



How the Latest COVID Relief Legislation Will Affect Nonprofits

January 26, 2021

Nothing in this document should be construed as providing tax advice. Please consult with your own professional tax advisor. In addition, this document represents the information that we have up to the date the presentation was made and cannot be relied upon for additional updates beyond that date.



AGENDA

- +Round 2 PPP Loans
- +Shuttered Venue Operators
- +Update on EIDL
- +Update on Employee Retention Credit
- +Forgiveness Process Changes
- +Miscellaneous (but important) Provisions



Round 2 PPP Loans

QUALIFICATIONS

- + 300 or fewer employees (headcount not FTE)
 - + Multiple locations, no more than 300 per location
 - + Affiliation rules apply

- + 25% gross receipts decline in any qtr. compared to same qtr. in 2019
 - + If no calendar 2019 - multiple rules related to which quarters in each year applicant had gross receipts



QUALIFICATIONS - CONTINUED

- + Must have fully spent PPP1, but do not have to have forgiveness application submitted
- + Certification of need
 - + Be aware that qualifying under the gross receipts test may not be the only determining factor
 - + All borrowers will still be required to certify that "current economic uncertainty makes the loan request necessary to support the ongoing operations of the recipient"
 - + For now, only guidance is to review SBA 3509 questionnaire liquidity questions
 - + Keep documentation supporting your decision
- + Supporting small business is the intent of the program



CALCULATING GROSS RECEIPTS

- + “All revenue in whatever from received or accrued (in accordance with the entity’s accounting method)”
 - + PPP1 funds and EIDL grants are not included

- + Documentation
 - + Quarterly financial statements
 - + Monthly bank statements



ELIGIBLE PPP EXPENSES EXPANDED



- + Employer provided group insurance benefits includes benefits such as life, vision, dental and disability insurance premiums.
- + Expansion of other costs:
 - + Supplier Costs - which were made pursuant to contract or order in effect before the covered period.
 - + Worker Protection Expenditures – related to COVID measures, such as ventilation systems, physical barriers and drive through facilities.
 - + Property Damage Costs – from public disturbances in 2020 not covered by insurance.
 - + Operations Expenditures – including costs for processing payroll, sales/billing software.



LOAN SPECIFICS

- + Loan Amount
 - + Maximum loan amount \$2M (previously \$10M)
 - + Calculate at 2.5 times average monthly payroll costs (no change to PPP1)
 - + New for PPP2:
 - + Restaurants, hotels, etc. can use 3.5 times average monthly payroll (NAICS code 72)
 - + Can use 2019 payroll or 12 months prior to application
 - + Can calculate by taking total payroll divided by number of months * 2.5
 - + Seasonal employers – average total monthly payroll costs for any 12-week period between 2/15/19 and 2/15/20
- + Covered Period to use proceeds
 - + Can now choose any period between 8 and 24 weeks
 - + Maximum based on \$100k of income remains ($\$100k \times 52 \times \# \text{ weeks chosen}$)

Shuttered Venue Operators or Save Our Stages

QUALIFYING ENTITIES

- + Live venue operators or promoters
- + Theatrical producers
- + Live performing arts organization operators
- + Relevant museum operators, zoos and aquariums who meet specific criteria
- + Motion picture operators
- + Talent operators
- + Each business entity owned by an eligible entity that also meets the eligibility requirements



ELIGIBILITY

- + Must have been in operation February 29, 2020
- + Gross revenue during any quarter of 2020 that was less than 75% of what it was for the same quarter in 2019
- + Open or intend to reopen
- + Must not have received a PPP loan on or after December 27, 2020



GRANT AMOUNT

- + Entity in operation January 1, 2019
 - + Lesser of 45% of 2019 gross receipts or \$10 million

- + Entity began operation after January 1, 2019
 - + Lesser of average monthly gross revenue for each full month in operation in 2019 multiplied by 6 or \$10 million



USE OF FUNDS

- + Payroll costs
- + Rent payments
- + Utilities
- + Scheduled mortgage or debt payments
- + Worker protection expenses
- + Independent contractors payments not to exceed \$100,000
- + Other ordinary & necessary business expenses
- + Administrative costs
- + State and local taxes and fees
- + Operating leases in effect as of 2/15/20
- + Insurance payments
- + Advertising, production transportation, and capital costs related to producing a theatrical or live performing arts production (May not be primary use of funds)

APPLICATION PRIORITY

- + First priority – 90% or greater revenue loss
- + Second priority – 70% or greater revenue loss
- + Third priority – 25% or greater revenue loss
- + Supplemental funding – Recipients of first or second priority round with a 70% or greater revenue loss for the most recent calendar quarter (as of 4/01/21 or later)
- + Unrestricted, non-priority round – any size entity that suffered 25% or greater



APPLICATION

- + SBA is yet accepting applications
- + Form yet to be provided
- + Website to watch for additional guidance and application information
 - + <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/shuttered-venue-operators-grant>



Updates to Economic Injury Disaster Loans (EIDL)

ECONOMIC INJURY DISASTER LOANS



- + EIDL Advance up to \$10,000 – now will not reduce PPP loan forgiveness.
 - + Expect repayments to be coming for loans already forgiven and were reduced for this.
 - + PPP loans yet to be forgiven will not be reduced by the EIDL advance.
- + Targeted EIDL advance grants eligibility:
 - + Businesses with fewer than 300 employees
 - + Located in a low-income community
 - + Has suffered an economic loss of at least 30%
 - + Not an agricultural enterprise (with some exceptions)
- + If you have not already received \$10,000 can apply to get either the \$10,000 or an increase up to the \$10,000.



Updates to Employee Retention Credit

ERC Qualifications

+OLD LAW:

- + Fully or partially shutdown due to Covid 19 Lockdown Government Orders or
- + Any quarter of 2020 – gross receipts were less than 50% of the same quarter for 2019

+NEW LAW:

- + Fully or partially shutdown due to Covid 19 Lockdown Government Orders or
- + First two quarters of 2021 – gross receipts were less than 80% of the same quarter for 2019



EMPLOYEE RETENTION TAX CREDIT



- + Under the old law, more than 100 employees, no credit was available for wages paid to an employee performing services for the employer (either teleworking or working at the workplace, even though at reduced capacity due to reduction in business). Less than 100 employees were eligible for the credit even if the employee was working.
- + Under the new law, more than 500 employees, no credit was available for wages paid to an employee performing services for the employer (either teleworking or working at the workplace, even though at reduced capacity due to reduction in business). Less than 500 employees is eligible for the credit even if the employee was working.
- + Affiliated companies sharing more than 50% common ownership are aggregated

EMPLOYEE RETENTION TAX CREDIT



Changes effective January 1, 2021:

- + Under the old law, wages paid from March 12, 2020 and before Jan 1, 2021. Under the new law, it extends to wages paid before July 1, 2021.
- + Amount of credit increased from 50% of the qualified wages plus the cost to continue providing health benefits to the employee to 70% of qualified wages which is amended to include the cost to continue providing health benefits.
- + Credit cap increased from \$5,000 for all qualified wages paid during 2020 to \$7000 for all qualified wages for the first two quarters of 2021 for a max credit of \$14,000 per employee.



EMPLOYEE RETENTION TAX CREDIT



- + Under the old law, you were not eligible if you or your extended affiliated companies (shared common ownership) received a PPP Loan.
- + Under the new law, it is no longer prohibited. However, the same wages can not be used for forgiveness of PPP.
- + No provision to monetize the credit before qualified wages were paid under the old law.
- + Treasury plans to draft guidance to allow an advance payment with less than 500 employees based on 70% of avg quarterly payroll for the same quarter 2019 under the new law.



EMPLOYEE RETENTION TAX CREDIT



- + Under the old law, government entities were not available.
- + Under the new law, allowing the credit to state or local run colleges, universities, organizations providing medical or hospital care and certain organization chartered by Congress (Fannie MAE, FDIC, Federal Home Loan Banks and Federal Credit Unions).
- + The old law did not allow credit for pay rate increases.
- + The new law allows the credit for hazardous duty pay increases among other increases such as bonuses.



EMPLOYEE RETENTION TAX CREDIT



+Retroactive changes:

- + Clarification that group health plan expense may be considered even when no other wages are paid.
- + PPP Borrowers may be eligible for the credit to the extent qualifying wages are not paid using forgiven PPP loan proceeds.
- + Gross receipts of the taxable year include total sales net of returns and allowances and all amounts received for services. In addition, gross receipts include any income from investments and other income.



ERC Example 2020

- + Employer with less than 100 employees is eligible due to receipts dropped below 50% all quarters
- + Wages paid to employee A & B
- + Q2 – A-7,000 B 12,000; Q3 – A- 5,000 B 12,000; Q4 – A – 5,000 B 12,000
- + Eligible Wages are:
 - + Q2 = 17,000 (A=7,000+B=10,000) – credit is 8,500 – B maxed out
 - + Q3 = 3,000 (A =3,000+B=0) – credit is 1,500 – A maxed out
 - + Q4 = 0 – both employees maxed out in previous quarters



ERC Example 2021

- + Employer with less than 100 employees is eligible due to receipts dropped below 80% all quarters
- + Wages paid to employee A & B
- + Q1 – A-7,000 B 12,000; Q2 – A- 5,000 B 12,000;
- + Eligible Wages are:
 - + Q1 = 17,000 (A=7,000+B=10,000) – credit is 11,900 (17,000*70%)
 - + Q2 = 15,000 (A =5,000+B=10,000) – credit is 10,500 (15,000*70%)



Forgiveness Process Changes

SIMPLIFIED FORGIVENESS

- + Loans up to \$150,000
- + Apply on Form 3508S
 - + Both PPP and PPP2 forgiveness
- + Calculations to determine forgiveness not included
- + If loan is \$50,000 or less, not subject to FTE reduction or wage reduction



SIMPLIFIED FORGIVENESS (continued)

+Certifications

- + Complied will all the requirements in the PPP rules, including the rules related to:
 - + Eligible use of PPP loan proceeds
 - + The amount of PPP loan proceeds that must be used for payroll costs (60%)
 - + The calculation and documentation of the Borrower's revenue reduction (if applicable)
 - + The calculation of the Borrower's Requested Loan Forgiveness amount

+Information is true and correct in all material respects

Miscellaneous

OTHER IMPORTANT PROVISIONS

- + Extension of (\$300-S, \$600-J) charitable contribution deduction for non-itemizers through 2021
- + PPP made available to 501(c)(6) organizations
 - + Apply under PPP and thus no requirement to meet 25% reduction in gross receipts



QUESTIONS?



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Thank You
for your time!



MCM COVID-19 Resource Center

www.mcmcpa.com/covid-19