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PPP/ERTC and Other Covid Stimulus for 2021

2/2/2021

Economic Aid to Hard-Hit Small Businesses, Nonprofits and Venues Act (Economic Aid Act) & SBI Interim Final Rule for PPP and Cares Act

- Reopened first draw for PPP and allowed for increases
- Created a 2nd draw for PPP
- Increased PPP loan calculation for Hospitality Industry
- Covered Period Flexibility
- Expanded eligible expenses
- Simplified some PPP forgiveness (under 150K)
- No reductions for EIDL advance amounts
- Made PPP truly non-taxable
- Ineligible business types expanded

Other Provisions of the Covid Relief package

- Expanded FFCRA credits
- Extended and expanded ERTC
- New EIDL loans and grants for low income
- New SBA Debt relief payments
- Created a Shuttered Venue Operator Grant
- Direct payments to citizens
- Expanded Unemployment benefits

- Reopened first draw for PPP and allowed for increases
- Businesses who did not receive a first draw PPP can apply for one now until March 31, 2021.
- Particular attention must be drawn to the certification on the PPP loan application every borrower must make, in good faith, that “the current economic uncertainty makes this loan necessary to support the ongoing operations of the Applicant” as of the date the PPP loan application is submitted (the “Necessity Certification”)
- Businesses who received a first draw may be eligible to seek an increase if: They returned the money, they returned a portion, they did not accept the full amount approved, are a seasonal employer and a recalculation using a 12 week measurement results in a larger first draw, or is a partnership and did not originally include partner comp in their calculation.

Created second draw for PPP

- For those who previously received a First Draw Loan. May employ no more than 300 employees (decreased from 500 in first draw)
- Must have suffered at least a 25% decrease in gross receipts in any quarter in 2020 compared to same quarter in 2019.
- Must have already received and used its entire First Draw loan for eligible purposes. PPP-1 forgiveness not required to be completed to be eligible for Second Draw.
- Gross receipts (for for-profit businesses) defined as: “...all revenue in whatever form received or accrued (in accordance with the entity’s accounting method, i.e., accrual or cash) from whatever source, including from the sales of products or services, interest, dividends, rents, royalties, fees, or commissions, reduced by returns and allowances but excluding net capital gains and losses. These terms carry the definitions used and reported on IRS tax return forms.”

Increased PPP loan calculation for Hospitality Industry

- For most businesses, multiply the average monthly payroll cost for either 2019 or 2020 (borrower's choice) by 2.5.
- For businesses with a NAICS Code beginning with 72 (Hospitality), the multiplier is 3.5 times average monthly payroll costs.
- Payroll costs are capped at \$100,000 per employee for calculating the loan amount.
- Similar to the First Draw Loans, there are special rules for seasonal employers, self-employed person, sole proprietors, partnerships farmers and ranchers.

Covered Period Flexibility

- New for all PPP loans, borrower may select a covered period anywhere between eight weeks and 24 weeks after the loan is first advanced. This covered period is the time within which the borrower must use the PPP proceeds for eligible expenses for forgiveness.

Expanded eligible expenses

- For any PPP loan to be forgivable, a borrower must spend at least 60% of the loan for payroll costs. Payroll costs for all PPP loans now expressly includes group life, disability, vision, or dental benefits or insurance premiums
- Eligible non-payroll costs continue to include obligations existing prior to Feb 14, 2020 for: mortgage Interest, Interest on other debt, Rent including equipment rental and utility payments.
- New for any PPP loan not already forgiven prior to 12/27/20, eligible non-payroll costs now include:
 - Covered workers protection such as PPE
 - Covered operations expenses (payments for any business software or cloud computing service that facilitates operations, product or service delivery, payroll expenses, human resources, sales and billing functions, or accounting of supplies and inventory); No Capital Expenditures
 - Covered property damage costs due to vandalism, looting due to public disturbances in 2020 not covered by insurance or other compensation.
 - Covered supplier costs (expenses to a supplier of goods that 1) are essential to operations and 2) made pursuant to a contract, order or PO (a) in effect at any time before the Covered Period for the subject PPP loan, or (b) with respect to perishable goods, in effect before or at any time during the covered period.

Simplified some PPP forgiveness (under 150K)

- For borrowers with PPP loans of \$150,000 or less, a simplified one-page loan forgiveness application, Form 3508S was recently released by Treasury.
 - Eligible borrowers can apply for forgiveness by simply providing (1) the number of employees the borrower was able to retain because of PPP, (2) the estimated amount of the covered loan spent on payroll and (3) the total loan amount.

No reduction for EIDL advance amounts

- PPP forgiveness is no longer reduced by EIDL grant amounts received by the borrower. If a business previously applied for PPP forgiveness and its EIDL grant was deducted, that sum will be remitted to the PPP lender for credit against the PPP loan or disbursement to the borrower.

Expanded FFCRA Credits

- FFCRA provided a refundable tax credit for the mandated paid sick leave and family leave for businesses with under 500 employees
- This bill extends the tax credit through March 31, 2021 for employers that continue to offer paid sick and family leave.
- If you paid FFCRA wages and did NOT get the credit, you may file an amended return.
- Employer provided health-insurance for any employees covered by FFCRA wages is also dollar-for-dollar reimbursable. If you did not provide this amount in your original credit request, you may file an amended return.
- If BMC processes your payroll, and you would like for us to amend your return to either include FFCRA wages or Employer provided health, please reach out to joy@bmcaccounting.com

Extended and Expanded ERTC

EMPLOYEE RETENTION TAX CREDIT

	CARES Act	Consolidated Appropriations Act, 2021
Time Period Credit is Available	Qualified wages paid after March 12, 2020, and before January 1, 2021.	Qualified wages paid after March 12, 2020, and before July 1, 2021 (now available in the first two quarters of 2021).
Eligibility Requirements	<p>Businesses with operations that were either fully or partially suspended by a COVID-19 governmental order and only during the period the order is in force; or</p> <p>Gross receipts were less than 50% of gross receipts for the same quarter in 2019 until such quarter as gross receipts are 80% of same quarter in 2019.</p> <p>Businesses that were not in existence in 2019 could use a comparison to 2020 for purposes of the credit.</p>	<p>Beginning January 1, 2021, the credit will be available to businesses with operations that are either fully or partially suspended by a COVID-19 governmental order and only during the period the order is in force; or</p> <p>Gross receipts are less than 80% of gross receipts for the same quarter in 2019.</p> <p>Businesses that were not in existence in 2019 may use a comparison to 2020 for purposes of the credit.</p>
Percentage of Wages	The credit was 50% of the qualified wages paid to an employee, plus the cost to continue providing health benefits to the employee.	Beginning January 1, 2021, the credit is 70% of qualified wages, plus the cost to continue providing health benefits to the employee.

	CARES Act	Consolidated Appropriations Act, 2021
Maximum Credit Amount	Annual cap of \$5,000 per employee (\$10,000 in qualified wages x 50%).	Beginning January 1, 2021, the cap is increased to \$7,000 per employee for each of the first two quarters of 2021 (\$10,000 in qualified wages x 70%) for a possible \$14,000 credit per employee. The 2021 credit is available even if the employer received the \$5,000 maximum credit for wages paid to such employee in 2020.
Employer Size for Whether an Employee is Working or Not:	A company with more than 100 employees could not take the credit for wages paid to an employee performing services for the employer (either teleworking, or working at the workplace, even though at reduced capacity due to reduction in business). A company with 100 or fewer employees was eligible for the credit, even if the employee was working.	Beginning January 1, 2021, the threshold increases to 500. An employer with 500 or fewer employees will be eligible for the credit, even if employees are working. When calculating the 500-employee threshold, the employees of all affiliated companies sharing more the 50% common ownership are aggregated.
PPP Loan Interplay	REPEALED – A company that received a Paycheck Protection Program (PPP) loan was ineligible to claim the employee retention credit. This disallowance rule extended to all affiliated companies that shared common ownership, so that if one company received a PPP loan, any other company with more than 50% common ownership was ineligible to claim the credit.	This change is retroactive to the effective date under the original law for wages paid after March 12, 2020. A company that received or receives a PPP loan is no longer prohibited from claiming the employee retention tax credit. The credit, however, may not be claimed for wages paid with the proceeds of a PPP loan that have been forgiven. A company that received a PPP loan in 2020 and paid qualified wages in excess of the amount of the forgiven PPP loan used to pay wages, and is otherwise eligible to claim the credit, can claim the credit retroactively. The IRS is expected to issue guidance on how to claim the credit retroactively. Companies related to a PPP borrower that did not claim the credit because of the affiliation rules should be able to claim the credit retroactively, if they are otherwise eligible for the credit.

	CARES Act	Consolidated Appropriations Act, 2021
Advance Payments	In 2020, there was no provision to receive the credit before qualified wages were paid.	<p>The IRS is expected to draft guidance to allow an advance payment of the credit for companies with 500 or fewer employees, based on 70% of average quarterly payroll for the same quarter in 2019.</p> <p>If the amount of the actual credit determined at the end of the quarter is less than the amount of the advance payment, the company will need to repay the excess.</p>
Limitation on Hazard Pay	No credit for pay rate increases.	Under the new law, the credit is allowed for hazardous duty pay increases.
Disallowance of Credit for Governmental Entities	The employee retention credit was not available to any federal, state, or local governments, or any agency or instrumentality thereof.	<p>Effective January 1, 2021, the following entities are eligible for the credit:</p> <ul style="list-style-type: none"> • Public colleges or universities • Organizations whose principal purpose is providing medical or hospital care • Certain Federal instrumentalities, such as federal credit unions
Definition of Gross Receipts for Tax Exempt Entities	No definition of gross receipts as applicable to tax exempt entities was included.	<p>The new law defines gross receipts for tax exempt entities by reference to Section 6033 of the Internal Revenue Code.</p> <p>Gross receipts include the following: contributions, gifts, grants, dues or assessments, sales or receipts from unrelated business activities, sale of assets, and investment income (e.g., interest, dividends, rents, and royalties).</p> <p>Gross receipts are not reduced for any associated costs or expenses.</p>

ERTC and PPP – Maximize your stimulus

- You may be able to maximize your ERTC tax credits for 2020 by determining eligible periods for ERTC and establishing PPP loan usage outside those periods.
- ERTC credits can be claimed on 4th qtr 941 regardless of period available in 2020.
- PPP2 will always provide a larger amount than ERTC unless your average payroll was significantly smaller than current payroll.

What We Don't Know Yet-

- Can we claim 2020 ERTC credit on a 2021 941, or will be required to amend a 2020 941.
- Waiting for some Safe Harbor clarification. Most experts agree the Safe Harbor will allow you to use 4th quarter 2020 v 2019 to claim the 70% credit in 2021. Not clear if will be able to use other quarters in 2020 v 2019 to claim the increased credit in 2021.

New EIDL grants for low income communities

- EIDL grants funded and open, but only for qualifying low income communities
- EIDL grants not maximized in 2020 may be available, SBA will contact you.

New SBA Debt relief payments

- The Economic Aid Act also authorized additional debt relief payments to 7(a), 504, and Microloan borrowers beyond the 6-month period prescribed in the CARES Act. The level of assistance varies based on when the loan was approved and will begin on or after February 1, 2021. Please contact your Lender for questions on the availability of this assistance for your SBA loan.

Shuttered Venue Operator Grant

- \$15 billion in grants to shuttered venues administered by SBA
- Eligible applicants may qualify for SVO grants equal to 45% of their gross earned revenue, with the maximum available for a single grant of \$10 million. \$2 billion reserved for eligible applications with up to 50 full-time employees.
- Eligible entities include: Live venue operators or promoters, Theatrical producers, Live performing arts organization operators, Relevant museum operators, zoos and aquariums who meets specific criteria, Motion picture theater operators, and Talent representatives.
- Priority levels based on loss of revenue % will determine order of distributions.

Direct payments to citizens

- Direct economic relief via stimulus checks of \$600 for individuals making up to \$75,000 per year. \$1,200 for couples making up to \$150,000, and an extra \$600 for dependent children that are under 17 years old.
- It would apply the similar income limits and phase-out as the CARES Act, reducing the payments by 5% for individuals with adjusted gross incomes of more than \$75,000. Filers with an adjusted gross income (AGI) greater than \$87,000 (or \$174,000 if filed jointly) would not receive a payment.
- Payments would be based on 2019 taxes. Payments could be issued for certain beneficiaries who did not file 2019 returns, including retired and disabled workers, Supplemental Security Income recipients, and veterans receiving VA benefits.

Expanded unemployment benefits

- Expands Federal Pandemic Unemployment Compensation through 3/14/21, providing \$300 per week to all workers receiving unemployment benefits
- Increases the maximum numbers of weeks an individual may claim benefits to 50 weeks.
- Requires documentation of employment, rather than the self certification that is currently in use.

Additional Questions?

Thank You

A recording of this webinar and a copy of this presentation will be available on our Covid-19 page at www.bmcaccounting.com