

TYPES NOT MAPPED YET December 22, 2020 | TTR not mapped yet | Edward J. Buchholz, David J. Kaufman

Key tax provisions in the coronavirus relief bill

Congress agreed to an additional round of \$900 billion in pandemic relief stimulus aimed at providing much needed relief to individuals, families and businesses impacted by COVID-19. The coronavirus-related tax provisions (collectively, the “COVID Relief Bill”), which are part of an [omnibus and pandemic relief package](#), modify and extend many of the tax provisions of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), which [we have previously discussed](#).

Expansion and modification of the Paycheck Protection Program

The COVID Relief Bill provides \$284 billion in additional funding for forgivable loans under the popular Paycheck Protection Program (“PPP”). The additional PPP loan funding is available to first- and second-time borrowers meeting certain qualifications. Beyond the additional funding, the COVID Relief Bill implements two key tax benefits associated with the PPP loan program.

First, the COVID Relief Bill allows businesses to now deduct expenses paid with forgiven PPP loans. [As we previously discussed](#), the Treasury Department ruled that expenses paid with forgiven PPP loan funds **were not deductible** under section 265 of the Internal Revenue Code of 1986, as amended (the “Code”).

Second, the COVID Relief Bill allows businesses that receive PPP loans to also claim the Employee Retention Tax Credit (“ERTC”) (discussed in more detail below). Under the original CARES Act, businesses were only allowed to opt into one of either the ERTC program or the PPP, which required businesses to make decisions about which program provided the most benefit and ultimately reduced the effectiveness of the relief provided by the CARES Act.

Extension and expansion of the Employee Retention Tax Credit

The ERTC enacted under the CARES Act provided a tax credit equal to 50% of the “qualified wages” paid to an employee up to \$10,000 per calendar quarter. Under the CARES Act, businesses were only eligible for the ERTC if they were an “eligible employer,” meaning that such business either (i) was required by a governmental authority to fully or partially suspend its trade or business because of COVID-19 or (ii) experienced a significant decline in gross receipts, which was defined as decline of greater than 50% in any 2020 calendar quarter as compared to the same calendar quarter in 2019.

The COVID Relief Bill modifies the ERTC program in three key ways. First, the ERTC program is extended until June 30, 2021. Second, the amount of credit is increased to 70% of “qualified wages” paid to an employee up to \$10,000 per calendar quarter. Finally, the threshold for the decline in gross receipts to be qualify as an “eligible employer” is reduced to 20% from 50%.

Extension of the payroll tax deferral

The COVID Relief Bill extends the repayment deadline from April 2021 to December 31, 2021 for the payroll tax deferral implemented by President Trump’s August 8, 2020, Presidential Memorandum (the “Deferral Memo”) and clarified by Internal Revenue Service Notice 2020-65. [As we previously discussed](#), the Deferral Memo and Notice 2020-65 allowed employers to defer collection and remittance of the employee’s portion of Social Security taxes on wages paid to employees earning less than \$4,000 on a bi-weekly basis. Importantly, this payroll tax deferral was **at the election of the employer**, so only those employers that opted in are eligible for the extended repayment deadline.

Additional tax credit extensions

Beyond the tax benefits discussed above, the COVID Relief Bill also extends a variety of popular tax credits and deductions, including:



- extension through March 2021 of the paid sick and family leave credits enacted under the Families First Coronavirus Response Act; and
- increasing the deduction for business meals to 100% for 2021 and 2022.

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