updates will be provided to you; keep them with your records.

Special distribution and loan rules for victims of certain disasters. Special tax relief applies to victims of disasters declared as major disasters by the President on or after January 1, 2018, through February 18, 2020.

- *Qualified disaster distributions.* Special tax rules apply for qualified disaster distributions up to $100,000 made on or after the disaster began (as specified by FEMA) but no later than June 16, 2020 (180 days after December 20, 2019 enactment date).
  - No tax penalty for those under age 59½
  - Income from the distribution is spread over 3 years unless the individual opts to report it all in the year of the disaster
  - Repayment of distributions is permitted
- *Recontribution of withdrawals for home purchases.* If the home sale falls through due to a disaster, withdrawn funds can be recontributed in one or more contributions.
- *Loans.* The dollar limit plan loans made within June 16, 2020 (180 days after December 20, 2019 enactment date), is $100,000 (rather than the usual $50,000 cap); the 50% limit on accrued benefits does not apply for these loans. What's more, there is an extended period for repaying plan loans. These plan loan rules apply to individuals who suffered losses after 2017 from disasters declared by February 18, 2020; for loans received before June 17, 2020
- *Plan amendments.* Employers with individually-designed retirement plans must amend them to incorporate these disaster relief provisions if desired. The amendments related to disaster relief must be done by the end of the plan year beginning on or after January 1, 2020, unless the IRS grants more time for this action.

Cost of plan maintenance. The SEC's proposed Fiduciary Rule has not yet been finalized.

PBGC premiums. For planning purposes, in 2020 the flat-rate premium for each participant is $83 (up from $80 in 2019). The variable rate premium for underfunded plans is $45 per $1,000 of unfunded benefits per employee (up from $43), with a cap of $561 per participant (up from $541).

Plan amendments. The IRS released a list of required amendments for 2019 for individually-designed retirement plans. The amendments include changes in the rules for hardship distributions and other new rules, but do not reflect changes made by the SECURE Act or disaster relief provisions in the spending measure. See the complete list in Notice 2019-64.

Chapter 17—Casualty and Theft Losses

Disaster losses. Find a list of all federal disaster areas for 2019 from FEMA here. Designated disasters in 2020 will be listed by FEMA (https://www.fema.gov/disasters).

Employee retentions credit. See Chapters 7 and 23.

Extended period for filing returns. See Chapter 30.

Chapter 19—Medical Expenses

Employer mandate. At this time, the employer mandate continues to be effective, even though the individual mandate penalty no longer applies. However, a federal appellate court has held that the Affordable Care Act is unconstitutional, given the repeal of the individual mandate. The case has been sent back to a district court to determine whether the law is severable, meaning that the employer mandate can stand. But a request for an expedited hearing in the U.S. Supreme Court has been filed. The U.S. House of Representatives has also asked for this quick resolution.

Deducting health coverage for more-than-2% S corporation shareholders. The IRS has not provided any further guidance for S corporations paying for health coverage for their owners. What this means is that if the corporation pays the coverage and reports it as taxable compensation on the shareholder's Form W-2, the shareholder can claim an offsetting deduction for the premiums on Schedule 1 of his or her Form 1040 or 1040-SR.

Small employer health care credit. Small employers can take the credit only if average annual payroll is below a set amount. This has been adjusted for inflation so that the full credit applies if the average annual payroll in 2020 is $27,600. No credit can be claimed for 2020 if the average annual payroll is $55,200 or more.

Qualified small employer health reimbursement arrangements (QSEHRAs). These reimbursement plans are a way for small employers to help employees pay for the cost of health coverage. For 2020, reimbursements to employees are capped at $5,250 for self-only coverage and $10,600 for family coverage.

Health savings accounts. The contribution limit for 2020 increases to $3,550 for self-only coverage; the limit for family coverage increases to $7,100. Those who are age 55 or older by the end of 2020 can add another $1,000 for the year (this additional contribution limit is unchanged).

To contribute to a health savings account, the person must be covered by a high-deductible health plan. For 2020, this means that the plan has a minimum deductible of $1,400 for self-only coverage and $2,800 for family coverage. The cap on annual out-of-pocket expenses (deductibles, co-payments, and other amounts) cannot exceed $6,900 for self-only coverage and $13,800 for family coverage.

Flexible spending arrangements. The maximum amount that employees can add to a medical FSA in 2020 is $2,750 (up $50 over the 2019 limit).

Reporting health coverage on W-2s. The same exemption from reporting health coverage in W-2s for small businesses apply for 2019 forms. It is unclear what will happen for 2020 forms filed in 2021.

Chapter 20—Deductions for Farmers

Depreciation. The 3-year depreciation recovery period for racehorses 2 years or younger, which had expired at the end of 2017, has been extended for 2018 and 2019. It applies as well for 2020.

Consider whether it makes sense to file an amended return for 2018 to claim a refund resulting from this favorable recovery period if applicable.

Chapter 21—Qualified Business Income Deduction

Qualified trade or business. The meaning of the term "qualified trade or business" is not clearly spelled out in Code Sec. 199A governing the QBI deduction. There had been uncertainty about whether a rental real estate activity could be treated as a trade or business for the QBI deduction. The IRS has provided guidance under which a rental real estate enterprise will be treated as a trade or business for purposes of the QBI deduction. A rental real estate enterprise must meet all of the following conditions:

1. Keep separate books and records to reflect income and expenses for each rental real estate enterprise.
2. For rental real estate enterprises that have been in existence less than 4 years, 250 or more hours of rental services are performed per year with respect to the rental real estate enterprise. For rental real estate enterprises that have been in existence for at least 4 years, in any 3 of the 5 consecutive taxable years that end with the taxable year, 250 or more hours of rental services are performed per year with respect to the rental real estate enterprise.
3. You must maintain contemporaneous records, including time reports, logs, or similar documents, regarding the following: (i) hours of all services performed; (ii) description of all services performed; (iii) dates on which such services were performed; and (iv) who performed the services. If services with respect to the rental real estate enterprise are performed by employees or independent contractors, the taxpayer may provide a description of the rental services performed by such employee or independent contractor, the amount of time such employee or independent contractor generally spends performing such services for the enterprise, and time, wage, or payment records for such employee or independent contractor. Such records are to be made available for inspection at the request of the IRS.
4. You or the relevant pass-through entity (RPE) attaches a statement to a timely filed original return (or an amended return for the 2018 taxable year only) for each taxable year in which you or RPE relies on the safe harbor. An individual or RPE with more than one rental real estate enterprise relying on this safe harbor may submit a single statement but the statement must list the required information separately for each rental real estate enterprise.

Taxable income threshold for 2020. The taxable income threshold is $326,600 for joint filers and $163,300 for all other filers.

Chapter 22—Miscellaneous Business Deductions

Charitable contributions related to disaster relief. The applicable limits (adjusted gross income for individuals; taxable income for C corporations) does not apply to cash contributions made to a public charity for disaster relief. This applies to contributions made from January 1, 2018, through February 18, 2020. The taxpayer must obtain a written acknowledgment from the charity that specifically references that the contribution is applied for disaster relief.

Consider whether it makes sense to file an amended return for 2018 to claim a refund from any charitable contribution in 2018 that would have been allowed but for the applicable limits.

Personal education incentives for 2020:

- ***American opportunity credit.*** The basic credit amount and modified adjusted gross income limit on eligibility are unchanged.
- ***Lifetime learning credit.*** The modified adjusted gross income limit threshold for phasing out the credit increases to $59,000 to $69,000 ($118,000 to $133,000 on a joint return).
- ***Above-the-line deduction for tuition and fees.*** This break expired at the end of 2017, but has been extended retroactively for 2018 and 2019. It applies as well for 2020. Consider whether it makes sense to file an amended return for 2018 to claim this tax break, if applicable.
- ***Student loan interest.*** The 2020 modified adjusted gross income range over which the deduction limit of up to $2,500 of interest is phased out is $140,000 to $170,000 on a joint return; for singles it is $70,000 to $85,000. These dollar amounts are unchanged from 2019.

Legal and professional fees. If you win a dispute with the IRS in which the government was not substantially justified, you may be able to recover costs up to a set dollar amount. For 2020, the dollar amount is $210 per hour (up $10 per hour from 2019).

Meal costs for day care providers. For 2020, the rates for standard meals and snack rates in all localities have increased slightly. They are:

Breakfast:

- States other than Alaska and Hawaii: $1.33
- Alaska: $2.12
- Hawaii: $1.54

Lunch and dinner:

- States other than Alaska and Hawaii: $2.49
- Alaska: $4.04
- Hawaii: $2.92

Snacks:

- States other than Alaska and Hawaii: $0.74
- Alaska: $1.20
- Hawaii: $0.87

Chapter 23—Roundup of Tax Credits

Some tax credits expired at the end of 2017, but have been extended retroactively for 2018 and 2019. They apply as well for 2020 (or longer where noted):

Employment-related credits:

- Empowerment zone employment credit.
- Indian employment credit.

Capital construction-related credits:

- Energy-efficient home credit.

Other tax credits (this is the complete list of extenders, although not all apply to small businesses):

- Alternative fuel vehicle refueling property credit.
- Biodiesel and renewable diesel incentives (through 2022).
- Credits with respect to facilities producing energy from certain renewable resources.
- Energy-efficient new homes credit.
- Mine rescue team training credit.
- Production credit for Indian coal facilities.
- Railroad track maintenance credit (through 2023).
- Second generation biofuel producer credit.
- Two-wheel plug in electric vehicles.

Consider whether it makes sense to file an amended return for 2018 to claim a refund from any of these tax credits, where applicable.

Some credits, which had been set to expire at the end of 2019, have been extended for 2020:

- Paid family and medical leave credit.
- Work opportunity credit.

Employee retention credit. For 2018 and 2019, there is a tax credit for employers that continue to pay employees affected by a qualified disaster. The credit is part of the general business credit, which is subject to a one-year carryback (to produce a tax refund) and, if not used up, a 20-year carryforward.

The credit is limited to eligible employers who pay eligible employees. An eligible employer is one with an active business in a qualified disaster zone (an area declared eligible for federal disaster relief) that becomes inoperable as a result of the disaster. An eligible employee is one whose principal place of employment is with an eligible employer (in the disaster area).

The credit is 40% of wages up to $6,000 that are paid from the time the business is inoperable until the date it resumes operations or 150 days after the incident, whichever is earlier.

An employee can only be taken into account once, so if the work opportunity credit is used for wages paid to an employee, the employee retention credit can't be use for the same employee.

Chapter 25—Strategies for Opening or Closing a Business

Shareholder basis in stock. The AICPA suggestion to the IRS to provide a new tax form for tracking a shareholder's basis in S corporation stock and debt has yet to be acted upon.

Debt versus equity financing. In informal guidance, the IRS clarified the tax treatment of crowdfunding. Crowdfunding that constitute loans, contributions to capital ("equity crowdfunding"), or gifts (without any quid pro quo) are not taxable to the business. However, amounts received through a crowdfunding portal for services rendered or gains from the sale of property are taxable.

Chapter 28—Alternative Minimum Tax

Exemption amounts. The AMT exemption amounts for 2020 are:

Filing status	2020 exemption
Married filing jointly/surviving spouse	$113,400
Single/head of household	$72,900
Married filing separately	$56,700

Exemption phase-out. The exemption amounts for 2020 start to phase out when alternative minimum taxable income (AMTI) exceeds $1,036,800 for married filing jointly and surviving spouses and $518,400 for other filers.

Chapter 27—Tax Strategies for Multiple Businesses

Employer mandate. See the discussion in Chapter 19.

Chapter 29—Other Taxes

State income taxes. There have been some tax changes for businesses at the state and local levels. Some of these are:

- New Corporate Activity Tax (CAT), which is a modified gross receipts tax, in Oregon.
- Corporate income, capital stock, franchise, and other businesses taxes are lowered or eliminated in Connecticut, Florida, Illinois, Indiana, Missouri, and Massachusetts.
- Corporate income, capital stock, franchise, and other businesses taxes are increased in New Jersey and Washington.

Employment and self-employment taxes. The 2020 wage base limit for the Social Security tax portion of FICA and self-employment tax is $137,700 (up from $132,900 in 2019).

The issue of whether net earnings of LLC members are subject in whole or in part to self-employment tax remains on the IRS's Priority Guidance Plan for 2019-2020 here (https://www.ncsha.org/wp-content/uploads/2019-2020-Treasury-and-IRS-Priority-Guidance-Plan.pdf). As yet, no guidance has been issued.

Sales taxes. A number of states have changes in sales tax rules for 2020, including:

- Reduction in the general sales tax rate in Florida.
- Broadening of the sales tax base in Connecticut.
- Narrowing of the sales tax base in Virginia.
- Changes in remote sales tax collection requirements in Arizona, Georgia, and Washington.

Congress has not yet enacted a bar to states retroactively imposing sales tax on remote sellers. It has not enacted any requirement for states to have uniform sales tax rules for remote sellers.

Excise tax on Medical devices. The 2.3% excise tax on the sale of medical devices that was supposed to go into effect in 2020 has been repealed.

Chapter 30—Filing Tax Returns and Paying Taxes

Charging income taxes to credit cards. Congress authorized the IRS to accept credit card payments, but as of yet not details have been provided. Taxpayers using credit cards to pay taxes must go through an IRS-authorized credit card processor.

Automatic filing extensions. Under new law, there is an automatic 60-day filing extension for taxpayers in a federally-declared disaster area. This covers taxpayers who live in the disaster area, whose principal place of business is within the disaster area, or whose records needed to meet a deadline are located within a disaster area. The automatic-extension rule applies to any such disaster declaration after December 22, 2019. However, certain actions, such as depositing employment taxes, is not subject to this automatic extension; the deadline cannot be extended (although the IRS may choose to waive penalties for late deposits).

Chapter 31—Retirement and Succession Planning

Gain on the sale of a business. Capital gain on the sale of a business can be deferred by making a timely investment in a Qualified Opportunity Fund (see Chapter 5).

Loans for victims of certain federally-declared disasters. See Chapter 16.

Chapter 32—Working with CPAs and Other Tax Professionals

PTINs. There is no fee charged by the IRS for a tax preparer to obtain a PTIN for the 2020 tax season.

Appendix A—Information Returns

Wages. The Taxpayer First Act changed the number of returns for which electronic filing is required:

- For calendar years beginning before 2021: 250
- For calendar year 2021: 100
- For calendar years beginning after 2021: 10

Appendix B—Tax Penalties

The following penalties apply to 2019 returns required to be filed in 2020:

Failure to file a tax return. The penalty is $435 or 100% of the amount required to be shown on the return (up from $335).

Failure of a partnership to file a return. The penalty is $205. The penalty is per month (or part-month) that the return is late, up to a maximum of 12 months, and is multiplied by the number of partners during any part of the year.

The penalty for a failure to furnish a Schedule K-1 is $270 for each failure, up to a maximum of $3,339,000 ($1,113,000 for businesses with average annual gross receipts in the 3 most recent years of $5 million or less). The penalty is increased to $550, or, if greater, 10% of the aggregate amount of items required to be reported, if the failure is due to intentional disregard.

Failure of an S corporation to file a return. The penalty is $205. The penalty is per month (or part-month) that the return is late, up to a maximum of 12 months, and is multiplied by the number of shareholders during any part of the year.

The penalty for a failure to furnish a Schedule K-1 is $270 for each failure, up to a maximum of $3,339,000 ($1,113,000 for businesses with average annual gross receipts in the 3 most recent years of $5 million or less). The penalty is increased to $550, or, if greater, 10% of the aggregate amount of items required to be reported, if the failure is due to intentional disregard.

Administrative waivers. To date there have been no developments on an SB/SE Division program for self-correcting errors.

Self-correct program. There are not additional details on the SB/SE Division's program to enable small businesses and self-employed individuals to self-correct errors on their tax returns with minimal or no penalties.

Appendix D—Dollar Limits and Amounts Adjusted for Inflation

Items Adjusted Annually for Inflation. The following adjustments apply for 2020 (and do not factor into the preparation of 2019 returns).

> ***Adoption assistance***—excludable employer-provided adoption assistance for employees ($14,300 for 2020).
>
> ***Cash method of accounting***—the gross receipts test for eligibility of C corporations and partnerships with C corporation partners to use the cash method of accounting is average annual gross receipts in the 3 prior years not exceeding a set amount ($26 million in 2020).

Excess business losses—the threshold used in determining whether an owner of a pass-through entity has such losses is capped at a set amount ($518,000 for joint filers and $259,000 for other filers in 2020).

First-year expensing (Sec. 179 deduction)—the dollar limit on the deduction, as well as the phase-out on property placed in service. For 2020, the limits are $1,040,000 million and $2,590,000 million, respectively.

Foreign earned income exclusion—the amount of wages or self-employment income earned abroad eligible for the exclusion is limited ($107,600 in 2020).

Medical flexible spending accounts (FSAs)—the most that employees can add annually on a pretax basis is capped at $2,750 for 2020.

Qualified business income deduction—the taxable income limit for the 20% deduction before application of a formula is required (and a phase-out for owners in specified service trades or businesses) is $326,600 on joint returns and $163,300 for other filers.

Small employer health insurance credit—the amount of average compensation, originally fixed at $25,000, is $27,600 for 2020.

Social Security wage base—the amount that is used to figure the Social Security portion of FICA and self-employment tax ($137,700 for 2020).

Transportation fringe benefits—the amount excludable for free parking, and the aggregate amount excludable for transit passes or van pooling, is $270 per month in 2020.

Items set by the IRS. The following adjustments apply for 2020 (and do not factor into the preparation of 2019 returns):

Deemed depreciation for business vehicles—if the deduction for expenses for business use of a personal vehicle owned by the taxpayer is figured using the IRS's standard mileage allowance, then the basis of the vehicle is reduced by a set amount per mile (e.g., 27¢ per mile in 2020).

Mileage allowance—the rate per mile used to determine the deduction for business use of a personal vehicle instead of deducting the actual costs is 57.5¢ per mile in 2020.