



The Consolidated Appropriations Act

How Will the \$900B COVID Stimulus Package Impact Businesses and Individuals?

WEBINAR | Presented on January 15, 2021

Housekeeping Items



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Today's Presenters



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Our Agenda

- ✓ Current Landscape / Opening Comments
- ✓ First and Second Draw PPP Loans
- ✓ Economic Injury Disaster Loans (EIDL)
- ✓ Employee Retention Credit (ERC)
- ✓ Other Business & Individual Tax Provisions
- ✓ Q&A

Paycheck Protection Program 2.0 + EIDL

Presented by Ashley Zumbrun

Paycheck Protection Program Updates

- Total of \$284.5 billion allocated to new PPP loans
- Last day to apply for a loan is **March 31, 2021** or sooner if allocated funds are exhausted
- Loans are now classified as either First Draw or Second Draw PPP loans
- The Act made several changes which will be retroactively applicable to any loans previously issued under PPP, excluding loans that have already received forgiveness

First Draw PPP Loans

Who is Eligible?

- Small business concerns, 501(c)(3) nonprofits, veterans' organizations, tribal businesses, self-employed individuals, independent contractors with less than 500 employees (NAICS 72 exception for number of employees)
- **Section 501(c)(6) housing cooperatives, news organizations, destination marketing organizations with less than 300 employees**
- **Business was in operation on Feb 15, 2020 (alternative dates may be used for seasonal businesses)**
- **Publicly-traded entities are deemed ineligible for new loans**

First Draw PPP Loans

How Much Can I Borrow?

- Calculation remains unchanged
- Based on 2.5 times the average monthly payroll costs for the 12-month period prior to the loan application or for calendar year 2019
- Seasonal business may use average monthly payroll costs from any 12-week period from February 15, 2019 through February 16, 2020
- **Definition of payroll costs clarified to include employer-provided group insurance benefits – health, dental, vision, life and disability**
- **Maximum borrowings of \$10 million**

First Draw PPP Loans

Increase in Original Loan Amount

- Borrowers that returned all of a PPP loan may reapply for a loan based on current rules
- Borrowers that returned part of a PPP loan may reapply for an amount equal to the difference between amount retained and amount previously approved
- Borrowers that did not accept the full amount of a PPP loan for which they were approved may request an increase up to amount previously approved
- Partnerships that received a loan which did not include partner compensation may be increased to include partner compensation amount
- Seasonal employers may request an increase based on a revised maximum loan calculation
- All requests must be submitted by March 31, 2021 and are subject to available funds

Second Draw PPP Loans

Who is Eligible?

- Must have previously received a PPP loan
- Must have fully spent previous loan or expect to fully spend prior to Second Draw disbursement date (including any increases received on the First Draw)
- 300 employees or less
- Must demonstrate a 25% reduction in revenue between corresponding quarters in 2019 and 2020

Second Draw PPP Loans

25% Reduction in Revenue

- Borrower must compare quarterly gross receipts for one quarter in 2020 to the corresponding quarter in 2019
 - Must provide documentation substantiating the decrease (tax filings, quarterly financial statements, bank statements)
- If in business for all four quarters of 2019 and 2020 and annual tax filings are available, the borrower may perform calculation based on annual amounts vs. quarterly

Second Draw PPP Loans

Gross Receipts (For-Profit Entities)

- Gross receipts based on the definition of receipts in SBA's size regulations. Includes the following received or accrued (in accordance with entity's accounting method):
 - Sales of products or services, net of returns and allowances
 - Interest and dividends
 - Rents
 - Royalties
 - Fees and commissions

Second Draw PPP Loans

Gross Receipts (Nonprofit Entities)

- Gross receipts has the meaning stated in section 6033 of Internal Revenue Code which is the gross amount received from all sources without reduction for any costs or expenses. Includes, but is not limited to:
 - Contributions, gifts, grants
 - Dues or assessments from members or affiliated organizations
 - Sales from business activities (including unrelated business activity)
 - Amounts received from sale of assets
 - Gross amount received as investment income (interest, dividends, rents, royalties)

Second Draw PPP Loans

How Much Can I Borrow?

- Based on 2.5 times the average monthly payroll costs for the 12-month period prior to the loan application or for calendar year 2019. Calendar year 2020 may be used as simplified approach to 12-month period prior to loan
- Seasonal employers may use average monthly payroll for any 12-week period between February 15, 2019 and February 15, 2020
- NAICS Code 72 business may borrow 3.5 times the average monthly payroll costs
- **Maximum of \$2 million**

Second Draw PPP Loans

Documents for Application

- If using the same lender from First Draw, can leverage documentation previously provided
- Info to have available:
 - Form 941's and state quarterly wage unemployment insurance forms or payroll processor records
 - If loan is over \$150k, annual tax forms, quarterly income statements or bank statements to show decrease in revenues
 - If loan is under \$150k, revenue reduction documentation will be due upon requesting forgiveness

First and Second Draw PPP Loans

Forgiveness

- Remains unchanged: at least 60% of the loan must be used for payroll costs
- **Covered nonpayroll costs expanded to include:**
 - Payments for business software or cloud computing services
 - Property damage due to public disturbances not covered by insurance
 - Supplier costs
 - Worker protection costs
- **Flexible covered period – any period within window of 8 -24 weeks after origination**
- **EIDL Advance no longer reduces forgiveness amount**

First and Second Draw PPP Loans

Forgiveness

- Remains unchanged: forgiveness is reduced if wage and employment levels are not maintained
- **Safe harbor excludes some reductions if reversed by end of covered period**
- **Simplified forgiveness application will be available for loans less than \$150,000 (1 page certification)**

Economic Injury Disaster Loans (EIDL)

Targeted EIDL Advance Grants

- \$20 billion appropriated
- Grants up to \$10,000 (reduced by any previous EIDL grant received)
- Eligibility
 - Has applied for an EIDL
 - Fewer than 300 employees
 - Located in low-income community
 - Suffered economic loss of at least 30% (any 8-week period from March 2, 2020 through December 31, 2021 vs. prior year period)
 - Not an agricultural enterprise

PPP Deductions

Presented by Jim Wilhelm

PPP Deductions & Related Impacts

- The CAA of 2021 overrules earlier IRS guidance and once again allows PPP-related expenditures to be deductible and the loan forgiveness remains nontaxable. EIDL grants are also now not taxable as is SBA 7(a) loan relief.

- Two remaining issues to consider:

1

State Tax Treatment

MD/CA/NC/NY – Will tax absent legislative action to exclude income.

PA – Taxable for individual filers, nontaxable for corporations.

DE/NJ – Will follow federal treatment.

VA – Recent commentary indicates VA may decouple.

DC – Unclear as to how they will treat at this time

2

Tax Basis for 2020

The timing of when the nontaxable COD income is reported impacts the increase to tax basis for owners of pass-through entities.

- Related impact to making the Maryland PTE election for 2020/2021

Employee Retention Credit (ERC)

Presented by Lori Burghauser

Employee Retention Credit (ERC) – 2020

- Fully refundable payroll tax credit for qualified employers for 50% of qualified wages up to \$10,000 of qualifying wages paid after March 12, 2020 and before January 1, 2021 resulting in a maximum credit of \$5,000 per employee
- Available to employers, including tax-exempt organizations under IRC § 501(c)(3) engaged in a trade or business of any size
- Prior to the passage of the CAA, was not available to employers who received and did not return a PPP loan under the CARES Act.
- CAA makes the ERC available to employers with a PPP loan
- No double-dipping – qualified wages do not include wages used for PPP loan forgiveness or other payroll credits – Family First, family leave wages under IRC §45S, wages for the Work Opportunity Credit

Employee Retention Credit (ERC) – 2020

Qualified Employer

- Fully or partially suspended operations during any calendar quarter in 2020 due to official orders from an appropriate governmental authority, limiting commerce, travel or group meetings due to COVID-19 (operations must be impacted – not impacted if can telework)

OR

- Experience a significant decline in gross receipts during the calendar quarter (less than 50% of gross receipts for the same quarter in 2019) Continues until the first quarter after gross receipts are greater than 80% of the gross receipts for the same quarter in 2019 or January 1, 2021

Employee Retention Credit (ERC) – 2020

- Small Employers
 - Qualified wages for employers with 100 or less employees – all wages and employer health plan costs during the applicable period
- Large Employers
 - Qualified wages for employers with more than 100 employees – wages and allocable health plan costs for time paid for not working during the applicable period
- Qualified Wages
 - limited to the wages paid for working the same duration during the 30 days prior to the credit period

Employee Retention Credit (ERC) – 2020

- Employers claim the credit on Form 941 – reducing the employer’s share of social security taxes on all wages paid to all employees
- If the credit exceeds the employer’s share of social security taxes, the excess can be used to reduce any remaining tax liability on the Form 941 – federal withholding, employee social security and Medicare, employer Medicare (and social security)
- If the credits exceed payroll tax liability, file Form 7200 – *Advance Payment of Employer Credits Due to COVID-10*
- First quarter 2020 ERC are claimed on the second quarter 2020 Form 941

Employee Retention Credit (ERC) – 2021

- Fully refundable payroll tax credit for qualified employers for **70%** of qualified wages up to \$10,000 of qualifying wages **per quarter** paid from January 1, 2021 to June 30, 2021 resulting in a maximum credit of **14,000** per employee
- Adds public colleges and universities and public entities with the principal purpose of providing medical or hospital care to the list of qualifying employers
- Changes the definition of a **small employer** to employers with **500 or less employees** in 2019 enabling these qualifying employers to include obtain a credit for working employees
- Changes the definition of a significant decline in gross receipts from a 50% decline to a **20% decline in gross receipts** during the calendar quarter compared to the same quarter in 2019 or the prior quarter
- Removes the cap that limited wages to the wages paid 30 days prior to the period of the credit

Employee Retention Credit (ERC) – 2021

- Small employers eligible to receive an advance payment of the credit up to 70% of the average wages for the same quarter in 2019
- Excess advance payments are settled by increased payroll tax

Families First Coronavirus Response Act

- CAA extends the credit period through March 31, 2021
- Mandate not extended
- Limit per employee is not modified

Families First Coronavirus Response Act

- Sick leave pay – based on employee’s regular hours
- **Reasons 1, 2 or 3 (Emergency Sick Leave)**
 - Greater of employee’s regular pay or minimum wage
 - Capped at \$511/day or \$5,110 in the aggregate (10 days)
- **Reasons 4 and 6 (Emergency Family and Sick Leave)**
 - Greater of 2/3 of employee’s regular pay or minimum wage
 - Capped at \$200/day or \$2,000 in the aggregate (10 days)
- **Reasons 5 (Emergency Family and Sick Leave)**
 - Greater of 2/3 of employee’s regular pay or minimum wage
 - Capped at \$200/day or \$10,000 in the aggregate (twelve weeks – first two can be unpaid)

Presidential Memorandum

- President memorandum allowed employers to allow employees to defer the withholding and payment of employee's share of social security or equivalent railroad retirement tax on applicable wages during the period September 1, 2020 and ending December 31, 2020
- Employers were required to withhold the employee deferred taxes ratably from wages between January 1, 2021 and April 30, 2021
- CAA extends the repayment period to December 31, 2021
- Employers remain responsible for any employment taxes not withheld and remitted by December 31, 2021

Business Tax Provisions

Presented by James Eaton

Business Tax Provisions

- Business Friendly Provisions Addressed in CAA Legislation
 - Fully deductible Business Meals (rather than 50% deductible)
 - Expenses paid and incurred 1/1/2021 – 12/31/2022
 - Increased charitable contribution limits for C Corporations
 - “Qualified Disaster Relief Contributions” deductible up to 100% of taxable income until 12/31/2021
- Extenders – Permanent
 - §179D – Deduction for energy-efficient commercial buildings
 - Reduced Excise tax rates for small brewers and distillers

Business Tax Provisions

Extenders – 5 Year Extensions

- New markets tax credits
- Employer credit for paid family and medical leave
- Work opportunity tax credit
- Exclusion for certain employer payment of student loans
- 7-year recovery period for motorsports entertainment complexes
- Special expensing rules for qualified film / television / theatrical productions
- “Look-through” treatment (dividends, interest, rents / royalties) for Controlled Foreign Corps (CFCs)
- Empowerment zone designations

Business Tax Provisions

Extension of Unemployment Insurance / Benefits Provisions

- Traditional federal unemployment benefits have covered a 26-week period
- The CARES added another 13 weeks (total of 39 weeks)
- CAA includes an additional 11 week (total of 50 weeks)

11-Week Extension of CARES Act Unemployment Compensation Benefits

- Pandemic Unemployment Assistance (PUA) – Covers “gig” economy workers and independent contractors
- Federal Pandemic Unemployment Assistance (FPUA) – Provides \$300 per week in addition to state benefits
- Pandemic Emergency Unemployment Compensation (PEUC) – Extends coverage period for individuals receiving benefits beyond standard 26-week coverage period to 4/5/2021

Individual Tax Provisions

Presented by Amanda Wooddell Wilhelm

Individual Tax Provisions

Additional 2020 Economic Impact Payments for Individuals

- How It Works (Comparable to Economic Impact Payments (EIP) from CARES Act):
 - Individual payments of \$600 or \$1,200 for married couples who filed jointly (MFJ) – individuals and couples will receive \$600 for each qualifying dependent child under the age of 17. For every \$100 a taxpayer’s income exceeds their credit, the Rebate is reduced by \$5.
 - *Applicable AGI thresholds are: \$150,000 – MFJ; \$112,500 – HOH; \$75,000 – Single/MFS*
 - It is an “advanced or refundable tax credit” – one receives the “advance” now depending on their 2019 return information or receives a refundable credit on their 2020 return.
- Some Takeaways:
 - IRS website is fairly robust – utilize it to check status, obtain answers to FAQs, etc.
<https://www.irs.gov/coronavirus/get-my-payment>
 - Ineligible if a dependent, no valid SSN, nonresident alien, deceased before 2020 or an estate or trust.



PROPOSED: Maryland RELIEF Act Of 2021

Direct Stimulus Payments – Total Benefits Up to \$750 for Families & \$450 for Individuals

Other Individual Tax Provisions

- Charity
 - For non-itemizers - **\$300** (Single and MFJ) above-the-line deduction for **cash** donations to qualified charitable organizations in **2020** (no DAF or 509(a)(3) supporting org). Increased to **\$600** for **2021**.
 - For **2020** and **2021**, no AGI limitation for individuals making **cash** contributions to qualified charitable organizations (no DAF or 509(a)(3) supporting org).
- Health and Dependent Care FSA
 - Allows rollover of unused amounts in health and dependent care FSA from 2021 to 2021 and from 2021 to 2022 (currently \$550). Also permits employers to allow employees to make a 2021 midyear prospective change in contribution amounts

Other Individual Tax Provisions

- \$250 Educator Expense Deduction Applies to PPE
 - For 2021, eligible educators (K-5 through 12) allowed to consider PPE costs in current above-the-line deduction
- Education Expenses
 - For 2021, repeals the qualified tuition deduction but replaced with increased phaseout limits on lifetime learning credit (limits to match American Opportunity Credit)
- COVID-Related Retirement Plan Distributions
 - Money purchased pension plans now included in favorable CARES Act provisions

Other Individual Tax Provisions

PERMANENT

- Reduction in medical expense deduction floor from 10% to 7.5% of AGI
- Exclusion of qualified benefits for volunteer firefighters and EMS

1-YEAR

- Deductibility of mortgage insurance premiums (PMI)
- Sec 25C 10% credit for qualified nonbusiness energy property
- Sec 30 (B, C, D) credits for fuel cell motor vehicle; alternative fuel vehicle refueling property; plug-in electric motorcycles and two-wheeled vehicles

EXTENDERS

2-YEAR

- Sec 25D Residential energy-efficient property credit
- Sec 48 Investment tax credit for solar and residential energy-efficient property

5-YEAR

- Exclusion from gross income for discharge of qualified principal residence indebtedness, reduced from \$2 million to \$750,000
- Certain employer payments of student loans

Answering Your Submitted Questions



COVID-19 Resource Center

- Resources for both businesses and individuals
- Relevant content from across the firm
- Continually being updated with resources and digital events

<https://www.schgroup.com/coronavirus-resource-center/>



Thank You!



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