

Great News! Deduction for PPP Costs, PPP2

Yesterday Congress approved more than \$900 billion for Emergency COVID-19 Relief. The President is expected to sign.

BIG NEWS – tax deductions are now allowed for otherwise deductible expenses paid with the proceeds of a PPP loan that is forgiven, and the loan proceeds/forgiveness remains nontaxable. Previously, the IRS had issued Notice 2020-32 which disallowed these deductions.

- The provision also reiterates that owners of pass-through entities will get tax basis for tax-exempt income from a forgiven PPP loan, and that the tax basis and other attributes of the borrower’s assets will not be reduced as a result of the loan forgiveness.
- Example:
Assume a PPP Loan in the amount of \$300k was received by a pass-through entity.

For Year Ending Dec 31, 2020	NEW Relief	IRS Notice 2020-32 (OLD Rule)
Revenue	\$1,700,000	\$1,700,000
Operating expenses	(\$2,000,000)	(\$2,000,000)
Net loss	(\$300,000)	(\$300,000)
Add back expenses funded with PPP Loan	(no longer required)	\$300,000
Tax loss	(\$300,000)	\$0

After this law change, the owners will have a \$300k tax loss to either offset other taxable income or to create an NOL to claim refunds of taxes paid.

Other PPP Loan Changes/ Clarifications

- Clarifies that other employer-provided group insurance benefits are considered payroll costs. This includes group life, disability, vision, or dental insurance.
- Nonpayroll costs are expanded to include the following:
 - Covered operations expenditures: Payment for any software, cloud computing, and other human resources and accounting needs.
 - Covered property damage costs: Costs related to property damage due to public disturbances that occurred during 2020 that are not covered by insurance or other compensation.
 - Covered supplier costs: Expenses for the supply of goods that are 1) essential to the operations of the business at the time the expense is incurred; and 2) is made pursuant to a contract, order or purchase order in effect at any time before the covered period with respect to the covered loan. Supplier costs of perishable goods can be made before or during the life of the loan.
 - Covered worker protection expenditures: PPE and adaptive investments to help a loan recipient comply with federal health and safety guidelines or any equivalent State and local guidance related to COVID-19 during the period between March 1, 2020, and the end of the national emergency declaration. This also includes capital expenditures such as installing a drive-through window; ventilation or air filtration systems; a physical barrier such as a sneeze guard; an expansion of

additional indoor, outdoor, or combined business space; and an onsite or offsite health screening capability.

- A simplified 1 pg forgiveness application will be created to process loans under \$150k.
- PPP loan forgiveness will no longer be reduced by the amount of any EIDL advance received.
- The borrower can select a covered period anywhere from 8 weeks to as long as 24 weeks after origination, which gives flexibility in certain FTE and pay rate reduction provisions.
- The program is extended to March 31, 2021 allowing for a second draw.
- Increased ability to request an increase in PPP loan amount due to updated regulations:
 - Guidance will be released to lenders that allows borrowers who returned all or part of their PPP loan to reapply for the maximum amount applicable so long as they have not received forgiveness. Additionally, this section allows borrowers whose loan calculations have increased due to changes in interim final rules to work with lenders to modify their loan value regardless of whether the loan has been fully disbursed, or if Form 1502 has already been submitted.

PPP “Second Draw” loans (“PPP2”) – The bill provides more than \$284B to the SBA for another round of forgivable loans to smaller and harder-hit businesses, with a maximum loan amount of \$2 million. (For comparison, the first round generated \$525B of forgivable loans during the first five months of the program.)

- **Eligibility:** In order to receive a PPP2 loan, previous PPP recipients must:
 - Employ not more than 300 employees;
 - Have used or will use the full amount of their first PPP; and
 - Demonstrate at least a 25 percent reduction in gross receipts in the first, second, or third quarter of 2020 relative to the same 2019 quarter. Provides applicable timelines for businesses that were not in operation in Q1, Q2, and Q3, and Q4 of 2019. Applications submitted on or after January 1, 2021 are eligible to utilize the gross receipts from the fourth quarter of 2020.
- The bill allows borrowers that returned all or part of a previous PPP loan to reapply for the maximum amount available to them.
- **Loan terms:** In general, borrowers may receive a loan amount of up to 2.5X the average monthly payroll costs in the one year prior to the loan or the calendar year.
 - Accommodation and food service industries can receive loans up to 3.5X average monthly payroll costs.
 - Seasonal employers are eligible to use an alternative of any 12-week period from February 15, 2019 through February 15, 2020.
 - A simplified certification of revenue test is available for loans up to 150k, in which borrowers can sign a certification that the entity meets the applicable revenue requirement, then can later (on or before the date which an application for forgiveness is submitted) produce documentation that the entity met the revenue loss standard.
- **Loan forgiveness:** Borrowers of a PPP2 loan would be eligible for loan forgiveness equal to the sum of their payroll costs, as well as covered mortgage, rent, and utility payments, covered operations expenditures, covered property damage costs, covered supplier costs, and covered worker protection expenditures (as described above) incurred during the covered period. The 60/40 cost allocation between payroll and non-payroll costs in order to receive full forgiveness will continue to apply.

Employee retention tax credit (“ERTC”) now available to those with PPP loans

Previously, borrowers who received a PPP loan were not permitted to also claim employee retention tax credits. Retroactive to the date of the CARES Act (3/27/20), the bill provides that employers who receive PPP loans may still qualify for the ERTC with respect to wages that are

not paid with forgiven PPP proceeds. **Click here** for IRS FAQs on the Employee Retention Credit <https://www.irs.gov/newsroom/faqs-employee-retention-credit-under-the-cares-act> (note that the FAQs have not been updated yet for the changes in this bill.)

- The ERTC is a payroll tax credit for 50% of up to \$10k per employee of wages and health benefits paid to certain employees of eligible employers (i.e. \$5k maximum credit per employee.)
- The ERTC benefits eligible employers who have had a full or partial suspension of operations during any calendar quarter in 2020 due to a government order limiting commerce, travel or group meetings due to COVID-19 or who experienced a significant (i.e. 50% or more) decline in gross receipts during a calendar quarter in 2020 compared to the same calendar quarter in 2019.
 - For employers with more than 100 full-time employees in 2019, eligible wages are wages and health benefits paid to workers who are not providing services due to an economic hardship because of the partial or full suspension of operations or the decline in revenue.
 - For employers averaging 100 or fewer full-time employees in 2019, eligible wages are all wages and health benefits paid up to the \$10k limit, even if the employee has not been prevented from providing services.
- The bill extends the credit through June 30, 2021, and makes *prospective* changes to the credit which include increasing the credit rate from 50% to 70% of qualified wages; increasing the per employee qualified wages limit from \$10k for the year to \$10k for each quarter; reducing the required year-over-year gross receipts decline from 50% to 20%; changing the small employer status from 100 to 500 employees; and providing a safe harbor allowing employers to use prior quarter gross receipts to determine eligibility.

If you received a PPP loan, we will be revisiting this credit on your behalf, and will reach out to you if we believe the credit may provide a benefit to you.

Other provisions include:

- **Business meal deductions:** Temporarily allows a full 100% deduction for business meals (food or beverages provided by a restaurant) for 2021 and 2022 (not retroactive to 2020.) Currently a 50% deduction is allowed.
- **Additional \$600 stimulus payments:** Eligible households will receive a \$600 advance payment for each adult and \$600 for each qualifying child. The payments are based on income from 2019 and begin phasing out for individuals with adjusted gross incomes over \$75k and married couples over \$150k.
- **Unemployment:** Provides a federal subsidy of \$300/week through March 14, 2021.
- **Extension of certain deferred payroll taxes:** President Trump previously issued a memorandum to allow employers to defer withholding employees' share of social security taxes from September 1, 2020 through December 31, 2020, with a payback period during the first four months of 2021. The payback period is extended through December 31, 2021.
- **Educator expense tax deduction:** Eligible expenses now include PPE and other supplies for the prevention of the spread of COVID-19.
- **Schedule A Medical Expense Deduction Floor:** A deduction for unreimbursed medical expenses that exceed 7.5% of AGI has been made permanent (formerly 10% of AGI)
- **Charitable contribution deduction for non-itemizers:** For 2020, a \$300 above-the-line deduction is allowed for cash contributions to qualified charitable organizations. This is now extended through 2021, with individual cash contributions up to \$300 and \$600 for married filers.

- Charitable contribution limitations: For 2020 and 2021, the percentage limitation rules do not apply for cash contributions to qualified charitable organizations (i.e. 100% AGI limit.)
- Extension of credits for paid sick and family leave: Refundable payroll tax credits for paid sick and family leave, which were to end on December 31, 2020, are extended through December 31, 2025.
- Extension of FFCRA paid sick and family leave: These credits are extended through March 31, 2021.
- Self-employed sick and family leave: Self-employed individuals can elect to use their average daily self-employment income from 2019 rather than 2020 to compute the credit.
- Temporary rules for health and dependent care FSA's: For 2020 and 2021, the grace period for unused benefits and contributions to FSA's can be extended to 12 months by employers. Special carry forward rules also apply for those dependents that may have aged out during the pandemic.
- Residential rental property for electing real property trade or businesses: The ADS recovery period for residential rental property has been changed from 40 years to 30 years for tax years beginning after December 31, 2017, even if it was placed in service before January 1, 2018. The property must have been held by the electing real property trade or business on January 1, 2018 and wasn't subject to ADS before then.
- New Market Tax Credit: Extended through 2025; carryover of unused limitation extended through 2030.

This is not an all inclusive list of changes as a result of the recently passed COVID-19 relief package. The entire text can be found here. [TEXT](#)

Please reach out to your GMS Surgent team member if you have questions.

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"Personal Attention – Valuable Results", is the principal component of our mission statement. It highlights the GMS Surgent commitment to forging strong relationships and ensuring constructive communication while earning consistently effective results for our clients. It plays an essential role throughout every aspect of our firm, guides our actions and acts as a benchmark for the services we provide.

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