



# Carolinas Council for Affordable Housing

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## WELCOME SPRING!!

**If you haven't already signed up it's not too late! Registration is open until April 20th. Members may use \$100 of PTE credits per attendee!**

**S.T.A.R. webinar May 4th-5th Live with Steve Rosenblatt**

**Email [ccahtable@aol.com](mailto:ccahtable@aol.com) if you have not received a packet or would like additional information.**

**The Board of Directors is working on scheduling a quick virtual Members meeting in the summer. More details will be announced as plans are made.**

**Stay tuned for additional training opportunities coming up soon!**



## WHAT'S HAPPENING NOW

**GOOD TO KNOW FROM NCHFA: Financials are due in RCRS April 1st.**

**Their IT team should have the Average Income properties properly functioning in RCRS within the next couple of weeks. Be on the lookout for more information.**

**The new INCOME LIMITS for 2021 have just been released.**

**RURAL DEVELOPMENT - Calendar year 2020 Year End Reporting Due this Week.**

Letters were sent recently to all tenants living in Section 515-514 multifamily housing properties explaining requirements and protections of the CDC Eviction Moratorium and assistance availability through the

Department in Treasury Emergency Rental Assistance Program (ERA). Copies were sent to Partners as well. Questions can be emailed to [MFHFODSouth@usda.gov](mailto:MFHFODSouth@usda.gov).

In October, 2020, the Rural Development Multifamily office finalized its structural realignment. The realignment in some cases redistributed existing portfolios to servicing Specialists within the new Field Operations Division. The following link is a complete sortable list if you are looking for the Specialist for your property <https://www.sc.egov.usda.gov/data/MFH.html>



# NEW FAIR HOUSING PROTECTIONS FOR SEXUAL ORIENTATION AND GENDER IDENTITY

By Brownlee Whitlow & Praet, PLLC

Not to be outdone by all the other governmental entities changing laws lately, on February 11, 2021, the Department of Housing and Urban Development (HUD) issued a Memorandum stating that sexual orientation and gender identity is forbidden under the sex discrimination of the Fair Housing Act. HUD also stated that it would review any complaints based on sexual orientation or gender discrimination filed on or after January 20, 2020. As federal Fair Housing complaints must be filed within one year of alleged discrimination this effectively retroactively protects sexual orientation and gender identity beginning January 20, 2019 (if the claim was filed within one year).

Not only does this Memorandum affect private housing providers, but it also affects state and local agencies that enter into agreements with the Department under the Fair Housing Assistance Program (FHAP), pursuant to which such agencies process discrimination complaints under laws that the Department certifies as “substantially equivalent” to the Fair Housing Act. To remain “substantially equivalent” the state or local law either must explicitly prohibit discrimination because of gender identity and sexual orientation or must include prohibitions on sex discrimination that are interpreted and applied to include discrimination because of gender identity and sexual orientation.

*Bostock v. Clayton County*, a case decided by the Supreme Court in June 2020, paved the way for these new FHA protections. In *Bostock*, the U.S. Supreme Court ruled that it is illegal for an employer to discriminate based on sexual orientation or gender identity. The Supreme Court based this ruling on the prohibition against discriminating in employment on the basis of sex provided for in Title VII of the Civil Rights Act of 1964. The language of Title VII of the Civil Rights Act of 1964 prohibiting discrimination based upon sex is identical to the language of the Fair Housing Act. Accordingly, we expected formal recognition of these protections under the Fair Housing Act to be recognized shortly after the *Bostock* decision.

Further paving the way for the HUD Memorandum, on January 20, 2021, President Biden issued Executive Order 13988, directing that the head of each federal agency review all policies that are either administered under Title VII or may be inconsistent with including protections based on sexual orientation or gender identity under Title VII. HUD quickly reviewed its policies and found that not extending protections to sexual orientation and gender identity under the Fair Housing Act were not consistent with the findings that these protections were extended under Title VII, and the Memorandum mentioned above was issued.

HUD memoranda and guidance are not actual changes to laws, so they do not have the full weight of laws. The memoranda and guidance just tell you how HUD interprets existing laws. Sometimes we question the accuracy of HUDs interpretations but as HUD, state and local agencies who must follow HUD memoranda will be proceeding under the memoranda most property management firms under that the cost of winning a fight with HUD by appealing HUD decisions to federal court and likely ultimately to the appellate level will be very costly. Given their influence, most property management firms treat HUD memoranda and guidance as law. As the HUD Memorandum we have been discussing is based on a Supreme Court opinion it is very unlikely that any challenges to it will be ultimately successful, so following it, besides being the fair and equitable thing to do, is also the most prudent thing to do.

Although most housing providers have already revised their policies and practices regarding discrimination based on sexual discrimination or gender identity it is worthwhile to review your policies if you are not certain these changes have been made. *This information is not intended as legal advice and should not be relied on as such. You should contact an attorney directly with your specific facts if you have any*

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## **ARPA: American Rescue Plan Act of 2021 – A Look at the Impact on Tax Laws by Jill Clark, CPA – Bernard Robinson & Co. LLP (BRC)** **\$1,400 Stimulus Checks**

Nearly one year after the first significant COVID relief legislation was passed, President Biden signed the fourth major piece of legislation into law that provides assistance to the American people as we continue to fight against the many impacts of this pandemic. The \$1.9 trillion dollar piece of legislation was signed into law on March 11, 2021. This legislation contains several new provisions while also making changes to and extending the timeline on several existing provisions that were introduced in earlier COVID relief legislation. This article focuses on the various federal tax related provisions that are being introduced, changed or expanded as part of this latest round of COVID relief legislation.

A third round of stimulus checks will be making their way to eligible individuals. Eligible individuals whose adjusted gross income (AGI) does not exceed the phase-out limits can expect to receive \$1,400 per person (including their dependents). Therefore, a family of 4 (husband, wife and 2 dependent children) should receive \$5,600 if their AGI does not exceed the \$150,000 AGI threshold set for married couples.

## **Changes to the Child Tax Credit for 2021**

This legislation makes several temporary changes to the existing \$2,000 child tax credit. The following is a summary of the changes that have been made (note that these changes are only applicable for **2021** tax years):

The definition of a qualifying child has been changed to increase the maximum age for which a child tax credit is allowed from 16 to 17 years old.

The child tax credit will be a fully refundable tax credit for 2021.

The current \$2,000 child tax credit is being temporarily increased for taxpayers with modified AGI below certain phase-out limits:

For children under the age of 6, the credit will equal \$3,600 per qualifying child (an additional credit of \$1,600)

For children ages 6 – 17, the credit will equal \$3,000 per qualifying child (an additional credit of \$1,000)

The following are the phase-out thresholds that are applicable to these additional child tax credit amounts for 2021:

Married filing joint filer (or surviving spouse filer): The additional child tax credit will begin phasing out once AGI reaches \$150,000.

Head of Household: The additional child tax credit will begin phasing out once AGI reaches \$112,500.

All Other Filers: The additional child tax credit will begin phasing out once AGI reaches \$75,000.

The amount of additional child tax credit that a taxpayer is eligible to receive for 2021 is reduced by 5% of the amount their AGI exceeds their applicable threshold.

Note that the phase-out thresholds that were in existence prior to this law still apply to the existing \$2,000 child tax credit (\$400,000 (MFJ); \$200,000 (all others)). The phase-out limitations referenced above are only applicable when determining if a taxpayer is eligible for the additional child tax credits (\$1,000 or \$1,600 depending on the age) that were made available as part of this legislation for 2021 tax years.

The new legislation puts a framework in place requiring the IRS to develop a system to provide taxpayers with the option to receive 50% of their 2021 child tax credit in advance. The legislation states that taxpayers may start receiving ½ of their 2021 credits as early as July 1, 2021.

## **Expansion of Child and Dependent Care Credit for 2021**

For **2021**, the child and dependent care credit has been significantly expanded as follows:

The percentage of qualifying expenses eligible for the credit has been increased from 35% to 50%.

The maximum amount of qualifying expenses on which the credit can be claimed has been increased from \$3,000 for one qualifying child (\$6,000 for two or more qualifying children) to \$8,000 for one qualifying child (\$16,000 for two or more qualifying children).

The percentage of eligible expense that qualify for the credit currently starts to phase-out when a taxpayer's AGI reaches \$15,000. For 2021, the AGI phase-out will not start until taxpayer's AGI reaches \$125,000.

The credits will be fully refundable for 2021.

## **Increase in Exclusion for Employer Provided Dependent Care Assistance for 2021**

For **2021**, taxpayers may exclude, from their taxable income, up to \$10,500 that they receive from their employers under a dependent care assistance program. Prior to this legislation, that limit was set at \$5,000.

## **Taxation of 2020 Unemployment Benefits**

A last-minute addition to the bill provides certain taxpayers the ability to exclude up to \$10,200 of unemployment benefits from their **2020** federal taxable income. This exclusion is only available to taxpayers who have less than \$150,000 of modified AGI for **2020**. This means taxpayers that have already filed their 2020 income tax returns and included these amounts in taxable income can file an amended return to claim a refund of the federal taxes they paid on the first \$10,200 of unemployment benefits.

## **Changes to the Affordable Care Act (ACA) Premium Assistance Payments/Subsidies**

The legislation reduces the premium percentages for **2021 and 2022** resulting in eligible individuals receiving higher premium tax credits during 2021 and 2022. The legislation also includes a provision that will allow taxpayers that receive unemployment compensation anytime during **2021** to be eligible for premium assistance payments regardless of their household income levels.

For **2020** tax years, the provision requiring individuals to repay excess premium credits they received during 2020 has been eliminated. This means individuals who did not correctly estimate their income levels for 2020 and who received excess advanced premium credits during 2020 will **not** be required to pay those premiums back when reconciling the credits on their 2020 tax return.

### **Exclusion of Student Loan Forgiveness from Taxable Income**

The legislation provides that specified student loans discharged during 2021 through 2025 will be excluded from taxable income, regardless of the reason the loans are forgiven. There is **not** a current provision to discharge any student loan debt; however, there has been a lot of support for there to be legislative action taken to discharge a certain amount of student loan debt. Should that action be taken in the future, this provision should ensure those amounts are not taxable.

### **Extension of Limitation on Excess Business Losses for Noncorporate Taxpayers**

For tax years beginning in 2021, noncorporate taxpayers will be limited to the amount of business losses they are allowed to deduct on their income tax returns (\$500,000 married filing joint; \$250,000 all other filers). This law was originally introduced under the Tax Cuts and Jobs Act of 2017 and was set to expire after tax years beginning in 2025. This legislation includes a provision to extend these “excess business loss” provisions another year; therefore, they will be in effect through tax years beginning in 2026.

### **Changes to the Earned Income Tax Credit for 2021**

This round of legislation makes several temporary changes to the earned income tax credit (EITC) that are applicable to the **2021** tax year. The most significant changes impact the rules applicable to taxpayers **without** qualifying children. For these taxpayers, many eligibility requirements have been relaxed and both the credit percentage and phase-out limits have been increased. These changes will result in taxpayers **without** qualifying children being eligible for significantly more EITC on their 2021 tax returns. In addition to these changes, if a taxpayer’s 2021 earned income is less than their 2019 earned income amount, the taxpayer may determine their 2021 EITC using their 2019 earned income amounts.

### **Changes to the Employee Retention Credit and Paid Sick and Family Leave Credits**

The Employee Retention Credit (ERC), currently set to expire June 30, 2021, has been modified and extended thru December 31, 2021.

In addition, the Paid Sick and Family Leave Credits set to expire on March 31, 2021 have been extended to September 30, 2021. In addition to Paid Sick and Family Leave Credits being extended, several changes were made that impact the eligibility requirements and maximum benefits and credit that can be claimed.

### **Tax Treatment of “Targeted EIDL Advance” and “Restaurant Revitalization Grants”**

The Consolidated Appropriations Act of 2021 (CAA) made available to eligible businesses “Targeted EIDL Advance” Grants from the SBA. In addition, within this legislation, a new round of assistance known as “Restaurant Revitalization Grants” is being made available through the SBA to restaurants meeting certain eligibility requirements.

This bill includes language that excludes amounts received under these two provisions from being included in taxable income. In addition, it provides that expenses paid with these monies are deductible, assuming all other requirements for expense deductibility are met.

**Please note that this is a summary of the laws that are in effect for federal tax purposes. Each state will have to make a determination of whether or not they choose to conform to the federal changes made by this legislation.**

If you have any questions regarding these tax provisions, please do not hesitate to reach out to your trusted BRC tax advisor or visit our website at [www.brccpa.com](http://www.brccpa.com) and have someone contact you.