

Second Stimulus Update

Consolidated Appropriations Act

January 12, 2021

New PPP Loans and Rules

The new act reopened the popular Paycheck Protection Program (PPP) by allocating an additional \$285 billion for the program. Small businesses that obtained an initial PPP loan can qualify for a second round of loans. More flexible rules have been added to provide for forgiveness of the loans, including clear guidelines that forgiveness of a PPP loan is not taxable.

PPP second draw: Certain business concerns, those with 300 or fewer employees and who can show gross receipts reductions of at least 25% over a prior year period, are eligible for a new PPP loan of up to the lesser of a) 2.5 times (3.5 times for NAICS 72 businesses) average monthly 2019 or 2020 payroll costs up to \$2 million. At least 60% of the loan must be spent on payroll, and second draw loans will be excluded from income and no expenses will be disallowed as result of the loan forgiveness.

Borrowers can apply for a Second Draw PPP Loan until 3/31/2021



Expanded PPP Covered Costs

The Act expands the definition of covered costs to include payment for any software or cloud computing services, employer personal protection equipment and similar costs, purchases of essential business goods and supplies on contracts entered into before start of PPP covered period, and any property damage incurred due to public disturbances that are not otherwise covered by insurance.

Effective date is back to enactment of CARES Act, but PPP loans on which forgiveness has been determined are not eligible for the expanded costs.



Simplified Loan and Forgiveness Application for Loans Under \$150,000

LOAN: Borrowers seeking \$150,000 or less don't need to prove revenue loss when they apply for a second-draw loan but will need to do so to apply for loan forgiveness.

FORGIVENESS: Business owners who borrow \$150,000 or less can submit a one-page certification that details the following:

- The number of employees they retained as a result of the loan.
- An estimate of how much of the loan was spent on payroll costs.
- Proof of qualifying revenue loss, if not already provided to the lender.



ERC (Employee Retention Credit) 3/12/2020 – 12/31/2020

In general, the ERC as passed under the CARES Act allowed qualified employers to claim a credit of 50% on employee qualified wages paid from March 13, 2020, through December 31, 2020. For purposes of this credit, wages include the employer portion of group health care costs.

The maximum eligible wages per employee are \$10,000, resulting in a maximum annual credit of up to \$5,000 per employee. To qualify for the credit, an employer must meet all of the following criteria:

1. The employer must have carried on a trade or business during calendar year 2020; and
2. The operation of that trade or business either

Was fully or partially suspended due to orders from an appropriate governmental authority limiting commerce, travel or group meetings due to COVID-19; or

Has gross receipts for at least one calendar quarter that are less than 50% of the gross receipts received during the same calendar quarter(s) in the prior year. This period of significant decline in gross receipts is recognized until the end of the

2020

calendar quarter in which gross receipts are greater than 80% of gross receipts of the corresponding calendar quarter in 2019.

In addition, for employers with over 100 full-time employees, ERC is available only on wages paid to employees for not working. For employers with 100 or fewer full-time employees, the credit is available for all employee wages. The 100-employee threshold is based on the average number of employees during 2019.



PPP and ERC

PPP Borrowers are now eligible to go back and claim ERC for 2020 beginning March 12, 2020

The Consolidated Appropriations Act (CAA) does not change the requirements or limits for wages paid during 2020. It does now allow anyone who took out a Paycheck Protection Program (PPP) loan to claim the ERC. This provides an opportunity to go back and claim the ERC on 2020 wages. However, the CAA also added that the ERC and PPP loan forgiveness can not be claimed on the same wages.



PPP and ERC

Recommended Next Steps

1. Determine if you are an eligible employer for ERC (you meet the required shut down or gross receipts reduction test).
2. If yes to number 1, determine if there are 2020 wages eligible for ERC, and prepare estimates of ERC for 2020 (remember the limit for all of 2020 is \$10,000 in wages per employee).
3. Review PPP wages to determine if you have paid wages that would be needed to claim ERC and PPP loan forgiveness.
4. On claiming the catch-up ERC (if eligible), continue with the preparation of your 2020 fourth quarter Form 941, but wait as long as possible to file in the hopes that the Secretary is able to provide guidance before February 1.

*It appears that the catch up credit could be claimed on the 2020 Q4 fom 941 – we are awaiting guidance on this



ERC (Employee Retention Credit) 1/1/21 – 6/30/21

The Bill extends the availability of the ERCs to qualified wages paid through June 30, 2021 and enhances the program in many ways:

- Reduced the quarter over quarter gross receipts decline from 50% to 20%, comparing the 2021 calendar quarter to the corresponding quarter in 2019 (rather than 2020).
- Increased the ERC wage limit to \$10,000 per employee per quarter rather than \$10,000 per year.
- Increased the ERC percentage from 50% to 70% of gross wages.
- Increased the “large employer” full time employee limit from 100 to 500.
- New employers who were not in existence for all or part of 2019 can use the comparable 2020 calendar quarter to determine the extent of the decline in gross receipts.



EIDL Advance Non-Taxable and No Longer Reduces PPP Loan Forgiveness

The Act also replenishes the EIDL Advance fund, which allows businesses suffering a substantial economic injury to apply for an advance that does not need to be repaid or up to \$1,000 per employee limited to \$10,000 total.

Prior law stated that any EIDL Advance received would reduce PPP Loan Forgiveness, essentially requiring the Advance to be repaid.

The new Act repeals this provision so the receipt of an EIDL Advance will have no impact on PPP loan forgiveness. Borrowers that have already applied for and received loan forgiveness presumably may now amend their application to request that the \$10,000 EIDL Advance (or amount actually received) not reduce their forgiveness amount and request repayment.



FFCRA Extension

The original FFCRA mandatory paid leaves put in place April 1, 2020, still apply through December 31, 2020.

If you have fewer than 500 employees, your FT, PT and seasonal employees are entitled to Emergency Paid Sick Leave or Expanded FMLA if they get sick, have symptoms, are awaiting a test, are caring for someone who is sick, or are home with children whose school or place of care is closed due to Covid-19.

These wages will be paid by the government through tax credits to eligible employers for up to 80 hours/Employee (max \$511/day) for Emergency Paid Sick Leave) and up to 12 weeks – first 2 weeks unpaid - (max \$200/day) for Expanded FMLA.

These credits were scheduled to end on December 31, 2020, but are extended by the Bill until March 31, 2021. These extended credits are only available to employers who are required to provide the FFCRA leave through December 2020. Employers in that category who voluntarily continue to provide leave under the original FFCRA guidelines will be eligible for the tax credits through March 31, 2021.

If an employee used all or part of their entitled FFCRA hours in 2020, they can use the balance (if any) in 2021.



Unemployment Benefits

The new relief act provides an additional \$300 per week for all workers receiving unemployment benefits, through March 14, 2021 (and possibly longer). The act also extends the Pandemic Unemployment Assistance (PUA) program, with expanded coverage for independent contractors, self-employed individuals, and gig workers.

It's not yet clear when states will roll these benefits out, but the additional \$300 is slated to cover the weeks starting from Dec. 26, 2020 and ending on or before March 14, 2021. However, you're unlikely to see this money in your unemployment check for at least another few weeks; states need guidance from the Department of Labor on how to implement the bonus payments.



We are answering your questions live on the air right now.

Please submit questions through the **Q&A function**,
not the chat option at the bottom of your screen.



Questions?

For legislative and regulatory questions, please email:

questions@dominionpayroll.com





Don't forget to wash your hands!

