Continuing the Paycheck Protection Program and Other Small Business Support

Additional PPP eligible expenses.

Sec. 304 provides additional allowable and forgivable uses for PPP funds:

- 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.
- Covered supplier costs. Expenditures to a supplier pursuant to a contract, purchase order, or order for goods in effect prior to taking out the loan that are essential to the recipient's operations at the time at which the expenditure was made. Supplier costs of perishable goods can be made before or during the life of the loan.
- Covered worker protection expenditure. Personal protective equipment 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.

The provision allows loans made under PPP before, on, or after the enactment of this act to be eligible to utilize the expanded forgivable expenses except for borrowers who have already had their loans forgiven.

Simplified Application for loans under $150,000.

Section 307 creates a simplified application process for loans under $150,000. A borrower shall receive forgiveness if a borrower signs and submits to the lender a certification that is not more than one page in length, includes a description of the number of employees the borrower was able to retain because of the covered loan, the estimated total amount of the loan spent on payroll costs, and the total loan amount. The borrower must also attest that borrower accurately provided the required certification and complied with Paycheck Protection Program loan requirements. SBA must establish this form within 24 days of enactment and may not require additional materials unless necessary to substantiate revenue loss requirements or satisfy relevant statutory or regulatory requirements. Additionally, borrowers are required to retain relevant records related to employment for four years and other records for three years. The Administrator may review and audit these loans to ensure against fraud.

This section applies to loans made before, on, or after the date of enactment, including the forgiveness of the loan.

Specific Group Insurance Payments as Payroll Costs.

Section 308 clarifies that other employer-provided group insurance benefits are included in payroll costs. This includes group life, disability, vision, or dental insurance.

This section applies to loans made before, on, or after the date of enactment, including the forgiveness of the loan.

Paycheck Protection Program Second Draw

Paycheck Protection Program Second Draw Loans. ACRR permits certain smaller businesses who received a PPP loan and experienced a 25% reduction in gross receipts may take a second draw from the PPP of up to $2 million.

Eligible entities. Prior PPP borrowers must meet the following conditions to be eligible for the second draw loans:

- Employ no more than 300 employees per physical location;
- Have used or will use the full amount of their first PPP loan; and
- Demonstrate at least a 25% reduction in gross receipts in the first, second,or third quarter of 2020 relative to the same 2019 quarter. Applications submitted on or after January 1, 2021 are eligible to utilize the gross receipts from the fourth quarter of 2020.

Eligible entities include for-profit businesses, certain non-profit organizations, housing cooperatives, veterans' organizations, tribal businesses, self-employed individuals, sole proprietors, independent contractors, and small agricultural co-operatives.

Loan terms. Borrowers may receive a second loan of up to 2.5 times the average monthly payroll costs in the one year prior to the loan or the calendar year. However, borrowers in the hospitality or food services industries (NAICS code 72) may receive loans of up to 3.5 times average monthly payroll costs. Only a single second draw is permitted to an eligible entity.

Gross receipts and simplified certification of revenue test. Second draw loans of no more than $150,000 may submit a certification, on or before the date the loan forgiveness application is submitted, attesting that the eligible entity meets the applicable revenue loss requirement. Non-profits and veterans organizations may use gross receipts to calculate their revenue loss standard.

Loan forgiveness. Like the first PPP loan, the second draw loan may be forgiven for payroll costs of up to 60% (with some exceptions) and nonpayroll costs such as such as rent, mortgage interest and utilities of 40%.

Application of exemption based on employee availability. ACRR extends current safe harbors on restoring full-time employees and salaries and wages. Specifically, applies the rule of reducing loan forgiveness for the borrower reducing the number of employees retained and reducing employees' salaries in excess of 25%.

Clarification of tax treatment of Paycheck Protection Program loans. Sec. 276 clarifies that gross income does not include any amount that would otherwise arise from the forgiveness of a PPP loan. This provision also clarifies that deductions are allowed for otherwise deductible expenses paid with the proceeds of a PPP loan that is forgiven, and that the tax basis and other attributes of the borrower's assets will not be reduced as a result of the loan forgiveness. The provision is effective as of the date of enactment of the CARES Act. The provision provides similar treatment for Second Draw PPP loans, effective for tax years ending after the date of enactment of the provision

Business provisions of the CAA, 2021

50% limit on business meal deduction is suspended for meals provided by restaurants in 2021 and 2022

Taxpayers may generally deduct the ordinary and necessary food and beverage expenses associated with operating a trade or business, including meals consumed by employees on work travel. The deduction is generally limited to 50% of the otherwise allowable amount. (**Code Sec. 274(n)(1)**)

Code Sec. 274(n)(2) provides certain exceptions to this 50% limit. However, under pre-Act law, there was no exception for meals provided by a restaurant.

New law. Under the Act, the 50% limit won't apply to expenses for food or beverages provided by a restaurant that are paid or incurred after Dec. 31, 2020, and before Jan. 1, 2023. (**Code Sec. 274(n)(2)(D)** as amended by TCDTR Sec. 210

Clarification of tax treatment of covered loan forgiveness

CARES Act Sec. 1102 provides that a recipient of a PPP loan may use the loan proceeds to pay payroll costs, certain employee benefits relating to healthcare, interest on mortgage obligations, rent, utilities, and interest on any other existing debt obligations. If a PPP loan recipient uses their PPP loan to pay those costs, they can have their loan forgiven in an amount equal to those costs. PPP loan forgiveness doesn't give rise to taxable income and the Code generally doesn't allow a taxpayer to deduct expenses that are paid with tax exempt income.

New law. COVIDTRA clarifies taxpayers whose PPP loans are forgiven are allowed deductions for otherwise deductible expenses paid with the proceeds of a 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. (CARES Act section 1102 as clarified by COVIDTRA Sec. 276)

Effective date. This provision is effective as of the date of enactment of the CARES Act. (COVIDTRA Sec. 276(a)(2))

Clarification of tax treatment of certain loan forgiveness and other business financial assistance under the CARES Act

The CARES Act expanded access to Economic Injury Disaster Loans (EIDL) and established an emergency grant to allow an EIDL applicant to request a $10,000 advance on that loan. The CARES Act also provided loan repayment assistance for certain recipients of CARES Act loans.

New law. COVIDTRA clarifies that gross income does not include forgiveness of EIDL loans, emergency EIDL grants, and certain loan repayment assistance. The provision also clarifies that deductions are allowed for otherwise deductible expenses paid with the amounts not included in income, and that tax basis and other attributes will not be reduced as a result of those amounts being excluded from gross income. (CARES Act sections 1110(e) and 1112(c) as clarified by COVIDTRA Sec. 278)

Effective date. The provision is effective for tax years ending after March 26, 2020, date of enactment of the CARES Act. (COVIDTRA Sec. 278(e))

Energy Efficient Commercial Buildings Deduction

Under pre-Act law, for property placed into service before Jan. 2021, taxpayers could claim a deduction for energy efficiency improvements to lighting, heating, cooling, ventilation, and hot water systems of commercial buildings. This includes a $1.80 deduction per square foot for construction on qualified property. A partial $0.60 deduction per square foot is allowed if certain subsystems meet energy standards but the entire building does not, including the interior lighting systems, the heating, cooling, ventilation, and hot water systems, and the building envelope.

New law. The Act makes this deduction permanent. (**Code Sec. 179D**, as amended by Act Sec. 102(a)) The Act also added an inflation adjustment for tax years beginning after 2020 (**Code Sec. 179D(g)**, added by Act Sec. 102(b)) and amended the standards set out in **Code Sec. 179D(c)**. (Act Sec. 102(c))

Employer Credit for Paid Family and Medical Leave

Under pre-Act law, for tax years beginning before Jan. 1, 2021, the Code provides an employer credit for paid family and medical leave, which permits eligible employers to claim an elective general business credit based on eligible wages paid to qualifying employees with respect to family and medical leave. The credit is equal to 12.5% of eligible wages if the rate of payment is 50% of such wages and is increased by 0.25 percentage points (but not above 25%) for each percentage point that the rate of payment exceeds 50%. The maximum amount of family and medical leave that may be taken into account with respect to any qualifying employee is 12 weeks per tax year.

New law. The Act extends this credit through 2025, applying to wages paid in tax years beginning after Dec. 31, 2020. (**Code Sec. 45S(i)**, as amended by Act Sec. 119)

Exclusion for Certain Employer Payments of Student Loans

Under **Code Sec. 127**, educational assistance provided under an employer's qualified educational assistance program, up to an annual maximum of $5,250, is excluded from the employees income.

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act, PL 116-136, 3/27/2020) added to the educational payments excluded from an employee gross income, “eligible student loan repayments” (below) made after Mar. 27, 2020, and before Jan. 1, 2021. These payments are subject to the overall $5,250 per employee limit for all educational payments. Eligible student loan repayments are payments by the employer, whether paid to the employee or a lender, of principle or interest on any qualified higher education loan as defined in **Code Sec. 221(d)(1)** for the education of the employee (but not of a spouse or dependent). (**Code Sec. 127(c)(1)(B)**)

New law. The Act extends the exclusion for loan repayments through 2025. (**Code Sec. 127(c)(1)(B)**, amended by Act Sec. 120)