



WEBINAR WILL BEGIN SOON...





TAX PROVISIONS OF THE CONSOLIDATED APPROPRIATIONS ACT



JANUARY 14, 2021



CRAIG SWINDLEHURST

SENIOR TAX MANAGER



WE ARE HERE TO HELP!



HOUSEKEEPING

Thank you for trusting us to share our knowledge with you. Presentation is being recorded and will be available on our website.



DETAILS IN DEVELOPMENT

We are presenting details as they stand *today*. Information presented could change in the future.



QUESTIONS

If you have a question, click the Q&A window located at the bottom of your screen. We have turned off chat, raising hands and anonymous questions.



CALL YOUR ADVISOR FOR ASSISTANCE

We will try to address questions at the end of the presentation. Please reach out to your Larson team for additional personalized assistance.



TODAY'S AGENDA:

01 PPP LOAN UPDATES

02 EMPLOYEE RETENTION TAX CREDIT

03 OTHER TAX PROVISIONS

04 PRESIDENT BIDEN'S TAX PLAN

05 QUESTIONS



PPP LOAN UPDATES



PPP Loans: First Draw Updates

- Expenses paid for with forgiven PPP loan proceeds – Deductible!
- Businesses that received a PPP loan in 2020 can take the Employee Retention Tax Credit in 2020, but not on the same wages (more to come on this)
- EIDL Advance – does not decrease PPP loan forgiveness
- “Covered Period” Flexibility
 - Previously was limited to either 8 weeks or 24 weeks
 - Borrowers can now elect any covered period between 8 weeks and 24 weeks



PPP Loans: First Draw Updates

- Expansion of Covered Expenses – PPP loan proceeds may now be used for the following:
 - Operating Expenditures
 - Supplier Costs
 - Property Damage
 - Worker Protection Costs
- Original Loan Modifications – if a borrower did not receive the maximum loan amount on their original PPP loan, they can submit a modification request



PPP Loans: First Draw Updates

- Loans Under \$150,000
 - Simplified forgiveness application: one-page certification with minimal information required
 - Not yet available – expected by January 20
 - Four-year documentation requirement as it relates to employment records, three-year documentation requirement otherwise



PPP Loans: Second Draw

- Second round of PPP loans available to certain businesses:
 - Must show 25% decline in gross revenue in any 2020 quarter when compared to the same quarter of 2019
 - Must have 300 or fewer employees
 - Must have used or will use all of their first PPP loan.
 - Must have been in operation on February 15, 2020
- Same general terms as previous loans
 - No collateral required, no personal guarantees
 - 1% interest rate, 5-year term
- Deadline to apply : March 31, 2021



PPP Loans: Second Draw

- Available PPP loan amount computed the same way as before
 - 2.5 x Average Monthly Payroll
 - Average Monthly Payroll can be for:
 - 2019
 - 2020
 - Immediately preceding 12 months
 - Maximum loan amount available is \$2M (\$10M before)
- For borrowers under NAICS code starting with 72 (accommodation & food sector), calculation is 3.5 x Average Monthly Payroll

A faint, light green graphic in the background depicts a group of stylized human figures. The figures are arranged in a loose cluster, with some appearing to be holding hands or standing close together. The style is minimalist, using simple lines and shapes to represent heads, shoulders, and legs. The overall effect is a subtle, thematic background for the text.

EMPLOYEE RETENTION TAX CREDIT



Employee Retention Tax Credit

- Refundable payroll tax credit based on wages paid - Originally part of the CARES Act
- Major retroactive change – employers can now take this credit even if they received a PPP loan (applies to 2020 and 2021)
- No double-dipping – can't take credit on wages included on a PPP loan forgiveness application
- Various changes to the rules and eligibility if claiming the credit on 2021 wages

Employee Retention Tax Credit - 2020

- Credit in 2020 equal to 50% of “qualified wages” paid to employees, up to \$10,000 per employee on an annual basis
 - Thus, maximum credit is \$5,000 per employee ($\$10,000 \times 50\%$)
- What are “qualified wages”?
 - For “Large Employers” (More than 100 full-time employees) – only wages paid to employees who were not working (i.e., furloughed)
 - 100 or less full-time employees – all wages qualify, whether employees were working or not

Employee Retention Tax Credit - 2020

- Must meet one of two requirements to be eligible to claim the credit
- Requirement #1:
 - Decline in gross receipts of over 50% in a given quarter of 2020 when compared to the same quarter of 2019 (an “eligible quarter”)
- All wages paid in an eligible quarter can qualify for the credit (large employer rules apply)
- Future quarters of 2020 are also eligible quarters until the END of the quarter for which gross receipts are greater than 80% of 2019 gross receipts of the same quarter (example on subsequent slide)

Employee Retention Tax Credit - 2020

	2020	2019	% Decline
Q2	\$40,000	\$100,000	60%
Q3	\$70,000	\$120,000	42%
Q4	\$85,000	\$100,000	15%

- The employer qualifies in Q2 due to meeting the 50% decline in gross receipts.
- The employer qualifies in Q3 because receipts haven't returned to 80% of 2019 levels
- The employer qualifies in Q4 because, although receipts have returned to 80% of 2019 levels, they qualify until the END of that quarter



Employee Retention Tax Credit - 2020

- If an employer don't qualify by virtue of a decline in gross receipts, they can qualify under the second requirement.
- Requirement #2:
 - Have business operations that are fully or partially suspended due to orders from an appropriate governmental authority
- The order must “limit commerce, travel, or group meetings due to COVID-19 in a manner that affects an employer’s operation of its trade or business, including orders that limit hours of operation.”
- If an employer qualifies this way, only wages paid during the period of full or partial suspension qualify (rather than all the wages in the quarter)



Employee Retention Tax Credit - 2020

- <https://www.irs.gov/newsroom/faqs-employee-retention-credit-under-the-cares-act>
- FAQ 29: Business that voluntarily suspends operations or reduces hours due to COVID-19? **No**
- FAQ 30: Business with both essential and non-essential operations? **Maybe** – if suspended operations are more than a nominal portion of overall business operations
- FAQ 31: What if suppliers to an essential business were forced to suspend their operations by virtue of a government order? **Potentially** – assuming the inability to obtain critical goods or materials from the supplier requires the essential business to partially or fully suspend operations.



Employee Retention Tax Credit - 2020

- FAQ 32: Government order causes customers of essential business to stay home? **No – but what about B2B sales?**
- FAQ 33: Government order requires an employer to close its workplace, but employer is able to continue operations comparable to prior operations by requiring employees to telework, etc.? **No**
- FAQ 34: Business required to close workplace for certain purposes, but the workplace can remain operational for limited purposes? **Yes**
- FAQ 35: What about a reduction in operating hours? **Yes**
- FAQ 36: Only one jurisdiction of many subject to government order resulting in partial suspension of operations? **Yes**



Employee Retention Tax Credit - 2020

- Steps to determine if business qualifies for the credit in 2020:
 - (1) Did the business meet one of the eligibility requirements?
 - Experience a decline in gross receipts of at least 50% in a given quarter?
 - Have a full or partial suspension of business activity due to a government order?
 - (2) If yes, determine what period qualifies:
 - Decline in gross receipts – all wages paid in the quarter of decline plus future quarters until end of the quarter in which 80% of 2019 gross receipts is restored
 - Full or partial– only the period covered by the government order causing the full or partial suspension of business



Employee Retention Tax Credit - 2020

- Steps to determine if business qualifies for the credit in 2020:

(3) Is the employee considered a “Large Employer” (over 100 full-time employees)?

- If yes, only wages paid to employees not working qualify
- If not, all wages paid to all employees qualify

(4) Coordinate with PPP loan forgiveness to maximize loan forgiveness and credit

Employee Retention Tax Credit - 2021

- Employers can now claim credit on wages paid between January 1, 2021 and June 30, 2021
- New rules and eligibility requirements

Employee Retention Tax Credit - 2021

	2020 – Wages Paid Between 3/12/2020 – 12/31/2020	2021 – Wages Paid Between 1/1/2021 – 6/30/2021
Eligibility – required decline in gross receipts	Greater than 50% decline when comparing any one quarter in 2020 to the same quarter in 2019	Greater than 20% decline when comparing any one quarter in 2021 to the same quarter in 2019
Calculation of credit	50% of up to \$10,000 of qualified wages per employee, per year Max. annual credit = \$5,000 ($\$10,000 \times 50\%$)	70% of up to \$10,000 of qualified wages per employee, per quarter Max. quarterly credit = \$7,000 ($\$10,000 \times 70\%$) Max. annual credit = \$14,000



Employee Retention Tax Credit - 2021

	2020 – Wages Paid Between 3/12/2020 – 12/31/2020	2021 – Wages Paid Between 1/1/2021 – 6/30/2021
Definition of “large employer”	More than 100 employees	More than 500 employees
Alternative period for computing decline in gross receipts	Not Available	20% decline in immediately preceding quarter when compared to same quarter of 2019 (example on subsequent slide)



Employee Retention Tax Credit - 2021

- Example of alternative period for computing decline in gross receipts:
 - 2021 Q1, standard method:
 - Compare 2021 Q1 gross receipts to 2019 Q1 gross receipts
 - 2021 Q1, alternative method:
 - Go to the immediately preceding quarter (2020 Q4)
 - Compare 2020 Q4 gross receipts to 2019 Q4 gross receipts
 - If either of the above results in a decline in gross receipts of 20% or more, then 2021 Q1 will be an eligible quarter



OTHER TAX PROVISIONS



Other Tax Provisions

- Small Business Debt Relief Program
 - CARES Act required SBA to make payments of principal, interest, and fees owed on loan of eligible small businesses
 - New legislation clarifies that these payments made by the SBA are excluded from income
- Extension of Payroll Tax Deferral
 - Employers were allowed to defer paying the employee portion of social security tax from September 1, 2020 – December 31, 2020
 - Originally required to be repaid between January 1, 2021 – April 30, 2021
 - Repayment period extended to December 31, 2021



Other Tax Provisions

- Second Round of Economic Impact Payments (Stimulus Checks)
 - \$600 per adult, \$500 per child
 - Subject to the same eligibility rules and phase-out rules as before
 - Based on 2019 tax return
 - Prepayment of a 2020 tax credit
- Meals Deduction
 - Businesses allowed to deduct 100% of business meals in 2021 and 2022 (usually subject to 50% limitation)



Other Tax Provisions

- Extension of FFCRA Payroll Tax Credits
 - Companies with fewer than 500 employees required to pay certain sick and family leave from April 1, 2020 – December 31, 2020.
 - Payroll tax credit available equal to the amount of wages paid.
 - No longer a requirement after December 31, 2020, but if voluntary paid the payroll tax credits remain available until March 31, 2021.
- F.S.A. Benefits
 - Unused amounts in health and dependent care F.S.A.s can roll over from 2020 to 2021, and again to 2022 (requires amendment to cafeteria plans)



PRESIDENT BIDEN'S TAX PLAN



President Biden – Additional Stimulus?

- President Biden called recent stimulus package a “down payment”, looking at something in the trillions
- Potential items that would be included:
 - \$2,000 stimulus checks
 - Expanded unemployment aid
 - Money for state & local governments (Democratic priority)
 - Liability protection for businesses (Republican priority)
 - Money for vaccine distributions, testing
 - Numerous tax provisions



President Biden – Potential Tax Changes

- Individual Tax
 - Top marginal tax rate increase to 39.6% for taxpayers with income over \$400,000 (current top rate is 37%)
 - Long-term capital gains and qualified dividends to be taxed at ordinary rates for taxpayers with income over \$1M (current rate is 20% for high-income earners)
 - Has expressed interest in removing the \$10,000 cap on tax deductions (state tax / property tax)
 - Potential to implement a cap on the total amount of itemized deductions available



President Biden – Potential Tax Changes

- Individual Tax, continued
 - Phase out 20% Qualified Business Income Deduction for taxpayers with over \$400,000 of income
- Expand available tax credits
 - Child Tax Credit
 - Child and Dependent Care Credit
 - Earned Income Credit
 - First Time Home Buyer's Credit
 - Energy Credits



President Biden – Potential Tax Changes

- Estate Tax
 - Reduce estate exemption to \$3.5M (currently at \$11.7M)
 - Eliminate basis step-up on transfers of appreciated property at death OR cause unrealized gains to be taxed at death
 - Increase estate tax rate to 45% (currently 40%)



President Biden – Potential Tax Changes

- Corporate Tax
 - Increase corporate tax rate to 25%-28%
 - Minimum tax for C-Corporations with book income over \$100 million
 - “Made in America” tax credit for moving manufacturing to the U.S.
 - Increase in certain tax on foreign operations
- Employment Tax
 - Increase social security tax limit to \$400,000 (currently at \$137,700)



Q & A

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CHECK OUT OUR COVID-19
RESOURCES FOR BUSINESSES
AND INDIVIDUALS PAGE:

<https://larsco.com/covid-19-resources/>

