Advanced Sales

The Consolidated Appropriations Act (CAA), 2021, including the COVID-Related Tax Relief Act of 2020 and the Taxpayer Certainty and Disaster Tax Relief Act of 2020 Summary

As of December 28, 2020, there have been four major Acts passed by Congress and signed by the President addressing different aspects of the coronavirus (COVID-19) pandemic. The most recent Act is the

Consolidated Appropriations Act, 2021 ("CAA" or "the Act"), enacted December 27, 2020 (Phase 4), which consists of several different Acts, including the COVID-Related Tax Relief Act of 2020 and the Taxpayer Certainty and Disaster Tax Relief Act of 2020 and other Acts, all enacted together.

This summary reflects the provisions of the Consolidated Appropriations Act, as enacted on December 27, 2020. If and when any legislation is enacted that affects the information in this summary, we will update it to reflect that legislation. Links to related material can be found at the end of this summary.

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Summary Updated as of January 11, 2021

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CRN202212-276328

PROVISIONS AFFECTING BUSINESSES

PAYCHECK PROTECTION PROGRAM CHANGES

NEW Act Provision	Explanation
Allows deduction for expenses paid with proceeds from PPP loans that were forgiven.	Permits recipients of Payment Protection Program (PPP) loans to deduct expenses paid with the PPP loan proceeds, even if the loan is forgiven. The IRS and Treasury had announced that the expenses paid from the proceeds of forgiven loans were not deductible. This provision makes it clear that expenses paid with PPP loan proceeds are deductible.

Are there any restrictions to this treatment?

The Act does not include any restrictions on this treatment, stating that "no deduction shall be denied" due to the tax-free treatment of forgiven PPP loans.

NEW Act Provision	Explanation
Gross income does not include forgiveness of Economic Injury Disaster Loans (EIDL) and EIDL Advance Grants, and certain loan repayment assistance. Expenses paid with those loans and grants are deductible.	Clarifies that forgiveness of EIDL loans and grants are not taxable and that normally deductible expenses paid with those funds are deductible.

NEW Act Provision	Explanation
Expands allowable uses of PPP loans to include: • Covered operations expenditures • Covered property damage costs • Covered supplier costs • Covered worker protection expenditures	Expands the types of non-payroll expenses that PPP loan recipients may use the funds for and qualify for loan forgiveness if the loan forgiveness requirements are satisfied. No change is made to the requirement that at least 60% of the PPP loan proceeds are used for payroll costs.

Do these changes apply to loans received under the original PPP?

Yes. These changes apply to PPP loans made under the original PPP as well as loans made under the new PPP, except for loans that were forgiven before December 28, 2020.

What are covered operations expenditures?

Covered operations expenditures are "payments for any business software or cloud computing services 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."

What are covered property damage costs?

Covered property damage costs are costs related to property damage and vandalism or looting due to public disturbances in 2020 not covered by insurance or otherwise.

What are covered supplier costs?

Covered supplier costs are expenditures made to a supplier of goods to supply goods that are:

1. Essential to the operation of the entity at the time that the expenditure is made, and
2. Made pursuant to a contract, order, or purchase order in effect at any time before the applicable PPP loan was received, or with respect to perishable goods in effect before or at any time during the covered period with respect to the applicable PPP loan.

What are covered worker protection expenditures?

Covered worker protection expenditures are operating or capital expenditures to facilitate the adaption of an entity's business activities to comply with guidelines issued by the Department of Health and Human Services (HHS), Centers for Disease Control (CDC), or Occupational Safety and Health Administration (OSHA) during the period beginning on March 1, 2020 through the end of the COVID-19 national emergency to maintain standards for sanitation, social distancing, or any other worker or customer safety requirement related to COVID-19.

NEW Act Provision	Explanation
Expands type of group insurance benefits included in payroll costs to determine the allowable loan amount and the amount that may be forgiven.	Group life, disability, vision, or dental insurance costs, including insurance premiums qualify as payroll costs.

Do these changes apply to loans received under the original PPP?

Yes. These changes apply to PPP loans made under the original PPP as well as loans made under the new PPP, including loans that were forgiven before December 28, 2020. See our PPP summaries at the end of this document.

NEW Act Provision	Explanation
Simplifies loan forgiveness application for PPP loans that do not exceed $150,000.	Businesses that received PPP loans that do not exceed $150,000 may apply for loan forgiveness on a one-page application.

What information must be provided on the one-page loan forgiveness application?

The application must include:

1. The number of employees the business was able to retain due to the PPP loan,
2. The estimated amount of the covered loan amount the business spent on payroll costs, and
3. The total loan amount.

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What attestations must be provided on the one-page loan forgiveness application?

The business must provide the following attestations:

1. It has accurately provided the required certification,
2. It has complied with the PPP loan requirements, and
3. Retains records relevant to the form that prove compliance with the requirements.

NEW Act Provision	Explanation
Economic Injury Disaster Loan (EIIDL) advances (grants) of up to $1,000 per employee ($10,000 total) will no longer reduce PPP loan forgiveness.	In addition to PPP loans, businesses could apply for an EIDL advance of up to $10,000, which did not have to be repaid. Prior law specifically provided that any EIDL advance would reduce recipient's PPP loan forgiveness.

I received an EIDL advance and a PPP loan. I have already submitted my PPP loan forgiveness application, reducing the forgiveness amount by the EIDL advance. Can I amend my application to reflect this change?

In regulations issued January 6, 2021, the SBA stated that any "EIDL Advance Amounts previously deducted from a borrower's forgiveness amount will be remitted to the lender, together with interest to the remittance date." The lender would then be responsible for making the payment to you. It is unclear whether borrowers need to do anything if they have submitted their loan forgiveness application but it has not yet been approved.

NEW Act Provision	Explanation
Borrowers may select the end of the covered period during which the PPP loan is required to be spent on qualifying expenses. The covered period must be at least eight weeks and no more than 24 weeks.	This change enables borrowers to cut off the testing period before making a workforce reduction that would reduce the loan forgiveness. The covered period must begin on the date the loan is disbursed. The borrower selects an ending date that is between eight and 24 weeks after the loan disbursement.

NEW Act Provision	Explanation
Clarifies that self-employed farmers, filing a Schedule F, qualify for PPP loans to the same extent as Schedule C filers.	It was not previously clear whether farmers and ranchers were covered.

NEW Act Provision	Explanation
Allows borrowers who returned some or all of a PPP loan to reapply for an amount equal to the difference between the maximum loan allowed and the amount retained.	Borrowers who returned some or all of their original PPP loan may reapply for the difference between what they previously kept and the maximum allowable amount. The deadline for applying for a new loan is March 31, 2021.

NEW Act Provision	Explanation

Recipients may request a loan modification to increase the loan amount to the maximum allowable.	Changes made after a borrower's initial PPP loan application by the SBA and the Consolidated Appropriations Act (CAA) may have increased the allowable loan amount. Prior to the CAA, loan amendments or modifications to reflect those changes were not allowed.

PPP ELIGIBLE RECIPIENTS MAY RECEIVE A SECOND PPP LOAN (PPP SECOND DRAW LOAN)

NEW Act Provision	Explanation
Eligible recipients may receive a second PPP loan.	Congress has authorized $284.45 billion for eligible recipients to receive a second round of PPP loans.

Are there any changes in eligibility from the first round of PPP loans?

Yes. An "eligible recipient" is "any business concern, nonprofit organization, housing cooperative, veteran's organization, Tribal business concern, eligible self-employed individual, sole proprietor, independent contractor, or small agricultural cooperative" that meets the following requirements:

1. Employs 300 or fewer employees (down from 500 or less),
2. Has used or will use full amount of first PPP loan,
3. Had gross receipts during the first, second, third, or fourth (if application submitted in 2021) quarter of 2020 that was not less than a 25% reduction from the same quarter in 2019, and
4. Be able to certify in good faith that the loan is "necessary to support the on-going operations" of the applicant.

Are there any other important changes from the prior loan program?

1. The maximum loan amount is $2 million (down from $10 million), including for entities that have multiple locations.
2. There are rule clarifications regarding seasonal employers and for entities that did not exist in 2019.
3. For restaurants, hotels, motels, and other qualifying food and lodging businesses (those assigned a North American Industry Classification System (NAICS) code beginning with 72), the payroll multiplier used to determine the maximum loan amount is increased to 3.5 times the average monthly payroll from 2.5 times applicable to other businesses.
4. Business entities in bankruptcy are now permitted to receive loans.
5. Business entities having certain affiliations with China or Hong Kong are prohibited from applying for PPP loans. These rules are complex so business owners should check with their personal legal advisor to determine if they are affected.
6. Lenders will be held harmless for relying on applicant certifications so long as the lender acts in good faith.

7. Borrowers can amend their loan application; thus, a borrower who previously returned their PPP loan or qualifies for additional amounts may now decide to reapply.
8. The deadline for applying for a PPP Second Draw loan is March 31, 2021.

Do I qualify for a second PPP loan if my company's gross receipts in one quarter of 2020 were at least 25% less than its gross receipts in the same quarter of 2019 but gross receipts in other quarters increased or were reduced by less than 25% from the same quarter in 2019?

Yes. A business must only meet the requirement for the same quarter of the prior year. Its gross receipts in other quarters are not considered in determining if it qualifies for a second PPP loan.

Do I qualify for a second PPP loan if I haven't spent all of my first PPP loan?

Yes, if you will use all of your first PPP loan before the date you expect to receive your PPP Second Draw loan.

OTHER BUSINESS PROVISIONS

NEW Act Provision	Explanation
Businesses may deduct 100% of business expenses for food or beverages provided by a restaurant and paid or incurred after December 31, 2020 and before January 1, 2023.	Generally, the deduction for business meals is limited to 50% of the otherwise allowable amount. CAA temporarily Increases the deduction from 50% to 100%.

PROVISIONS AFFECTING INDIVIDUALS

New Act Provision	Explanation
Stimulus checks of $600 per individual taxpayer will be sent to those with qualifying income and $600 per qualifying child.	Like the CARES Act, the stimulus payment amount begins to phase-out at $75,000 of Adjusted Gross Income (AGI), $150,000 for married filing jointly, and $112,500 for head of household. The phase-out is $5 for every $100 of income above the threshold.

How does the phase-out work?

Filing status	$0 Stimulus Payment if Adjusted Gross Income (AGI) exceeds:			
	No qualifying children	1 qualifying child	2 qualifying children	3 qualifying children
Married filing joint	$174,000	$186,000	$198,000	$210,000
Head of household	$124,500	$136,500	$148,500	$160,500
All other	$87,000	$99,000	$111,000	$123,000

If a taxpayer has more than three qualifying children, each additional qualifying child increases the AGI level where the stimulus amount is reduced to zero by$12,000. For example, a married couple filing jointly with four qualifying children will be entitled to a total stimulus check of $3,600 ($600 per spouse plus $600 for each of the four qualifying children). If their AGI exceeds $150,000, the stimulus check will be reduced by $5 per $100 of income above $150,000. If it exceeds $222,000, they will not be entitled to any stimulus check.

NEW Act Provisions	Explanation
Stimulus checks received in excess of qualifying amounts are not required to be repaid.	The CARES Act authorized the IRS to begin sending stimulus checks to taxpayers based upon their 2019 income amounts. As discussed above, the eligible amount phases out if the taxpayers' income exceeds the phaseout threshold. Congress has now decided that if taxpayers received an amount that was in excess of what they ultimately qualified for, they would not be required to repay the excess.
NEW Act Provisions	**Explanation**
Medical expenses exceeding 7.5% of AGI are eligible itemized deductions.	Change permanently reduces the AGI cap from 10% to 7.5%.
NEW Act Provisions	**Explanation**
Charitable gifts of cash are deductible up to 100% of AGI for 2020 and 2021.	Change increases deductible amount to 100% from 60% if requirements are satisfied.
NEW Act Provisions	**Explanation**
Charitable contributions made in cash can be deducted by non-itemizers up to $300 in 2020 and up to $300 ($600 per married filing jointly) for 2021.	The CARES Act added a $300 charitable deduction for contributions made in cash for non-itemizers for 2020. For 2021, CAA extends this charitable deduction and increases the amount for married couple filing jointly to $600. If cash charitable contributions are overstated for 2020 or 2021, a 50% penalty applies to tax underpayments due to the overstated contribution.
NEW Act Provisions	**Explanation**
Extends exclusion from the gross income of repayments of an employee's student loans by an employer through 2025.	The CARES Act provided that employer repayments of principal and interest made after March 27, 2020 and before January 1, 2021 on an employee's student loans is excludable from income, subject to the $5,250 limit for educational payments. This extends through 2025.
RETIREMENT ACCOUNT DISASTER PROVISIONS	
NEW Act Provision	**Explanation**
The Act provides favorable tax treatment for retirement plan distributions for persons affected by certain disasters as specified by FEMA.	The Act provides qualified disaster distributions with relief from the 10% Federal penalty on early distributions from retirement plans, the ability to spread income tax on these retirement plan distributions over three years, and

	the ability to repay these distributions to a retirement plan within three years.

What distributions qualify for favorable tax treatment?

A qualified disaster distribution is any distribution from a qualified plan, IRA, 403(b), 457(b) made:

- During the period between the start of a qualified disaster and June 24, 2021, and
- To an individual whose principal place of residence at any time during that period is in the qualified disaster area and who sustained an economic loss due to the qualified disaster.

Qualified disaster distributions for any one year are limited to $100,000 less the total of qualified disaster distributions received in all prior tax years.

How are qualified disaster distributions taxed?

Unless you elect to include all taxable income from the distribution in your 2020 income, it will be split evenly over your 2020, 2021, and 2022 tax years. If the plan participant or IRA owner passes away during this 3-year period, the balance of the distribution that has not been recognized as taxable income is included on their final income tax return.

Are qualified disaster distributions subject to the 10% early distribution penalty ?

No. The 10% early distribution penalty will not be imposed on qualified disaster distributions (up to $100,000) from IRAs, 401(k) plans, 403(b) plans, and governmental 457(b) plans.

Can I contribute some or all the withdrawn funds back into an IRA or employer-sponsored retirement plan?

Yes. At any time during a 3-year period, beginning the day after you receive one of these distributions, you can roll any portion of the distribution back into your IRA or eligible retirement plan. You can do this is in a single rollover or multiple partial rollovers within the 3-year period. Depending on the timing of the repayment an amended tax return may be required. If you want to re-contribute some or all of the funds, contact the plan administrator or IRA custodian for details on their procedure for re-contributions. The 60-day rollover rule will not apply to repayments of distributions from IRAs.

Will distributions from employer-sponsored retirement plans be subject to a mandatory 20% withholding for Federal income taxes?

No. If you certify to the plan administrator that your distribution is coronavirus-related the mandatory 20% Federal withholding does not apply.

NEW Act Provision	Explanation
Retirement plan distributions intended to be used for a home purchase in a qualified disaster area that were not used may be re-contributed to a retirement plan before June 25, 2021.	The Act provides relief from the 10% penalty on early distributions from retirement plans, the ability to spread income tax on the distribution over three years, and to repay the distribution(s) to a retirement plan within three years.

What are qualified distributions?

A qualified distribution is any distribution from a qualified retirement plan, IRA, 403(b), or 457(b):

- Which was to be used to buy or build a principal residence in a qualified disaster area but was not used for that purpose due to the disaster, and
- Was received during the period between 180 days before the start of the disaster (as specified by FEMA) and ending 30 days after the last day of the disaster.

What is a qualified disaster area?

A "qualified disaster area" is any area for which a major disaster was declared during the period beginning on January 1, 2020 and ending on February 25, 2021. Major disasters declared for an area only due to the COVID-19 pandemic are excluded.

EMPLOYER-SPONSORED RETIREMENT LOAN PROVISION FOR DISASTER LOSSES

NEW Act Provision	Explanation
Temporary enhancement to employer-sponsored retirement plan loan provisions.	An employer that sponsors a retirement plan, such as a 401(k) or 403(b), that allows the plan participants to take loans may increase the loan limits and delay repayment of plan loans for a participant who is impacted by a qualified disaster.

Who qualifies for these employer-sponsored retirement plan loan enhancements?

These loan enhancements are available to individuals whose principal place of residence is in the qualified disaster area and who sustained an economic loss due to the qualified disaster.

What are the enhancements?

Normally, once a plan participant has a vested balance in the plan of at least $20,000, they are eligible to take a loan of up to 50% of their vested balance not to exceed $50,000. If you are a qualified person and take a loan from your employer-sponsored plan that permits these enhancements you may take a loan up to your full vested balance up, maximum amount of $100,000, during the 180-day period between December 27, 2020 and June 24, 2021.

Any payments that would otherwise be due on plan loans after the start of a disaster are delayed for a period of one-year. The payments must be adjusted to reflect the delay and any interest accrued during the delay period. The loan repayment period is extended to reflect the delay period.

The plan must permit these loan enhancements. The Act allows the plan to permit the enhancements prior to formally amending the plan documents to provide for the enhanced loan provisions.

NEW Act Provisions	Explanation
Unemployment benefits enhanced and extended.	The new legislation provides enhanced Federal jobless benefits for qualifying individuals of $300 per week through March 14th. The CARES Act provided for $600 per week enhanced benefits for a limited period of time that expired before enactment of the CAA. The Act also extends the pandemic Unemployment Assistance program, aimed at providing Federal unemployment benefits for qualifying gig workers,

freelance workers, and independent contractors, also through March 14th, providing $100 per week of benefits.

Additional Materials are available on https://www.massmutual.com/ and at the links below

Coronavirus Preparedness and Response Supplemental Appropriations Act enacted March 6, 2020 (Phase 1)

Families First Coronavirus Response Act ("Families First Act"), enacted March 18, 2020 (Phase 2)

- Summary – Families First Act

Coronavirus Aid, Relief, and Economic Security ("CARES") Act, enacted March 27, 2020 (Phase 3)

- Summary – Business Provisions
- Summary – Individual Provisions
- Summary – Payroll Protection Program (PPP)
- Summary – Applying for PPP Loan Forgiveness