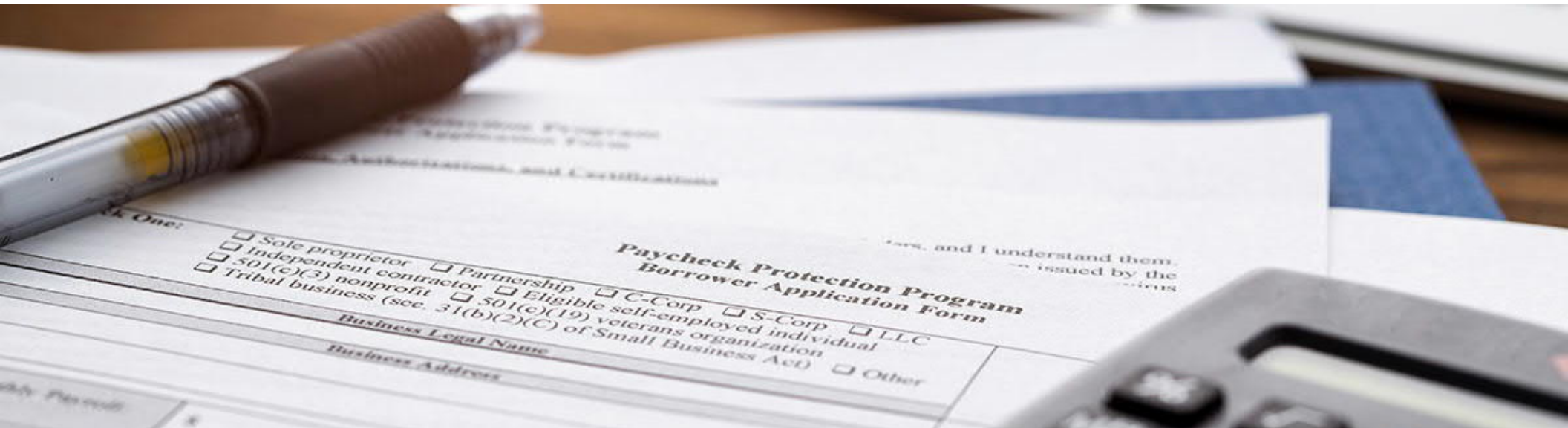


Certified Public Accountants
Business & Financial Advisors



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Stimulus Bill Update

January 15, 2021

Housekeeping

- ↗ This webinar is being recorded.
- ↗ Slides and recording will be sent to you after the webinar concludes.
- ↗ In the event of technical difficulties, please bear with us!



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Presented By



Tim McLaughlin

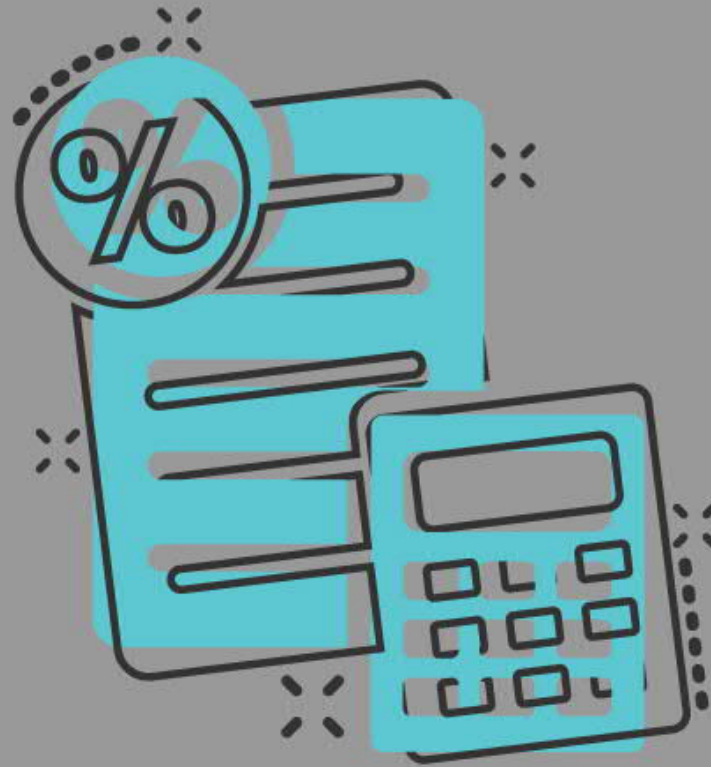


Steve Mills

Agenda

- Economic Aid Act
- Stimulus Payments
- EIDL Update
- Updates to PPP Rules
- PPP Round 2 (PPP2)
- Employee Retention Credit
- Other Tax Items





Economic Aid Act

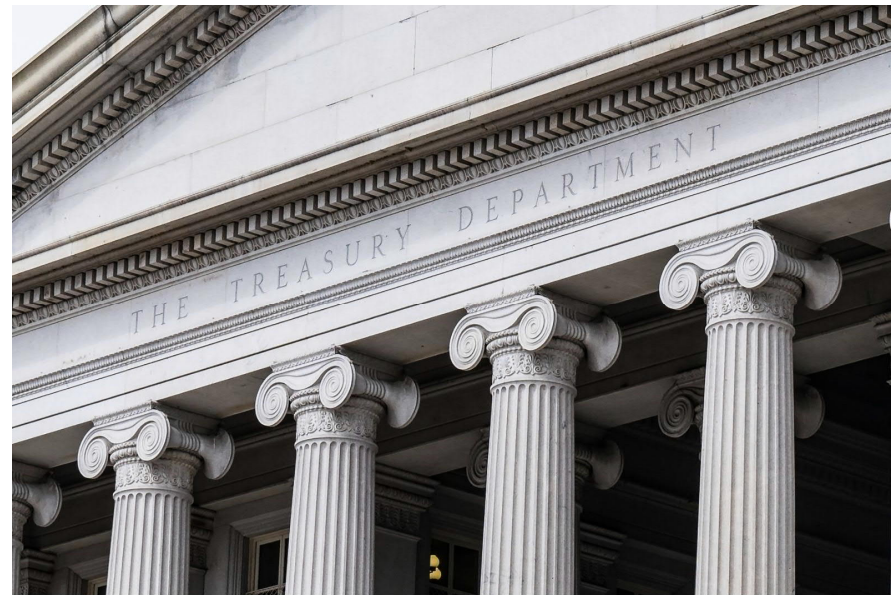
Economic Aid Act

Summary and General Information

- Signed into law on December 27, 2020 as part of the Consolidated Appropriations Act
- Provides individual stimulus payments
- EIDL Loans and Targeted Grants made available
- Updated rules for the Paycheck Protection Program (PPP)
- Provides for another round of PPP loans
- Extension and enhancement to the Employee Retention Credit (ERC)
- Provides for a variety of other tax incentives

Stimulus Payments

- \$600 for Single filers and \$1,200 for Joint filers
- Plus \$600 for each dependent
- Starts to phase out at \$75,000/\$150,000 of modified adjusted gross income
- Payments are being distributed now



EIDL Loans & Grants

- Economic Injury Disaster Loans (EIDL) related to COVID-19 are still available – use portal on the SBA Website to apply.
- Funding for new EIDL Grants have been provided for in the Act. These will be targeted to businesses in low-income communities that have an economic loss of 30%.
- New EIDL Grants will be applied for through the SBA Website but are not yet available. More guidance is expected.

Updates to Paycheck Protection Program

- Fixed “PPP Tax Trap” - loan forgiveness is non-taxable, and deductions are allowed for expenses paid with PPP proceeds.
- Tax treatment is for original and PPP2 loans.
- The PPP program will be re-opened for new PPP Round 1 Loans.
- The PPP program will also be available for PPP Round 2 Loans.
- Banks are expected to reopen for applications over the next 1-2 weeks.

Updates to PPP *(Continued)*

- ↗ Loans available until March 31, 2021 (funding is limited \$280B)
- ↗ Streamlined forgiveness approval for all loans <\$150,000
 - Limited documentation needs to be submitted, must maintain records as forgiveness is subject to audit. Awaiting more guidance on this process. SBA must provide by 1/20/21.
- ↗ No reduction in PPP forgiveness for Advance EIDL Grants (\$10,000)
 - Forgiveness reductions for EIDL grants already processed will be returned
 - SBA Procedural Notice #5000-20075 1/8/2021

Updates to PPP *(Continued)*

- ↗ Expansion of eligible costs (4 New Categories):
 - Covered operations expenditures:
 - ✓ Business software and cloud computing service that facilitates business operations, processing, HR, billing, and accounting.
 - Covered property damage costs related to vandalism or looting from public disturbances in 2020 not covered by insurance.
 - Covered supplier costs for goods essential to business operations pursuant to (1) a contract, order or PO in effect at any time BEFORE the Covered Period OR (2) for orders of perishable goods in effect before OR during the covered period.
 - Covered worker protection expenditures – supplies and capital expenditures. Detailed guidance in the Act.

Updates to PPP *(Continued)*

- Prior Guidance on eligible costs is applicable to new PPP Round 1 Draws and PPP Round 2 Draws:
 - Payroll costs – including health care, insurance and retirement
 - ✓ Subject to limits
 - Interest
 - ✓ Interest on business mortgage obligations on real OR personal property
 - Rent
 - Utilities

PPP Round 2 Loans – PPP2

➤ PPP2 Eligible Borrowers

- Must have received a Round 1 loan and have or will spend all proceeds on eligible costs
- Must have <300 Employees (including affiliates)
- **Must demonstrate a 25% reduction in revenues** between comparable quarters in 2020 and 2019 (including affiliates)

➤ Maximum Loan Amount

- 2.5X average monthly 2019 or 2020 payroll costs
- Maximum Loan is \$2,000,000
- Accommodations/Food Service Sector (NAICS Code “72”) can borrow 3.5X average monthly payroll costs

PPP Round 2 Loans – PPP2 *(Continued)*

➤ Other items:

- At least 60% of PPP loan proceeds must be used for payroll costs
- Covered period is between 8 and 24 weeks
- Eligible for forgiveness based upon maintaining employment (waiting for guidance on this)
- Loans >\$150,000 need to provide support for revenue decline as part of **application** process
- Loans <\$150,000 provide support for revenue decline as part of **forgiveness** process
- Apply via SBA Form 2483-SD

PPP Round 2 Loans – PPP2 *(Continued)*

➤ Must certify in good faith:

- The applicant was in operation on 2/15/20 and has not permanently closed,
- **Current** economic uncertainty makes the loan request necessary to support the ongoing operations of the applicant and,
- The funds will be used to retain workers and maintain payroll.

PPP Round 2 Loans

SBA Form 2483-SD



Paycheck Protection Program Second Draw Borrower Application Form

OMB Control No.: 3245-0417
Expiration Date: 7/31/2021

Check One:	<input type="checkbox"/> Sole Proprietor	<input type="checkbox"/> Partnership	<input type="checkbox"/> C-Corp	<input type="checkbox"/> S-Corp	<input type="checkbox"/> LLC	DBA or Tradename (if applicable)	Year of Establishment (if applicable)
	<input type="checkbox"/> Independent Contractor	<input type="checkbox"/> Self-Employed Individual					
	<input type="checkbox"/> 501(c)(3) nonprofit	<input type="checkbox"/> 501(c)(6) organization					
	<input type="checkbox"/> 501(c)(19) veterans organization	<input type="checkbox"/> Housing cooperative					
	<input type="checkbox"/> Tribal Business	<input type="checkbox"/> Other					
Business Legal Name					NAICS Code		
Business Address (Street, City, State, Zip Code - No P.O. Box addresses allowed)					Business TIN (EIN, SSN)		Business Phone
					Primary Contact		Email Address
Average Monthly Payroll:	\$	x 2.5 (or x 3.5 for NAICS 72 applicants) equals Loan Request Amount (may not exceed \$2,000,000):		\$	Number of Employees (including affiliates, if applicable; may not exceed 300):		
Purpose of the loan (select all that apply):	<input type="checkbox"/> Payroll Costs		<input type="checkbox"/> Rent / Mortgage Interest		<input type="checkbox"/> Utilities		<input type="checkbox"/> Covered Operations Expenditures
	<input type="checkbox"/> Covered Property Damage		<input type="checkbox"/> Covered Supplier Costs		<input type="checkbox"/> Covered Worker Protection Expenditures		<input type="checkbox"/> Other (explain): _____
PPP First Draw SBA Loan Number:							
Reduction in Gross Receipts of at Least 25% (Applicants for loans of \$150,000 or less may leave blank but must provide upon or before seeking loan forgiveness or upon SBA request):		2020 Quarter (e.g., 2Q 2020):		Reference Quarter (e.g., 2Q 2019):			
		Gross Receipts:		Gross Receipts:			
		\$		\$			

Applicant Ownership

List all owners of 20% or more of the equity of the Applicant. Attach a separate sheet if necessary.

Owner Name	Title	Ownership %	TIN (EIN, SSN)	Address

PPP Resources

- Economic Aid to Hard-Hit Small Businesses, Nonprofits and Venues Act (Economic Aid Act) (Pub. L. 116-260).
- Interim Final Rule on Paycheck Protection Program as Amended by Economic Aid Act (IFR). Consolidates all prior IFRs and provides detailed guidance on PPP1 and PPP2 Loans.
- Interim Final Rule on Second Draw Loans. Outlines key differences between PPP Draw 1 and Draw 2 loans.

PPP Recent Updates

Forms & Instructions

➤ Where can I find the Forms and Instructions?

- <https://home.treasury.gov/>



Tax Issues of PPP Loans

- Clarification in Consolidated Appropriations Act of 2021 (CAA 2021) that:
 - No income shall be recognized, no deduction shall be denied, no tax attribute reduced, and no basis increase denied as a result of forgiveness of PPP loan.
 - The PPP loan forgiveness results in Tax Exempt income.
- Remaining Issues
 - Timing of forgiveness and basis increase. Basis does not go up until loan is forgiven.
 - ✓ May be an issue if distributions in excess of basis during 2020.
 - ✓ May be able to use the reasoning found in IRS Rev. Rul. 2020-27 (now obsolete and withdrawn)?
 - But IRS withdrew that awfully quickly...hmmmm.

Tax Issues of PPP Loans *(Continued)*

- S Corps with remaining earnings from C Corp years (i.e. prior to S election)
 - ✓ Ordering of distributions forces the PPP income BEHIND the C Corp earnings
 - Meaning taxable dividends could be inadvertently created upon distributions in excess of S Corp cumulative earnings
- NYS Issue
 - ✓ NYS “Decoupled” from federal tax laws for personal tax purposes as of March 1, 2020 (prior to CARES Act).
 - ✓ LATE BREAKING NEWS – NYS published on its NYSDT&F website, via an FAQ (not authoritative) on 1/13/21, that it would follow the federal treatment for personal taxes.
- Integration with Employee Retention Credit (discussed later)

Employee Retention Credit (ERC), as Originally Enacted



- Originally part of the CARES Act, and originally available from 3/13/2020 – 12/31/2020
- Refundable **payroll** tax credit
 - Thus, credits are accessed on Form 941 (or Form 7200) or on 941X for amended/retroactive refund claims

Employee Retention Credit (ERC), as Originally Enacted *(Continued)*

- Eligible employer, generally is one whose:
 - Trade or business was fully or partially suspended during a calendar quarter due to governmental orders limiting commerce, travel, or group meetings, OR
 - Experienced a decline of more than 50% in gross receipts from any 2020 calendar quarter versus same calendar quarter in 2019.
- Credit is equal to 50% of eligible wages (up to \$10,000 in wages) paid to employees in the eligible quarter.

Employee Retention Credit (ERC), as Originally Enacted *(Continued)*

- Annual limitation of the credit is \$5,000 per employee.
- Once gross receipts return to 80% or more of 2019 same quarter sales, the credit ends.
- Special rules apply to eligible employers with over 100 employees (FTEs).
 - Could only get credit for employees who were being paid not to work.
- Aggregation rules apply for determination of FTEs and eligibility tests.
- **WAS ONLY AVAILABLE TO EMPLOYERS WHO DID NOT GET A PPP LOAN.**

ERC as Revised by CAA of 2021

The following revisions were enacted as part of the CAA:

- Removed the prohibition on PPP recipients claiming the credit. Thus, PPP borrowers are now eligible for this credit, **retroactively to 2020**, subject to the original rules for 2020 outlined previously.
- Extended the credit to June 30, 2021.
- Increased the FTE limitation from more than 100 to more than 500 for 2021 only.
- Reduced the threshold for decline in gross receipts from 50% to 20% for 2021 quarters (as compared to 2019), meaning the threshold will be easier to meet.
 - Special election is available to use Q4 of 2020 for 2021.
 - This does not change the 2020 rules.

ERC as Revised by CAA of 2021

(Continued)

- Removed gross receipts “rebound” restriction for 2021 only.
- Increased the credit to 70% of eligible wages for 2021 only.
- Increased the maximum credit to \$7,000 **per 2021 quarter, thus a \$14,000 maximum annual credit for 2021** (versus \$5,000 per year for 2020).
- Cannot use same wages for both PPP forgiveness and ERC. And...ERC takes priority on wages unless you elect to use them for PPP forgiveness.
 - So, what about those that have already applied for PPP forgiveness?
 - ✓ We await guidance
 - What about those that have “excess” payroll for PPP purposes? Can they avail themselves of both PPP forgiveness AND ERC?
 - ✓ Apparently so, but we await guidance on this as well as to mechanisms and interplay.

ERC as Revised by CAA of 2021

(Continued)

- ↗ Mechanics of filing are yet to be fully worked out.
- ↗ What to do now?
 - Discuss with your payroll provider.
 - Compile quarterly gross receipts for each quarter of 2019, 2020, and 2021.
 - ✓ Note – Although unclear, this appears to refer to gross receipts **for tax reporting purposes.**
 - Determine FTEs if near 100 or 500.
 - Determine if the operations of your business were fully or partially affected/suspended by a governmental order limiting travel, commerce, etc.
 - ✓ This can be a very gray area and is highly dependent on each taxpayer's specific facts and circumstances.

ERC as Revised by CAA of 2021

(Continued)

- Carefully examine PPP forgiveness expenses, taking care to maximize both the ERC and forgiveness if it looks like ERC is a possibility.
- We can help with any or all of these if needed.



Other Selected CAA Tax Provisions

- Medical expense floor now 7.5% of Adjusted Gross Income with no reversion back to 10%
- Extensions through 2025 (not exhaustive list) provided for:
 - Work Opportunity Tax Credits
 - Exclusion from income on discharge of debt of principal residence
 - Credit for paid family and medical leave (non-COVID based)
- COVID based FFCRA benefits extended to March 31, 2021
- Business meals deduction reinstated to 100% for:
 - Food and beverages “provided by a restaurant”
 - ✓ Food trucks? Mall/airport kiosks? Deli counters? Sidewalk vendors? Sporting events? Other?
 - ✓ Need guidance on this

Other Selected CAA Tax Provisions

(Continued)

- For amounts paid or incurred from 1/1/2021 through 12/31/2022.
- Note that all documentation rules still apply (business purpose, business discussions must be had, etc.).



Other Selected CAA Tax Provisions

(Continued)



- Charitable Contributions
 - Non itemizers may now deduct \$300 and \$600 on a joint return (2021 only)
 - ✓ Cash only
 - ✓ Not to private foundations or a donor advised fund (DAF)
 - Expanded limitations extended to 2021
 - ✓ 100% of AGI for 2020 or 2021 cash contributions, NOT to a private foundation or DAF

Thank You

Thank you for your attendance at today's program.

For more information regarding the topics discussed today,
please feel free to contact us at:

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