



Teal, Becker & Chiaramonte™
CERTIFIED PUBLIC ACCOUNTANTS & ADVISORS

Tax Update, Paycheck Protection Program, & Employee Retention Credit

Working Lunch Webinar
January 29, 2021



7 Washington Square, Albany, NY 12205
Ph: 518-456-6663

Agenda

- Tax Updates
- Paycheck Protection Program (“PPP”)
- Employee Retention Credit (“ERC”)

Tax Updates

Energy Efficient Home Credit

- \$1,000 - \$2,000 credit per unit, dependent on energy consumption
- Credit must be claimed in the year the unit is leased or sold
- Reduce construction costs by amount of credit
- Program had not been available for 2018 returns when originally filed – in late 2019 IRS reinstated the credit and announced taxpayers could amend 2018 returns to claim the credit for that year
- Currently available through December 31, 2021

Tax Updates

Residential Real Property ADS

- If subject to 163(j) business interest limits and elect out, rental real estate placed in service prior to 2018 will have an ADS life of 30 years (formerly 40 years)

Business Meals

- For tax years 2021 and 2022 business meals 100% deductible (previously 50%)
- Entertainment expenses are still fully non-deductible

Tax Updates

Employer Payroll Tax Deferral

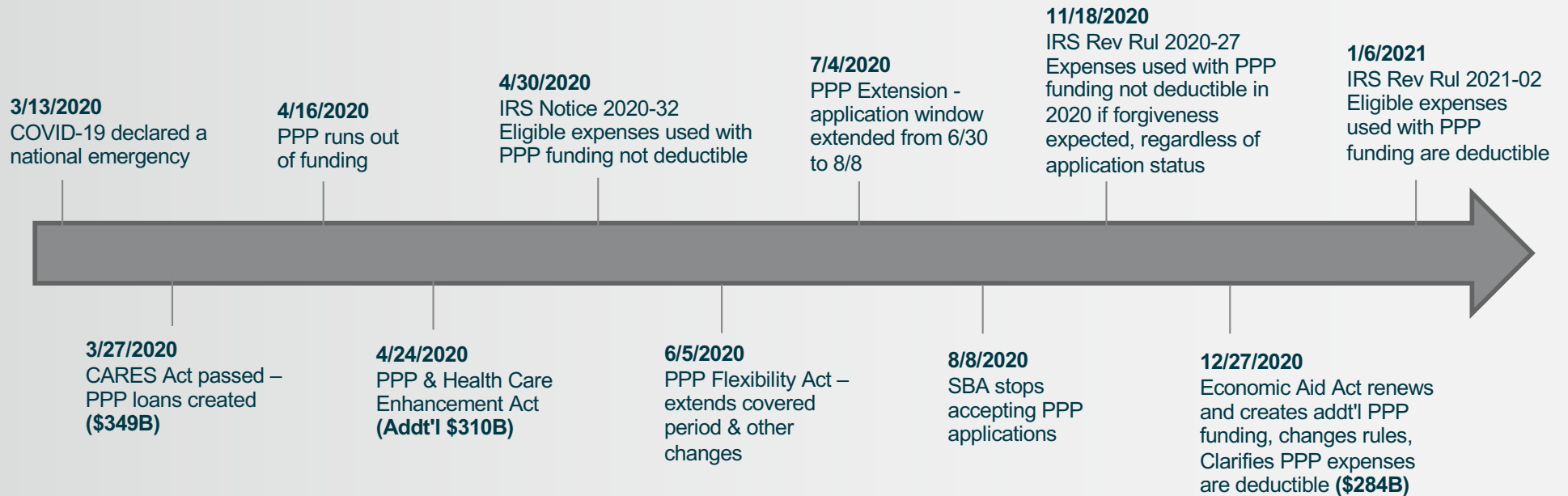
- 50% of deferred taxes due by December 31, 2021
- Remainder due by December 31, 2022

Changes to Returns

- Partnership K-1s required to report tax basis capital
- S Corporation K-1s must report loans from shareholder to company
- Various other changes – CPAs may require additional information versus prior years to prepare returns

Paycheck Protection Program

Paycheck Protection Program - Timeline



Paycheck Protection Program

Economic Aid Act

- New round of PPP funding
 - “First Draw” – never received PPP loan during 2020 funding
 - “Second Draw”- received PPP loan during 2020 and meet more restrictive requirements to receive additional funding
- Authorized through March 31, 2021, subject to availability
- Act also made a number of changes to existing PPP rules

Paycheck Protection Program

General Overview

- 100% guaranteed by SBA, no collateral or personal guarantees required
- Proceeds must be spent on payroll and other qualified expenses during the “covered period”
- Eligible for full forgiveness if requirements/limits met
- 5-year term, 1% interest on balance not forgiven
- Must have been in operations as of 2/15/2020 to qualify
- Must certify “current economic uncertainty”

Paycheck Protection Program

First Draw Loans

Eligibility

- Did NOT receive a PPP loan in 2020
- “Small business concern”, generally under 500 employees
- Independent contractors, self-employed, certain tax-exempt organizations
- Cannot be permanently closed or in bankruptcy

Loan Amount

- Maximum of \$10 million, based on 2.5 months of average monthly payroll

Paycheck Protection Program

Second Draw Loans

Eligibility

- Previously received a PPP loan in 2020 and will have spent full amount on **eligible** expenses by the time 2nd loan is disbursed
- 300 or fewer employees
- Quarter-over-quarter reduction in gross receipts of at least 25% in 2020 vs 2019
- Independent contractors, self-employed, certain tax-exempt organizations
- Cannot be permanently closed or in bankruptcy

Loan Amount

- Maximum of \$2 million, based on 2.5 months of average monthly payroll, or 3.5 months if NAICS Code starting with 72 (accommodation, restaurants, etc.)

Paycheck Protection Program

Second Draw Loans

25% Decline in Gross Receipts

- Do not include forgiven PPP loan proceeds from 2020 loan in 2020 receipts
- Must use calendar quarters
- May be able to use annual gross receipts for simplicity
- Receipts calculated using accounting method reported on tax returns
- Banks are requesting tax returns, quarterly financials, and/or bank statements for proof of decline – consult your banker for more details
 - If loan is over \$150,000 have to provide proof of decline with loan application
 - If loan is under \$150,000 have to provide proof of decline on or before date of forgiveness application (or upon SBA request)

Paycheck Protection Program

Loan Proceeds for First and Second Draw

- Borrowers can use 2019 calendar year, 2020 calendar year, or previous 12 months to calculate average monthly payroll costs
- Still have \$100,000 annualized cap per employee for cash compensation
- Payroll costs include employer contributions to **employee** (but not partner):
 - Health insurance;
 - Group life, disability, vision, and dental insurance (*updated under Economic Aid Act*); and
 - Retirement plans
- Seasonal employers use average monthly payroll for any 12-week period between 2/15/19 and 2/15/20 (*updated under Economic Aid Act*)

Paycheck Protection Program

Covered Period – Updated by Economic Aid Act

- Starts on the day loan proceeds are disbursed
- Ends on any day between 8 and 24 weeks following disbursement
- No longer have option of “alternative covered period”
- Applies to new loans and 2020 loans if hadn't filed for forgiveness prior to Economic Aid Act
 - First round borrowers who applied for forgiveness prior to Economic Aid Act had to choose 8 or 24 week covered period

Paycheck Protection Program

Qualified Expenses

- Payroll Costs
- Mortgage Interest
- Rent
- Utilities
- Covered Operations Costs (*new under Economic Aid Act*)
- Covered Property Damage Costs (*new under Economic Aid Act*)
- Covered Supplier Costs (*new under Economic Aid Act*)
- Covered Worker Protection Costs (*new under Economic Aid Act*)

Paycheck Protection Program

Qualified Expenses, cont'd

- **Payroll Costs** – wages, tips, PTO, severance, employer contributions to insurance (health, vision, dental, life, disability), employer contributions to retirement, SUTA
 - Cash compensation capped at \$100,000 annualized per employee
 - Special rules for calculating payroll costs for self-employed, general partners in a partnership, and owner-employees
 - **Cannot include wages used to claim employee retention credit** (discussed later) or credits under Families First Coronavirus Response Act
 - Cannot prepay health or retirement benefits during covered period

Paycheck Protection Program

Qualified Expenses, cont'd

- **Mortgage Interest** – interest on obligation in existence prior to February 15, 2020 and secured by real or personal property
 - Mortgage prepayments and principal payments not eligible for forgiveness
 - Related party mortgage interest does not qualify
- **Rent** – payments on lease in existence prior to February 15, 2020
 - Related party rent qualifies but can't exceed proportional mortgage interest owed to a third-party on the same property
- **Utilities** – payments on service contract in existence prior to February 15, 2020
 - Does NOT include vehicle fuel expense

Paycheck Protection Program

Qualified Expenses, cont'd

- **Covered Operations Costs** – costs of software or cloud computing services used in business operations, product/service delivery, processing/tracking payroll, HR functions, sales/billing functions, accounting/bookkeeping etc.
- **Covered Property Damage Costs** – costs related to property damage, vandalism, and/or looting due to 2020 “public disturbances” if not covered by insurance or otherwise reimbursed

Paycheck Protection Program

Qualified Expenses, cont'd

- **Covered Supplier Costs** – payment to a supplier for good that are essential to operations, AND made pursuant to a contract/order that was in effect before the covered period *or* during the covered period if perishable goods
- **Covered Worker Protection Costs** – expenses to adapt business activities to comply with Department of Health, CDC and/or OSHA guidelines related to sanitation, social distancing, or any other worker/customer safety requirement
 - Create/expand drive-thru, ventilation/filtration systems, physical barriers, health screening, personal protective equipment, expansion of indoor/outdoor space (commercial, not residential), etc.

Paycheck Protection Program

Forgiveness

- 60% of forgiven amount must be spent on payroll
- Forgiveness reduced for reductions in FTEs, or reductions to salaries/wages in excess of 25%
 - Safe harbors exist if not able to rehire despite attempts, if shut down due to COVID, or if restore FTEs/salaries
 - 2020 loans had to restore by earlier of date of forgiveness application or 12/31/20; 2021 loans *appear* to have to restore by end of covered period
- Forgiven amount WILL NOT be reduced by EIDL advance received (*updated by Economic Aid Act*)

Paycheck Protection Program

Forgiveness, cont'd

- Must apply for forgiveness within 10 months of end of selected covered period
- Apply through lending bank
- No payments are required until SBA issues a forgiveness decision

Paycheck Protection Program

Other Important Changes under Economic Aid Act

- PPP proceeds are NONTAXABLE, and expenses paid with PPP proceeds are TAX DEDUCTIBLE
 - Applies to all new and existing PPP loans
 - Both Federal and NY
- Can now take employee retention credit even if received PPP loan
- Streamlined forgiveness application for loans under \$150,000
 - One page form, but still all same requirements

Paycheck Protection Program

Other Important Changes under Economic Aid Act

- Borrowers who have not yet applied for forgiveness can request an increase in their loan due to updated regulations, i.e.:
 - Partnership that did not include active partner's self-employment income in calculation of payroll costs
 - Borrower that didn't include employer contributions to employee group life, disability, vision or dental insurance
 - Seasonal employer who calculated proceeds on a 12-week period between 5/1/19 and 9/15/19 but would've been higher on a different 12-week period between 2/15/19 and 2/15/20
- Must submit by March 31, 2021, subject to availability of funding
- May not be advisable if taking out a second draw loan

Employee Retention Credit

Employee Retention Credit

General Information

- Now available to PPP borrowers – retroactive to 2020
 - Cannot use same wages used for PPP forgiveness or FFCRA credits
- Different rules apply in 2020 vs 2021

Employee Retention Credit

2020 Credit

Eligibility

- Business was fully or partially suspended by government order due to COVID-19 (only eligible for period you are actually suspended)
- Business had at least a **50% decline** in gross receipts versus same quarter in 2019 – continue to qualify until quarter *after* receipts return to at least 80% of receipts in same quarter of 2019

Qualified Wages

- If averaged over 100 full-time employees in 2019 – wages and health care costs paid to employees who *are not providing services* during the qualifying period, up to \$10,000 per employee
- If averaged 100 or fewer full-time employees in 2019 – wages and health care paid during the qualifying period, up to \$10,000 per employee

Employee Retention Credit

2020 Credit

Credit

- Refundable credit for 50% of qualified wages (i.e. max credit of \$5,000 per employee)
- Wages must be incurred between March 13, 2020 and December 31, 2020
- Credit is claimed on quarterly payroll reports
 - Can file 941-X to amend prior quarters and claim credit

Employee Retention Credit

2021 Credit – available Q1 & Q2 of 2021

Eligibility

- Business was fully or partially suspended by government order due to COVID-19 (only eligible for period you are actually suspended)
- Business had at least a **20% decline** in gross receipts versus same quarter in 2019

Qualified Wages

- If averaged over **500** full-time employees in 2019 – wages and health care costs paid to employees who *are not providing services* during the qualifying period, up to \$10,000 per employee **per quarter**
- If averaged **500** or fewer full-time employees in 2019 – wages and health care paid during the qualifying period, up to \$10,000 per employee **per quarter**

Employee Retention Credit

2021 Credit

Credit

- Refundable credit for 70% of qualified wages (i.e. max credit of \$7,000 per employee per quarter, \$14,000 total per employee)
- Credit is claimed on quarterly payroll reports

Safe Harbor

- Can elect to use prior quarter gross receipts to determine eligibility

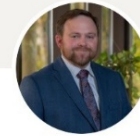
Questions?

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