

Managing Your Business
Through the COVID-19 Crisis

PPP Round Two: More Relief is on the Way

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Welcome



James A. DeLeo, MBA, CPA/MST

Leading Partner

Gray, Gray & Gray, LLP

781.407.0300

jdeleo@gggllp.com

Agenda

- Enhancements to Existing Paycheck Protection Program (PPP) Loan
- Second Draw Loans
- GAAP Treatment of PPP Loans
- Income Tax Provisions
- Disaster Tax Relief

Today's Presenters



Kelly A. Berardi, JD, LLM
Partner, Tax
Gray, Gray & Gray, LLP
781.407.0300
kberardi@gggllp.com



Derek B. Rawls, CPA, MST
Partner, Tax
Gray, Gray & Gray, LLP
781.407.0300
drawls@gggllp.com



Bradford G. Carlson
Partner, Tax
Gray, Gray & Gray, LLP
781.407.0300
bcarlson@gggllp.com

Additional Eligible Expenses

- Covered Operation Expenditures
- Covered Property Damage Costs
- Covered Supplier Costs
- Covered Worker Protection Expenditures

Treated as if originally included in the CARES Act but not applicable to loans forgiven before the enactment of this bill.



Additional Eligible Expenses

Covered Operation Expenditures

Any business software or cloud computing service that facilitates business operations, product or service delivery, the processing, payment, or tracking of payroll expenses, human resources, sales and billing functions, or accounting or tracking of supplies, inventory, records and expenses.

Additional Eligible Expenses

Covered Property Damage Costs

A cost related to property damage and vandalism or looting due to public disturbances that occurred during 2020 that was not covered by insurance or other compensation.

Additional Eligible Expenses

Covered Supplier Costs

An expenditure made by an entity to a supplier of goods that are essential to the operations of the entity at the time at which the expenditure is made and is made pursuant to a contract, order, or purchase order in effect at any time before the covered period with respect to the applicable covered loan or with respect to perishable goods, in effect before at any time during the covered period with respect to the applicable covered loan.

Additional Eligible Expenses

Covered Worker Protection Expenditures

An operating or a capital expenditure to facilitate the adaptation of the business activities of an entity to comply with requirements established or guidance issued by (HHS) , the (CDC), (OSHA) or any equivalent requirements established or guidance issued by state or local governments.

Additional Eligible Expenses

Covered Worker Protection Expenditures *(excludes residential real property or intangible property)*

These Expenses May Include:

- the purchase, maintenance, or renovation of assets that create or expand:
 - a drive-through window facility;
 - an indoor, outdoor, or combined air or air pressure ventilation or filtration system;
 - a physical barrier such as a sneeze guard;
 - an expansion of additional indoor, outdoor, or combined business space
 - an onsite or offsite health screening capability; or
 - other assets relating to the compliance with the requirements or guidance as determined (by the SBA, HHS, and DOL).
- the purchase of:
 - covered materials;
 - particulate filtering facepiece respirators; or
 - other kinds of personal protective equipment.

Deductibility of Expenses Satisfied with Forgiven PPP Funds

1. No amount shall be included in the gross income of the eligible recipient by reason of forgiveness of indebtedness...,
2. No deduction shall be denied, no tax attribute shall be reduced, and no basis increase shall be denied, by reason of the exclusion from gross income...



Selection of Covered Period

- The original covered period provided by the CARES Act was eight weeks
- Payroll Protection Program Flexibility Act
 - Expanded the covered period to 24 weeks (or year-end if sooner) AND
 - Allowed the business to elect an 8-week covered period
 - However, it failed to provide a clear mechanism for a business to apply for forgiveness immediately after it exhausted the PPP funds after 8 weeks, but before the end of the 24-week period
- The new legislation solves this problem by allowing businesses to select a covered period of between 8 and 24 weeks

Simplified Forgiveness Application

Loans up to \$150,000

- One-page signed attestation of compliance
- Description of the number of employees the borrower was able to retain because of the covered loan
- No complex figures or computations required
- No documentation submitted
- Three-year record keeping requirement

Specific Group Insurance Payments as Payroll Costs



Payroll Costs Include:

- Salary, wages, commissions
- Tips
- Paid leave
- Healthcare payments
- Retirement benefit payments
- Some independent contractors
- **New:** Group insurance costs (*effective as if included in the CARES Act*)

Clarification of and Additional Limitations on Eligibility



- A business NOT in operation on 2/15/20 is NOT eligible for a PPP loan
 - Effective as if included in the CARES Act
- An entity which receives a Shuttered Venue Operator Grant is NOT eligible for a PPP loan

Second Draw Loans

Basic General Eligibility:

- Any business concern, nonprofit, veterans' organization, Tribal business, eligible self-employed individual, sole proprietor, independent contractor, or small agricultural cooperative
- Not more than 300 employees **at a physical location**
- Not less than a 25% reduction in gross receipts in the first, second, third quarter in 2020 compared to the same quarter in 2019
- **Borrowers not in business during the first, second, or third quarter of 2019 can compare the first, second, or third quarter of 2020 to the fourth quarter of 2019 (if in business during the fourth quarter of 2019)**
- Applications submitted after 1/1/21 can also qualify by demonstrating not less than a 25% reduction in gross receipts in the fourth quarter of 2020 compared to the fourth quarter of 2019
- Received and used the full amount of the first PPP loan

Second Draw Loans

Not Eligible:

- Publicly traded companies
- Lenders, rental real estate, life insurance companies, businesses in foreign countries, pyramid schemes, legal gambling, illegal activity, private clubs, most government owned entities, SBA loan packagers, certain convicted criminals, products or performances of a prurient sexual nature, prior SBA loan default, speculative businesses
- Entities primarily engaged in political and lobbying activities
- Businesses with certain Chinese and other foreign influences
- Shuttered Venue grantees
- Start-ups launched after February 15, 2020

Second Draw Loans

- New one-year lookback
- Average monthly Payroll incurred within the 1-year period before the date on which the loan is made X 2.5 = Loan Cap
- or \$2,000,000 max
- Decreased from \$10,000,000

Second Draw Loans

Alternative Calculation Method

- Average Monthly Payroll 2019 x 2.5 = Loan Cap
- or \$2,000,000 max



SECOND WAVE

Second Draw Loans

NEW ENTITIES (*did not exist before 2/15/19*)

- All monthly payroll payments made ÷ Total number of months the payroll cost was paid X 2.5 = Loan Cap
- \$2,000,000 max
- New Entities may only receive one loan

Second Draw Loans

Accommodations & Food Services NAICS Sector 72

- 3.5 X Payroll
- \$2,000,000 cap applies
- Businesses with more than one physical location are eligible
- 500-employees substituted for the new 300 employee limit, however

Second Draw Loans

- Payroll costs (*same*)
 - Mortgage interest (*same*)
 - Rent obligations (*same*)
 - Utility payments (*same*)
-
- Operation expenditures (*new*)
 - Property damage costs (*new*)
 - Supplier costs (*new*)
 - Worker protection expenditures (*new*)

Second Draw Loans

Limitations on Forgiveness – the Lessor of:

- Covered expenses; or
- Payroll Costs ÷ 0.6
- Much simpler limitation

Second Draw Loans

Special Rules

- Eligibility, based on a decrease in revenue, for businesses which began in 2019 or early 2020
- Maximum loan amount for season employers
- Gross receipt computations for non-profits and veterans' organizations
- Simplified revenue test certification for loans less than \$150,000

A Review of GAAP Treatment of PPP Loans



- There are two primary options to account for a PPP loan for non-governmental and those businesses that are not non-profit entities:
 - Record the proceeds as a loan payable
 - Record the proceeds as a grant
- If recorded as a loan payable
 - Proceeds would be recorded as a loan until either the debt is paid off or the loan is forgiven and the debtor has been “legally released”
 - Once forgiveness is received from both the bank and the SBA, the loan is reduced and a gain on extinguishment is recorded

A Review of GAAP Treatment of PPP Loans

- **If the proceeds are treated as a grant:**
 - Government assistance is not recognized until there is “reasonable assurance” that:
 - Conditions attached to the assistance will be met and
 - The assistance will be received
 - Once “reasonable assurance” is obtained the earnings impact of the government grant is recorded “on a systematic basis over the periods in which the entity recognizes as expenses the related costs for which the grants are intended to compensate”
 - The proceeds would be recorded to a deferred revenue liability account and upon forgiveness the offset would be to either other income or offset against the expenses the funds were used to pay (i.e. compensation)

A Review of GAAP Treatment of PPP Loans



- **Financial statement disclosures:**
 - Must disclose the accounting policy for such loans and the related impact on the financial statements if a non-government entity and not a non-profit entity
 - Debt issuance costs, if any, must be capitalized and recorded as a contra liability account on the balance sheet and amortized to interest expense over the life of the loan
 - Interest on the PPP loan must be accrued at 1%
 - Subsequent events
 - Gain on forgiveness should be recorded when both the lender and the SBA have granted forgiveness of the PPP loan. If forgiveness occurs subsequent to year-end, but before the financial statements are issued, a subsequent event disclosure is necessary but no need to go back and adjust the financial statements at 12/31/20

A Review of GAAP Treatment of PPP Loans

- **Not-For-Profit Entities**

- If the PPP proceeds are not reported as debt and the entity expects to meet the PPP loan eligibility criteria, and concludes that its grant is expected to be forgiven, it should account for the PPP loan as a conditional contribution



A Review of GAAP Treatment of PPP Loans

Accounting Model	Debt Model	Government Assistance Model	Government Grant Model	Gain Contingency Model
Recognition of loan proceeds	Financial liability	Deferred income model	Refundable advance	Liability
Accrued interest	Yes	No	No	No
Timing of income recognition and de-recognition of the loan	Debtor is legally released	Reasonable assurance that conditions will be met	Conditions substantially met or explicitly waived	All contingencies met and gain is realized or realizable
Description	Gain on extinguishment	Other income or reduction of related expenses	Contribution received (may be labeled as grant)	Gain

Information taken from Financial Accounting Foundation, Norwalk CT

Income Tax Provisions

Additional 2020 Recovery Rebates for Individuals:

- \$600 per individual and child dependent
prior recovery rebates were \$1,200 per individual & \$500 per child
- Credit reduced by 5% of the amount of AGI which exceeds \$75,000 (\$112,500 HoH; \$150,000 MFJ)
the full phase-out occurs at a lower AGI this round since the rebate is less
- Deadline: Rebate must be claimed by January 15, 2021

Income Tax Provisions

Extension of Certain Deferred Payroll Taxes:

- Notice 2020-65 deferred the deadline for certain payroll tax payments to 12/31/20 (*i.e. the 2021 first quarter payments were to be made as usual*)
- The Act extends the period during which certain payroll taxes can be deferred from 12/31/20 to 4/30/21
- The Act delays the date on which interest and penalties begin to accrue from 5/1/21 to 1/1/22

Income Tax Provisions

Extension of Credits for Paid Sick and Family Leave:

- The Families First Coronavirus Response Act created new payroll tax credits to fund employee leave
- The applicable time period in the FFCRA originally ended 12/31/20; The Act extends this period to 3/31/21
- Includes other technical and specialized changes

Certain Provisions Made Permanent



Reduction in Medical Expense Deduction Floor:

- The general rule provided in IRC §213(a) provides that only medical expenses which exceed 10% of AGI are deductible (the 10% floor)
- IRC §213(f) provided for a 7.5% floor through 2020 (*as one the many common annual extenders*)
- This Legislation makes the 7.5% floor permanent and it applies beginning in 2021

Sec. 179D deduction for energy-efficient commercial buildings (the amount will be inflation-adjusted after 2020).

Certain Provisions Extended Through 2025

Exclusion from Gross Income of Discharge of Qualified Principal Residence Indebtedness:

- Extends the exclusion, which was scheduled to lapse 1/1/21, until 1/1/26 –recall it's been a typical extender
- Decreases the maximum amount which can be excluded from \$2,000,000 to \$750,000 for discharges which occur after 12/31/20

Certain Provisions Extended Through 2025

Employer Credit for Paid Family and Medical Leave:

- IRC §45S was added to the code by the TJCA and provides a general business credit for certain employers who provide family and medical leave
- The credit equals 12.5%-25% of qualified employee wages paid
- Extends the credit, which was scheduled to lapse 12/31/20, until 12/31/25

Certain Provisions Extended Through 2025

Exclusion for Certain Employer Payments of Student Loans:

- The CARES Act expanded IRC §127 to allow employers to reimburse employees up to \$5,250 for student loan payments, which the employee can exclude from taxable income
- The CARES Act provided the payments must be made before 1/1/21, however, this bill extends the provision for payments made before 1/1/26

Certain Provisions Extended Through 2025

Work Opportunity Credit



NOW HIRING

Extensions of Other Provisions

Sec. 132. Extension and Phaseout of Energy Credit

- Many small changes to delay scheduled phaseouts
- Solar energy property business tax credit rate phase out schedule example:

	2019	2020	2021	2022	2023	2024	2025
Prior Law	30%	26%	22%	10%	10%	10%	10%
New Law	30%	26%	26%	26%	22%	22%	10%

Extensions of Other Provisions

Nonbusiness Energy Property:

- IRC §25C provides a small credit, limited to \$500 including all prior tax years, for home energy improvements
- This provision was scheduled to expire 12/31/20; it's a common annual extender
- This bill extends the expiration date to 12/31/21

Other Provisions

Employee Retention and Rehiring Tax Credit Provisions:

- Extended from 1/1/21 to 7/1/21 to include two additional quarters
- Increases the credit from 50% of wages up to \$10,000 (*\$5,000 total benefit per employee*) to 70% of wages up to \$10,000 per quarter (*\$14,000 total benefit per employee*)
- Reduces the gross receipts threshold to qualify for the credit from a 50% decline to a 20% decline
- Additional changes broaden eligibility
- Allows businesses to claim the credit and participate in the PPP (*“double dipping” appears to remain barred, however the CARES Act forced businesses to choose a program*)

Misc Tax Provisions

Temporary Allowance of Full Deduction for Business Meals:

- Generally, business deductions for meals is limited to 50% of qualifying expenditures.
- However, the new legislation removes the limitation (provides for 100% expensing) for “food or beverages provided by a restaurant”
- This provision is effective for expenses incurred after Dec. 31, 2020 and expires at the end of 2022.

Misc Tax Provisions

Certain Charitable Contributions Deductible by Nonitemizers:

- The CARES Act provided a \$300 above-the-line charitable deduction; however, it was unclear whether married couples were entitled to a \$300 or \$600 deduction
- The new legislation clarifies that beginning in 2021 the deduction is generally \$300 or \$600 in the case of a joint return
- The new legislation also increases the underpayment penalty for overstatements of non-itemized charitable contributions from 20% to 50%

Misc Tax Provisions

Itemized Charitable Deductions:

- Generally, the deduction for contributions to charity is limited to 50% of AGI (increased temporarily to 60% by the TCJA)
- The CARES Act allowed the deduction up to 100% of AGI in 2020
- The new legislation extends the 100% AGI limitation through 2021

Misc Tax Provisions

Education Expenses:

- Transition from deduction for qualified tuition and related expenses to increased income limitation on lifetime learning credit
- Allows the Tuition and Fees Deduction to lapse for 2021, thereby repealing it (*it's been a typical extender*)
- Increases the phase out range for the lifetime learning credit and aligns it with the American opportunity tax credit

Misc Tax Provisions

Other:

- Minimum low-income housing tax credit rate
- Depreciation of certain residential rental property over 30-year period
- Waste energy recovery property eligible for energy credit
- Extension of energy credit for offshore wind facilities
- Minimum rate of interest for certain determinations related to life insurance contracts
- Minimum age for distributions during working retirement
- Temporary rule preventing partial plan termination
- Temporary special rule for determination of earned income

Disaster Tax Relief

Use of Retirement Funds for Disaster Mitigation:

- Expands and clarifies the penalty-free distribution allowed for in the CARES Act
 - Modifies the \$100,000 distribution limit
 - Limit aggregates all prior tax years
 - Limit applies separately per disaster
 - Retains the three-year income recognition option and three-year repayment option
 - Principal residence must be in a qualified disaster area (recall the entire country is currently declared as such)
 - Seems to eliminate the CARES Act requirement that the distributee is affected by COVID-19
 - Eliminates the requirement that the distribution must take place in 2020

Disaster Tax Relief

Use of Retirement Funds for Disaster Mitigation:

- Also allows for repayable distributions to purchase or construct a primary residence in a disaster area
- Also extends the increased plan loan limit to \$100,000 from \$50,000 for 180-days after enactment of the new legislation
- Recall the CARES Act also provided the limit increase applied to the period of 180-days after enactment which has since expired

Disaster Tax Relief

Employee Retention Credit for Employers Affected by Qualified Disasters:

- Credit equal to up to 40% of qualified wages, not to exceed \$6,000 (\$2,400 per employee)
- Eligible employers
 - Conducted an active trade or business in a qualified disaster zone at any time during the qualified disaster
 - The trade or business is inoperable at any time during or after first day of the qualified disaster and before enactment by reason of the disaster
- Qualified wages
 - Wages paid to an eligible employer on or after the date the business became inoperable but before significant operations resumed or within 150 days after the last day of the disaster
 - Does not include wages taken into account for the employee retention credit or the PPP
 - Includes wages paid with funds from a non-forgiven PPP loan
 - The credit applies to wages paid without regard to whether the employee performed any services associated with those wages.

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Gray, Gray & Gray, LLP
150 Royall Street, Suite 102
Canton, MA 02021
www.gggllp.com
781.407.0300



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