

Tax Provisions of the Consolidated Appropriations Act, 2021

Presented by:

Len Nitti, CPA, MST

Stephanie Holston, CPA

Moderated By: Tim Torres, CPA, MACC

Today's Speakers



Timothy Torres
CPA, MACC

MODERATOR



Len Nitti
CPA, MST



Stephanie Holston
CPA

Housekeeping

The content of this webinar is based on the information that is currently available as of January 26, 2020.

To Ask Any Questions?

Please use the questions pane in the GoToWebinar dashboard on your screen.

We will try to answer as many questions as possible at the end.

Please Note:

This webinar is being recorded and will be uploaded on to wgcpas.com

Agenda

Business

- Tax provisions
- Tax Extenders
- Employee Retention Credit

Individual

- Tax Provisions
- Tax Extenders



Business Tax Provisions

Tax Treatment Regarding PPP Expenses

- Expenses paid for with PPP loan funds are deductible
- No reduction of tax attributes (losses, credits, fixed asset basis, etc.)
- No denial of basis increases
- Applies to initial and second draw PPP loans
- IRS issues Revenue Ruling 2021-2 to make earlier PPP guidance obsolete

Note: EIDL Grants are also now treated as tax-exempt income

Tax Treatment Regarding PPP Expenses

Pass-through Entities

- Applies to S corporations and Partnerships
- Confirms loan forgiveness is treated as tax-exempt income
- Increase in basis for owners equal to the amount of forgiveness
- Applies to both initial draw and second draw PPP loans



Business Meal Deduction

- Suspension of the 50% limitation on the deduction for business meals
- Applies to meals provided by a restaurant
- Includes take out and delivery

Change in ADS Life for Residential Real Property

- Alternate depreciation life for residential real property placed-in-service prior to 2018 changed to 30 years
- Applies to businesses making an election to be treated as a real property trade or business for purposes of Section 163(j)
- Taxpayers may do an accounting method change to adjust the depreciable life

Health and Dependent Care Flexible Spending Arrangements

- Plans may allow for the carryover of unused benefits from 2020 to 2021 and 2021 to 2022
- Plans may permit a 12-month grace period for unused benefits or contributions for plan years ending in 2020 or 2021
- Plans may increase the maximum age for eligible dependents to 13 for the 2020 plan year for dependent care benefits
- Plans may allow for a change in election amounts for years ending in 2021

Business Tax Extenders

Deduction for Energy Efficient Commercial Buildings

(Section 179D)

- Up to a \$1.80 per square foot immediate deduction for energy efficient lighting, HVAC and building envelope systems
- Provides for permanent extension of the deduction
- Will be indexed for inflation beginning in 2021



Work Opportunity Credit

- Credit for hiring employees from one of 10 targeted groups
- Credit is based on qualifying first year wages paid
- Credit extended through 2025

Credit for Renewable Energy Production

- Credit for electricity produce by certain qualifying facilities extended
- Qualifying renewable resources impacted
 - Closed and open-loop biomass
 - Geothermal energy
 - Landfill gas and trash
 - Hydropower and marine/hydrokinetic
 - Wind
- Credit was set to expire for facilities where construction had not begun prior to 1/1/21
- Extended to facilities where construction begins prior to 1/1/22

New Markets Tax Credit

- Applies to capital invested into a qualifying community development entity
- Credit equals 39% of capital invested
- Credit allocations extended through 2025
- Carryover of unused credits extended through 2030

Other Tax Extenders



Credit for Paid
Family and Medical
Leave



Deferral of
employee FICA tax



Family First
Coronavirus Act
Provisions

Employee Retention Credit (ERC)

Employee Retention Credit

Changes as a result of the CAA

Previous rules:

- A company that received a Paycheck Protection Program (PPP) loan was ineligible to claim the employee retention credit (ERC)
 - 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

New rule:

- Companies that received a PPP loan are now eligible to claim the ERC retroactively
 - CAA also extends the ERC through June 30, 2021 & modifies the credit calculation for 2021

Overview of Employee Retention Credit

- ERC is a refundable payroll tax credit
- Created to encourage businesses to keep employees on payroll during the pandemic
- Available to eligible employers whose businesses were severely impacted by COVID-19

Cares Act

Eligibility

- Must be operating a trade or business during 2020
- Businesses with operations that were either:
 1. Fully or partially suspended by a governmental order limiting commerce, travel or group meetings due to COVID-19, OR
 2. 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.

If qualifying under #1, only wages paid during the period of shutdown will be eligible for the credit.

Cares Act

Eligibility – Gross receipts example

	Q1	Q2	Q3	Q4
2019	\$100,000	\$100,000	\$100,000	\$100,000
2020	\$45,000	\$70,000	\$85,000	\$80,000
	45%	70%	85%	80%

Cares Act

Qualifying wages

- Wages must be paid after March 12, 2020 and before January 1, 2021
- The credit was 50% of the qualified wages paid to an employee, plus the cost to continue providing health benefits to the employee
- Annual cap of \$5,000 per employee (\$10,000 in qualified wages x 50%)
- A company with more than 100 full-time 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).
 - Only wages paid to employees for NOT performing services qualify
- A company with 100 or fewer employees was eligible for the credit, even if the employee was working

Cares Act

Aggregation rules

- Entities that are treated as a single employer under section 52(a) or (b) of the Internal Revenue Code or section 414(m) or (o) are considered a single employer for the ERC
- Gross receipts must be tested using the aggregate group
- Number of full-time employees is based on the total group's employees
- If part of the group is shut down due to government order, the entire group will be considered partially suspended



Consolidated Appropriations Act, 2021

- Qualified wages paid after January 1, 2021, and before July 1, 2021 (now available in the first two quarters of 2021)
- Beginning January 1, 2021, the credit will be available to businesses with operations that are either
 1. Fully or partially suspended by a COVID-19 governmental order and only during the period the order is in force; or
 2. Gross receipts are less than **80%** of gross receipts for the same quarter in 2019
 - Option to elect to use the immediately preceding quarter when testing gross receipts

Consolidated Appropriations Act, 2021

Continued

- Beginning January 1, 2021, the credit is **70%** of qualified wages, plus the cost to continue providing health benefits to the employee
- 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

Consolidated Appropriations Act, 2021

Continued

- Beginning January 1, 2021, the full-time employee 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

Consolidated Appropriations Act, 2021

Advance of the ERC

- Employers with less than 500 full-time employees may elect to receive an advance of the credit up to 70% of average quarterly wages paid by the employer in 2019
- Receive an advance by filing Form 7200 with the IRS (not yet available)
- The advance would need to be reconciled on the quarterly payroll tax filing and repaid if necessary

Interaction with other benefits

Income tax impact & other credits

- An employer's tax deductions will be reduced by the amount of the credit
- The same wages cannot be used to claim the ERC & leave under the FFCRA
- The same wages cannot be used to claim the ERC & other credits such as the research tax credit and the work opportunity tax credit
- The same wages cannot be used to claim PPP loan forgiveness and the ERC, with priority given to the ERC

Next steps

Action items for the ERC

- Additional guidance from the IRS is anticipated for the ERC for 2021 & for the interaction with PPP forgiveness
- Delay applying for PPP forgiveness in order to maximize both benefits
- Consider filing Form 7200 to receive an advance of 2021 credit when the final form is released

Individual Tax Provisions

Stimulus Payments

How Much & When?

- 1st round:
 - \$1,200 per taxpayer
 - \$500 per child
- 2nd round:
 - \$600 per taxpayer
 - \$600 per child
- Unique income limitations apply for each round
- Currently being distributed

Stimulus Payments

Missing or Incorrect?

- Keep a lookout on your 2020 Form 1040
- Notice 1444 to be mailed out within 15 days payment made
- Retain Notice 1444 as it should be used in reconciling your qualified stimulus payment

Stimulus Payments

Taxable?

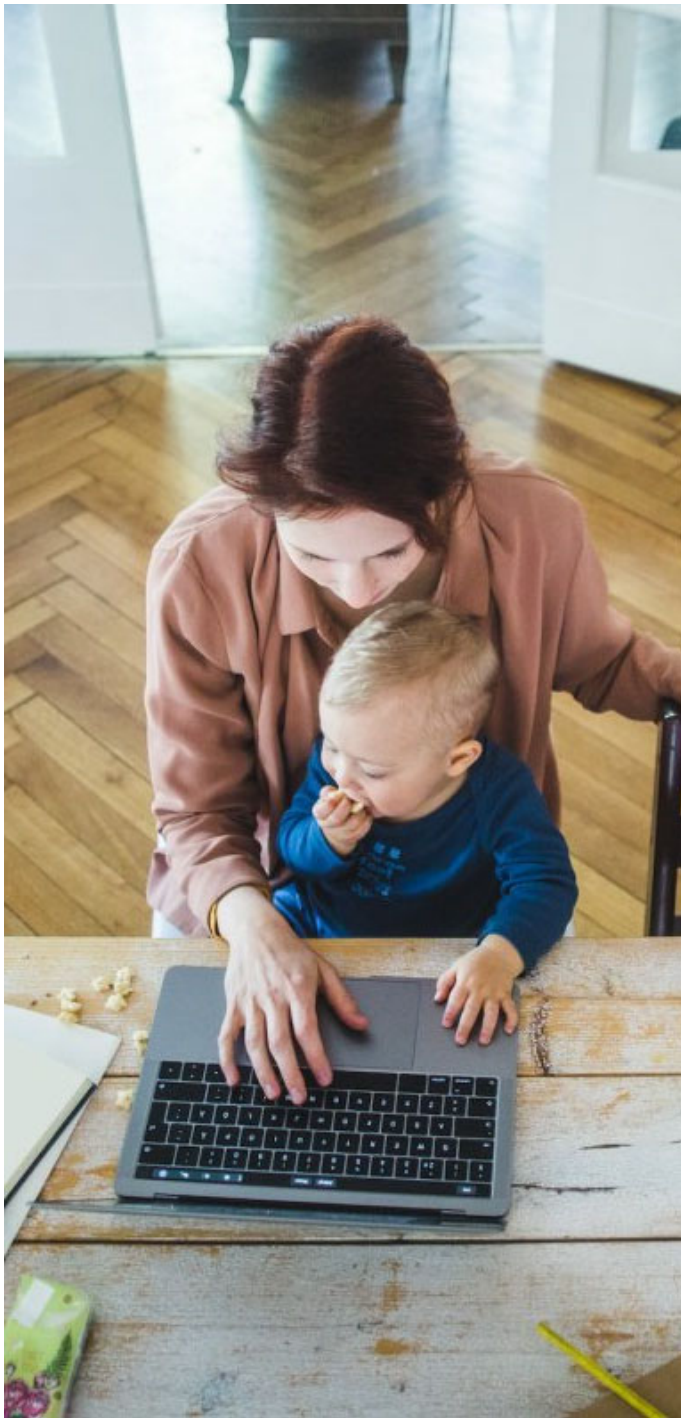
- Not taxable at the federal level
- Certain states have come out to provide guidance on the non-taxability of the payments: CA, CT, HI, IA, MS, PA, NJ, NY
- This payment will not impact a taxpayer's eligibility for federal government assistance or benefit programs

Consolidation of Tuition Benefits

- Single phase out created for both American Opportunity Tax Credit (AOTC) and Lifetime Learning Credit after 2020
 - Married filing joint phase-out between \$160,000 and \$180,000
 - Single/head of household between \$80,000 and \$90,000
- Qualified tuition deduction eliminated after 2020

Child Tax Credit and Earned Income Credit

- Taxpayers may elect to utilize 2019 earned income for purposes of calculating the refundable credits



Individual Tax Extenders

Charitable Contributions

- For cash contributions made to qualifying 50% charities, there is no contribution limit for 2020 or 2021
- \$300 above the line deduction extended through 2021
- Penalty for overstated charitable deduction for nonitemizers increased to 50% of tax underpayment



Medical Expenses

- 7.5% floor for medical expense itemized deduction extended permanently
- Effective for tax years beginning after 12/31/20

Exclusion of Cancellation of Qualified Principal Residence Indebtedness

- Extended through 2025
- Reduces maximum exclusion to \$750,000 (\$375,000 married filing separate)

Other Extended Provisions

- Nonbusiness energy credit
- Deduction for mortgage insurance premiums to 2021
- Exclusion from income for employer payment of student loans

Thank You!

Want to learn more?



Tim Torres

Manager

ttorres@wgcpas.com

732.846.3000 Ext 128



Len Nitti

Shareholder

lnitti@wgcpas.com

732.846.3000 Ext 171



Stephanie Holston

Manager

sholston@wgcpas.com

732.846.3000 Ext 106

Follow Us



