

# Affordable Care Act Compliance Notes – Jan. 6, 2021

The ACA requires employers to report the cost of group health plan coverage on employees' Forms W-2. This ACA Overview explains the W-2 reporting requirement, including its application to small and large employers. [Affordable Care Act Compliance Notes – 6 Jan 2021](#)

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## Last-Minute Charitable Giving Opportunities

December is the “giving season,” when many people consider using their wealth to help others. Because of the urgent need for generosity presented by the COVID-19 pandemic, you may be looking for ways to stretch your charitable donations. As always, the use of tax-efficient giving strategies can help them go further.

This year, it's also important to be aware of the tax incentives for philanthropy included in the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The summary below explains how you can maximize these tax-efficient giving incentives during the final weeks of 2020. Two common vehicles for charitable planning—now and in the future—are also covered. **CARES Act Tax Incentives**

These incentives, which are set to expire on December 31, 2020, apply only to cash gifts to public charities made by individuals or corporations. Regarding your 2020 tax return, here's what you need to know:

**Are you taking the standard deduction?** If you're not itemizing, you can take an "above-the-line" deduction of up to \$300 for cash gifts to charities. The amount you claim will reduce your adjusted gross income (AGI). What about married couples filing jointly? As of this writing, your deduction also seems to be limited to \$300, according to IRS draft instructions.

**Are you itemizing deductions?** Typically, annual charitable deductions are capped at a percentage of a taxpayer's AGI. For individuals, this cap has been set at 60 percent since 2017. Under the CARES Act, however, you may deduct up to 100 percent of your AGI for gifts of cash to a public charity in 2020. This rule excludes gifts to a donor-advised fund (DAF). For corporations, the AGI cap for cash gifts, previously set at 10 percent, has been raised to 25 percent for the year.

- For both individuals and corporations, any unused deduction under this cap may be carried forward for five years, which can lead to the planning opportunities discussed below. The cap for gifts of appreciated assets has not changed.

## **Planning Opportunities**

If you wish to fund large charitable gifts this year, the 100 percent AGI cap offers huge advantages. Here are several ways this incentive could help you manage high-income events:

- **Stock options and lump-sum payouts.** If you've exercised nonqualified stock options from your employer out of concern for market volatility or received a large lump-sum severance package as a result of a layoff, charitable gifts can help offset the tax burden.
- **Roth conversions.** If you'd like to make a large Roth conversion this year, you could also make a large charitable gift to offset the tax liability of the

conversion. This strategy is especially beneficial because traditional IRAs have become a less attractive way to leave money to heirs since the 2019 passage of the SECURE Act, which requires most IRA beneficiaries to empty their inherited IRA within 10 years.

- **Business sale.** Let's say you have an expected AGI of \$1 million this year due to a business sale. You could make a charitable contribution that would completely offset the year's income.
- **Combining gifts.** Although the CARES Act incentive applies only to cash gifts, the IRS does permit taxpayers to combine different types of gifts. For instance, you could maximize your 30 percent AGI cap for gifts of appreciated assets. The 100 percent AGI cap would be reduced by that amount, but you would still be able to deduct another 70 percent of your AGI by making cash gifts.

### **Qualified Charitable Distributions (QCDs)**

A QCD is a direct transfer of funds from an IRA, payable to a qualified charity. Although the CARES Act allows IRA owners to skip required minimum distributions (RMDs) in 2020, the rules for QCDs have not changed. If you own an IRA (including an inherited IRA) and are 70½ or older, you can make tax-free distributions of up to \$100,000 payable to public charities (excluding DAFs).

Here are some ways a QCD could help control your income:

- If you decide to take an RMD this year (or must do so in the future), a QCD could be used to satisfy the distribution. This strategy would remove the tax burden associated with taking the distribution as ordinary income.
- A QCD is not reportable as part of your AGI, which limits its impact on the taxation of social security benefits.

- In future years, a QCD could also limit the impact of income on Medicare premiums, which are based on your AGI from two years prior.

## **Charitable Remainder Trusts (CRTs)**

A CRT can help you (or your beneficiary) spread the tax liability on the sale of appreciated assets over many years. This may result in paying a lower overall effective tax rate. Let's look at how this works:

- A CRT pays an income stream to a noncharitable beneficiary (or beneficiaries) for a term of years or for life. At the end of the income term, the remaining assets in the trust are distributed to a charity.
- When you move assets into a CRT, you receive a charitable contribution deduction based on the present value of the remainder interest set to pass to the charity at the end of the income distribution term.
- If you contribute appreciated assets (e.g., investment assets, closely held business interests, real estate, or collectibles), those assets can be sold without creating a tax liability to the trust itself.

As you can see, the primary benefit of a CRT is that the trust is exempt from taxes. But that does not mean taxes are entirely avoided for beneficiaries. In fact, the distributions to the income beneficiaries are taxable based on four buckets of income: ordinary income, capital gains, tax-free income, and return of principal. Each year, when the CRT makes its income distribution, it first pulls the funds available from accumulated ordinary income, such as interest and dividends, before distributing other types of income. The beneficiaries would be subject to the taxation rules in place for these types of income.

## Need Additional Information?

If you're interested in exploring these options, please contact me. We'll talk through how these giving strategies can help you meet today's urgent need for generosity—and further your visions for doing good.

*This material has been provided for general informational purposes only and does not constitute either tax or legal advice. Although we go to great lengths to make sure our information is accurate and useful, we recommend you consult a tax preparer, professional tax advisor, or lawyer.*

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# Who Owns the Ship or the Shipyard? The Importance of a Named Insured

By Chris Richmond

Originally Submitted to [WorkBoat Magazine](#) / December 2020



This is about when what seems like a small thing can be a very big thing: Who actually owns the yard, building, ship, truck, tool box or other thing that needs insurance?

We're talking about something called "insurable interest." In basic terms, this means the named owner. The real owner is identified as the named insured on an insurance policy. We have seen times when there is an owner in the name of one company but another company (an operations company) actually runs the business.

Very often, the owner of both entities is one and the same. Also very often, that same business owner doesn't think to identify all of the entities he or she has set up. This will be a serious problem when a claim arises. If the actual legal owner of the property is other than what's shown on an insurance policy, the policy may not respond because there is no "insurable interest" for the person or entity on the policy. In cases like these, it is most likely the claim will be denied.

In other words, if a company or entity is not named on an insurance policy, it is highly likely there is no coverage.

There was a claim at a local yard where the named insured on the insurance policy was the operating company but not the actual owner of the property. The bank holding the mortgage had accepted proof of insurance that showed the wrong name as the property owner.

There was a devastating fire. When the insurance company's claims adjuster arrived, he asked who the owner was. When the company owner named the actual company that owned the property, the claims adjuster explained that he didn't see that entity named anywhere on the insurance policy. Technically, both the owner and the bank were out of luck. After some very heavy negotiations, which included pointing out that the owners of both entities were one and the same, the insurer relented and agreed to pay the claim. This case is an exception to the rule.

When doing an insurance review, the first topic we discuss is

the named insured – and we ask if there are any other entities operating that are not listed. As always, the time to have this discussion is before there is a claim as afterwards it is often too late.

The same goes for vessels. Many vessel owners have each vessel in a separate company. Send the vessel's certificate of documentation to your insurance agent to make sure the actual owner of the vessel is listed correctly on the insurance policy.

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## **How a Biden Administration Might Impact HR and the Workplace**

While we don't have a Magic 8 ball, with a new Executive Administration, all signs point to changes to how you approach your human resources. Our seasoned prognosticators have some insight for you.

Each presidential transition brings changes to the HR landscape. And the more prepared an HR team is, the easier it will be for them to succeed amid these changes. To that end, this article discusses potential changes employers can expect during a Biden presidency.

To read more, click the image at right to view the article (PDF) in a new window.

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# One Way to Make the Most of your Homeowners Insurance

Homeowners insurance helps you protect the things that mean so much to you. To be certain that your valued possessions are fully covered against fire, theft and other perils, you should take some extra steps.

Many smart homeowners install security devices, including deadbolt locks, fire extinguishers and burglar alarm systems.

These precautions reduce the chance and severity of a loss. However, there is no guarantee. There is another important step to take – one that is often overlooked.

## **Create an inventory of the things in your home.**

This detailed record of your home furnishings, personal possessions and valuable items, in writing and in pictures, is an important complement to your homeowners insurance.

Having this information will make it easier for you to file a complete and prompt claim, supported by accurate documentation. This will help determine the replacement cost of your lost or damaged possession so your claim can be settled more quickly.

We truly hope you never need to access your home inventory. But if you do need it, the investment of time to complete the inventory will have been well worth it.

Contact your Allen Insurance personal insurance account executive for more information. We can provide you with an



inventory to complete, guidelines for the kinds of photos to take and a place to store it all.

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## Do You Use 123456 as Your Password?

**QUESTION:** What were the top passwords leaked during 2020 data breaches?

We recently came across a new report looking at 275,699,516 passwords leaked during 2020 data breaches – it found that the most common passwords are incredibly easy to guess – and it could take less than a second or two for attackers to break into accounts using these credentials. Only 44% of those recorded were considered “unique.”

If your cyber defenses have failed – or you have been breached by a hacker – cyber insurance can help you recover. Ask a member of the Allen Insurance and Financial business insurance team for more information about cyber coverage. Anyone who does business on the Internet really shouldn't be without it.

**ANSWER:** The most popular passwords from those 2020 data breaches included “123456,” “123456789,” “password,” and “12345678.” [Read more about the report.](#)

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# Solutions for Managing Student Loan Debt

Managing student loan debt has become one of the biggest financial planning challenges for many. In the U.S., student loan debt [rose to \\$1.51 trillion](#) last year, according to the Federal Reserve Bank of New York. So, if you or family members are dealing with the burden of budgeting every month for a student loan, you're not alone.

Fortunately, numerous payment and planning solutions are available to help student borrowers. In addition, this year, the **Coronavirus Aid, Relief, and Economic Security (CARES) Act has provided substantial assistance for individuals holding federal student loans**. It's important to remember, though, that the CARES Act's relief provisions are set to expire on December 31, 2020.

If you're looking for a long-term solution for managing student debt, you'll find a variety of considerations and options below to keep in mind.

## **Student Loan Relief Under the CARES Act**

Interest and required payments on federal student loans owned by the U.S. Department of Education are currently suspended, without penalty, through December 31, 2020. On January 1, 2021, interest will start accruing again and borrowers will be responsible for making monthly payments. Auto-debit payments will automatically resume, if this feature was set up prior to payment suspension. If the required payments aren't made, federal loan servicers may report delinquency for the period beginning January 1.

**Income-driven repayment plans.** The Department of Education offers several income-driven repayment plans that help you set an affordable monthly payment based on your income and family size. If you're already on a payment plan but your financial situation has changed, you can update your information to see if you qualify for a new, lower payment amount. The plans are:

- **Income-based repayment (IBR) plan.** You'll pay 10 percent of your discretionary income if you're a new borrower or after July 1, 2014, and 15 percent if you're not a new borrower. You'll never pay more than on the standard plan.
- **Income-contingent repayment (ICR) plan.** You'll pay the lesser of 20 percent of your discretionary income or the amount of a fixed payment over 12 years, adjusted according to your income.
- **Pay as you earn (PAYE) and revised pay as you earn (REPAYE) plans.** Generally, undergraduate borrowers who qualify will pay 10 percent of their discretionary income toward their student loans each month, and after 20 years of on-time payments, the remaining balance may be forgiven (payments may be forgiven after 10 years for those in certain public interest jobs and after 25 years for graduate school borrowers).

## **Deferment, Forbearance, and Cancellation**

Although repaying your student loan may become difficult, ignoring your payments is the worst thing you can do. Instead, talk to your lender about possible solutions. Depending on your situation, you may be able to apply for a deferment, forbearance, or cancellation of your loan.

These programs are not automatic. You'll need to fill out the appropriate application from your lender, attach documentation, and follow up on the application process. Also, it's important to keep in mind that interest accrues for most borrowers on

a general forbearance (unlike forbearance under the CARES Act).

- With a deferment, the lender grants a temporary payment reprieve, based on a specific condition, such as unemployment, temporary disability, military service, or full-time enrollment in graduate school. For federal loans, the government pays the interest that accrues during the deferment period, so the loan balance doesn't increase. A deferment usually lasts six months, and the total number of deferments that can be taken over the life of the loan is limited.
- With a forbearance, the lender has discretion to grant permission to reduce or cease loan payments for a certain period of time, though interest will continue to accrue—even on federal loans. Economic hardship is a common reason for forbearance. A forbearance usually lasts six months, and the total number permitted over the loan's term is limited.
- With a cancellation, a loan is permanently erased, but qualifying isn't easy. Cancellations may be allowed due to the death or permanent total disability of the borrower, or if the borrower teaches in certain geographic areas. Typically, student loans can't be discharged in bankruptcy.

## **Loan Consolidation**

With loan consolidation, you combine several student loans into one loan, sometimes at a lower interest rate, allowing you to write just one check each month. You need to apply, and different lenders have different rules about which loans qualify for consolidation. Generally, you can choose an extended repayment and/or graduated repayment plan in addition to a standard repayment plan.

## Student Loan Forgiveness Programs

In addition to the repayment assistance programs described above, the federal government offers student loan forgiveness to qualified borrowers. Although the benefits can be substantial, you should carefully consider the potential long-term costs associated with changing your career path. Available programs include:

- **Public Service Loan Forgiveness (PSLF).** The PSLF program forgives the remaining balance on [direct loans](#) after the borrower has made 120 qualifying payments (10 years' worth) while working full-time for a qualifying employer. A [loan simulator tool](#) that can help you assess eligibility is available at [studentaid.gov/loan-simulator](https://studentaid.gov/loan-simulator).
- **Teacher Loan Forgiveness (TLF).** Borrowers must teach full-time for five complete and consecutive academic years in a low-income school or educational service agency and meet other qualifications. The TLF program offers forgiveness of up to \$17,500 on [direct subsidized and unsubsidized loans](#) and your subsidized and unsubsidized federal Stafford loans.

## Refinancing Option

Refinancing may be a good option for lowering your monthly loan payments. But, to do so, you must already have a private loan or be willing to convert your federal loan to a private loan—and this could mean losing some benefits. A federal loan cannot be refinanced as a new federal loan with a lower interest rate. Be sure you understand the cons and pros of refinancing:

### Cons:

- Borrowers lose the option for student loan forgiveness.
- Private student loans don't offer income-driven repayment

plans.

- Deferments on private student loans are not as generous as on federal loans.
- Variable interest rates could increase.
- There's no grace period for starting payments after leaving school.

#### **Pros:**

- Interest rates can be reduced, creating substantial savings.
- Less interest means loans can be paid off faster.
- Loan management is easier if multiple loans are combined.
- Monthly payments can be reduced.
- A cosigner can be released from the new loan.

#### **Need Additional Information?**

For assistance in evaluating your options, please a member of the [Allen Financial team](#). We'll talk through these strategies for managing student debt and explore other planning solutions that can help you get on track to financial security.

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# Paid Leave During Quarantine – Answers for Maine Businesses



With the increasing number of COVID-19 cases in Maine, businesses across the state are seeing employees being quarantined due to diagnosis or close exposure.

It is important to remember that under the [The Families First Coronavirus Response Act](#), all businesses with fewer than 500 employees – nearly the entirety of the Maine business community – are required to provide up to two weeks of pay (80 hours for FTEs) for quarantining employees. This includes our small businesses who may never have had to administer paid sick leave in the past.

With reduced revenue streams resulting from the pandemic, this requirement may cause deep concern.

It is important to also remember that the FFCRA also provides for a refundable tax credit for the payroll in this scenario. The credit currently is available through the end of December with their quarterly unemployment filings (form 941).

Allen Insurance and Financial has an HR Compliance Bulletin which may answer many of the questions a business owner or manager may have about these scenarios. [Click here for the PDF.](#)

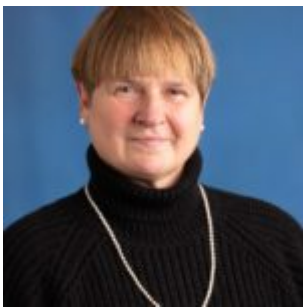
*We also recommend a conversation with your tax preparation*

*professional.*

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# **In Uncertain Times, at Least Two Things are Certain: Change and Taxes**

By Sarah Ruef-Lindquist, JD, CTFA



Potential for higher federal income taxes is anticipated by experts due to 1) a growing national debt increased by trillion-dollar stimulus spending and 2) possible election results that mean a change in administrations and congressional profile. Increasing taxes levied on high-income earners is nothing new, and reasonably anticipated.

## **Income Taxes**

Currently, the top federal rate is 37% (taxpayers with over half a million dollars a year) and could increase to 39.6%. It is also possible that those who do still itemize deductions will be limited to a cap of 28%.



## Capital Gains

Long-term capital gains taxes are currently limited to 23.8% (combined highest rate of 20% plus 3.8% net investment income tax) for taxable incomes with over \$441,450, but it is possible that rate could go to 39.6%, same as the top income tax rate.

These issues may impact the planning of high-income earners between the date of the election and year-end 2020. If you are at an income level that would be affected by these changes, good for you. Still consider talking with your financial and tax advisors soon about strategies that could be available to ameliorate the impact.

## Tax on inheritances

For many years, when people have inherited long-term appreciated stock, they were able to avoid the capital gain that had accrued prior to inheriting it. The “step-up” in basis provisions made it possible for heirs to reap the benefit of the full value of appreciated securities because their tax basis would be the date of death value of the stock. If they sold it, their capital gain would be limited to any accrued since they inherited the stock. Often this results in significant tax savings.

However, it is possible that this “step-up” provision will be eliminated with new tax legislation. It is important, therefore, for those including such assets in their estate plans to consider what options they might have to preserve as much of the value of those assets for heirs as possible.

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# The Catch-Up Payment Provision for Overtime Exempt Employees



The Department of Labor final overtime rule became effective Jan. 1, 2020. Among other things, the final rule also allows employers to use nondiscretionary bonuses and incentive payments (including commissions) to satisfy up to 10% of the salary level if these payments are made at least on an annual basis. To enable compliance with the nondiscretionary bonus option, the final rule allows employers to make a “catch-up” payment at the end of each 52-week period. [Read more now.](#)