

More Details of the Consolidated Appropriations Act of 2021

Courtesy of Lytkowski & Co., Inc.

On Sunday, December 27, President Trump signed the Consolidated Appropriations Act, 2021 (CAA, 2021). The act contains numerous individual, business, payroll, disaster, and energy-related tax provisions, as well as tax extenders. Many of the provisions, including \$600 stimulus payments, and an extension of payroll credits, relate to the COVID-19 pandemic.

Business Provisions

The COVID-related Tax Relief Act of 2020 (COVIDTRA) and the Taxpayer Certainty and Disaster Tax Relief Act of 2020 (TCDTR), both part of the Consolidated Appropriations Act, 2021 (CAA, 2021), contains numerous provisions related to businesses. Below is a summary of some of the provisions that are most likely to apply to our clientele.

Paycheck Protection Program

- Appropriates \$284.45 billion for PPP loans and \$20 billion for EIDL Grants. Nearly \$1 trillion has been allocated to the PPP since April, assisting more than 5 million businesses.
- Creates a Second Draw PPP that allows businesses to apply for a second forgivable loan of up to \$2 million. Businesses must have 300 employees or fewer (or meets alternative SBA size standards) and experienced at least a 25% drop in gross receipts *in any quarter* of 2020 as compared to *the same quarter* of 2019.
 - A business may receive a maximum loan (for both first- and second-draw PPP loans) of \$10 million within 90 days.
 - Businesses borrowing funds in this second round will be able to spend the funds on new expenses that were not allowed in the first round. However, 60% of the loan must be used for payroll costs. The new expenses are:
 - Operations expenditures such as software or cloud computing services or administrative costs
 - Property damage costs caused by vandalism and looting that are not covered by insurance
 - Supply costs
 - Covered worker protection costs
 - New loans will allow some flexibility for the borrower to choose any period lasting between 8 and 24 weeks as long as those weeks fall within the period beginning on the date a borrower receives the loan and ending on a date selected by the borrower during the 8 to 24 weeks after the loan origination.
 - Multifamily family firms remain largely excluded from the PPP under 13 CFR § 120.110 of the Small Business Administration's lending statutes
- PPP borrowers who receive \$150,000 or less in PPP loan money may submit a one-page forgiveness form online certifying their compliance with the program requirements.
- Extends the deadline for PPP "covered periods" in which a borrower may use loan proceeds through September 30, 2021.

- 501(c)(6) organizations are granted access to PPP funds if they have 300 employees or fewer, do not receive more than 15% of their receipts from lobbying activities and lobbying activities do not comprise more than 15% of their activities, and the cost of the lobbying activities of the organization did not exceed \$1,000,000 during the most recent tax year.
 - PPP funds cannot be used for lobbying activities of any kind.
- Repeals the requirement that borrowers who receive both an EIDL advance grant and a PPP loan deduct the forgiven amount of the EIDL grant from the forgivable amount of their PPP loan.

PPP Tax Forgiveness

- Allows for deductibility of business expenses paid for with forgiven PPP loans. This applies to both previous loans and new loans.

Other Loan Forgiveness

- Economic Injury Disaster Loan advances will no longer be taxable and businesses who did not receive the full \$10,000 advance will be able to reapply for the difference. Expenses paid with the advance will remain deductible.
- Borrowers of traditional Section 7 SBA loans who had six months of their principal and interest paid under the CARES Act will also not be taxed on the payments.

Other Business Tax Provisions

- The Employee Retention Tax Credit is modified by:
 - Increasing the credit rate from 50% to 70% of qualified wages.
 - The eligibility is expanded by reducing the quarter-over-quarter gross receipts decline from 50% to 20% (same quarter of each year).
 - Increasing the limit on per-employee creditable wages from \$10K per year to \$10K per quarter.
 - Increasing the 100-employee delineation to 500 or fewer employees.
 - Allowing businesses with PPP loans to qualify.
 - Extending the credit through June 30, 2021.
- Extends payroll tax credits for paid sick and family leave enacted in the Families First Coronavirus Response Act through March 31, 2021.
- Provides for the tax deduction of 100% of business meals (up from 50%) for 2021 and 2022.
- Provides as additional \$300 per week for all workers receiving unemployment benefits through March 14, 2021. The maximum number of weeks that an individual may claim benefits is extended to 50 weeks.
- The Pandemic Employment Assistance program has also been extended. This program provides unemployment coverage for nontraditional employees such as the self-employed.

Individual Provisions

The COVID-related Tax Relief Act of 2020 (COVIDTRA) and the Taxpayer Certainty and Disaster Tax Relief Act of 2020 (TCDTR), both part of the Consolidated Appropriations

Act, 2021 (CAA, 2021), contains numerous provisions related to individuals. Below is a summary of a few of the provisions that are most likely to apply to our clientele.

- New Recovery Rebate – The CAA, 2021 includes additional recovery rebates of \$600 for each eligible family member. The credit phases out starting at \$75,000 of modified adjusted gross income for single taxpayers and \$150,000 for married couples. In addition, \$600 will be paid for each dependent child under the age of 17. These amounts do phase out faster than the earlier payment, therefore, fewer taxpayers may receive direct payments this time around. Payments are expected to begin in early January.
- Charitable Deduction for Non-Itemizers – For 2020 and 2021, those that do not itemize deductions on their tax return may claim an above-the-line deduction of up to \$300 or \$600 for married couples for donations to qualifying qualified charitable organizations.
- Modified Charitable Contribution Limit – Under the existing tax law, cash charitable contributions could be deducted up to 60% of a taxpayer's adjusted gross income. The CAA, 2021 removes the percentage limitation for cash charitable contributions. Therefore, cash charitable contributions will be deductible up to 100% of adjusted gross income. However, this does not include contributions to a private foundation or donor advised fund.
- Individual Payments – The bill provides a second round of Economic Impact Payments of up to \$600 per individual and \$1,200 per married couple. The payments are actually a credit against 2020 taxes, and will be calculated on 2019 tax return filing information. Payments will be phased out for individuals earning more than \$75,000 per year and couples earning more than \$150,000 per year

Tax Extender Provisions

- The deduction for qualified tuition expenses will expire at the end of 2020 but the Lifetime Learning Credit income phaseout thresholds will be increased.
- New Markets Tax Credit and the Work Opportunity Credit have been permanently extended.
- The exclusion from income for mortgage debt forgiveness is extended for five years (through 2025), but the maximum amount is reduced from \$2 million to \$750,000.
- The energy-efficient commercial buildings deduction is extended permanently, its efficiency standards are updated, and the deduction rates are indexed for inflation.
- The energy investment tax credit for solar and residential energy-efficient property tax credit is extended for two years (through 2023).
- The mortgage insurance premium deduction is extended for one year (through 2021).
- The energy efficient homes credit is extended for one year (through 2021).
- The nonbusiness energy tax credit (for qualified energy efficiency improvements) is extended for one year (through 2021).
- Depreciation of certain residential rental property has been reduced to a 30-year period for taxpayers who made the real property trade or business election for purposes of the interest expense limitation under Code § 163(j).
- The medical expense deduction floor (the 7.5% threshold) is made permanent for tax years beginning after December 31, 2020.