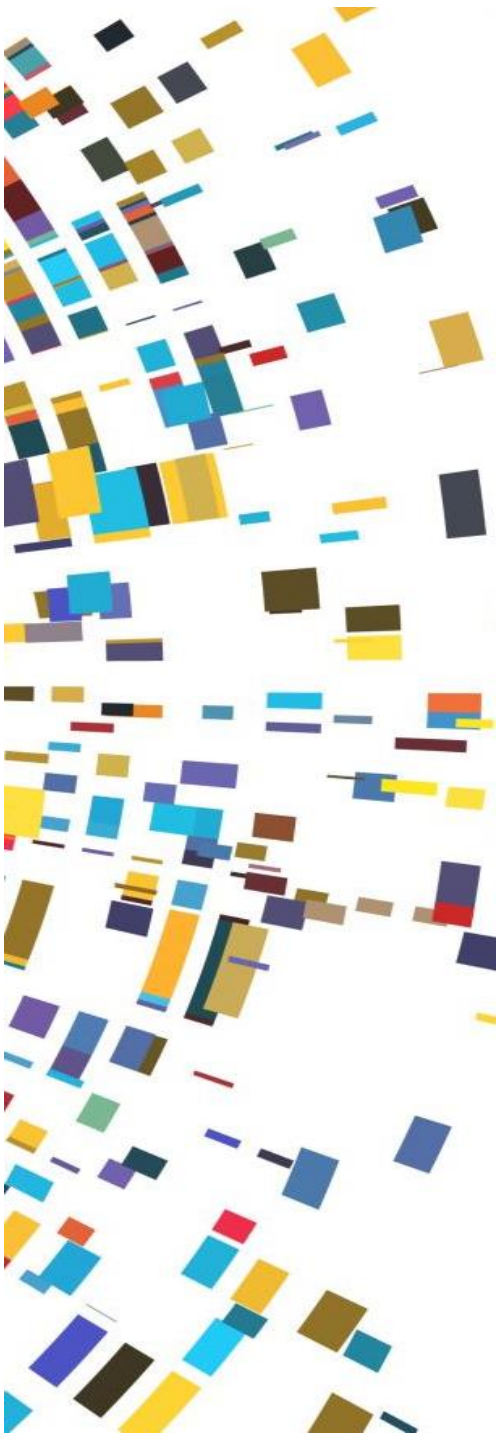




COVID-19 RECOVERY SERIES

COVID-19 STIMULUS 2.0



WELCOME! Thank you for joining us for the latest installment of the Lincoln Chamber of Commerce COVID-19 Recovery Series: **COVID-19 Stimulus 2.0.** Our program will begin momentarily.



James Anderson, CPA
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CONSOLIDATED APPROPRIATIONS ACT (CCA), 2021

CCA provides \$900 billion for COVID-19-related relief & \$1.4 trillion to fund federal government through September 2021

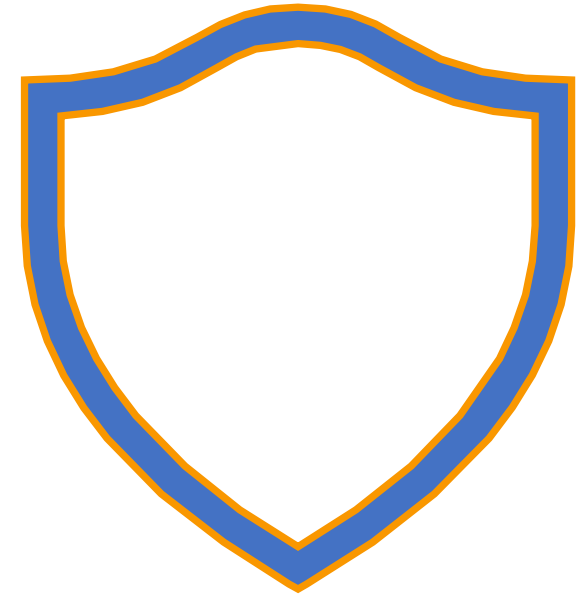
› What's included

- Additional round & changes to Paycheck Protection Program**
- Extension & expansion of COVID-19-related tax credits**
- Funding for various COVID-19 programs & relief initiatives**

› What's not included

- State, local, & tribal government funding**
- Liability protection against COVID-19 lawsuits**
- Federal student loan forbearance**

PAYCHECK PROTECTION PROGRAM



DEDUCTIBILITY OF EXPENSES

Treasury's position based on CARES Act had been expenses paid with PPP loan proceeds are not deductible if loan is forgiven (this position was reversed in January 2021)

The *Consolidated Appropriations Act, 2021* clarifies expenses paid with PPP loan proceeds 100 percent deductible

Applies retroactively to all PPP loans

Also provides benefit to owners of pass-through entities, *i.e.*, basis step-up in stock/partnership interest for any tax-exempt income from forgiven PPP loan

ADDITIONAL USES OF PPP LOAN PROCEEDS

Provides four additional categories added (subject to overall limitation that 60 percent of loan must be used for payroll costs)

- **Covered operations expenditures**
- **Covered property damage**
- **Covered supplier costs**
- **Covered worker protection equipment**

PAYCHECK PROTECTION PROGRAM

Opens window until March 31, 2021, for initial PPP loans to borrowers that had not previously obtained a PPP loan under original program

Changes the covered period* for purposes of loan qualification, waiver of affiliation rules, time period for applying for the loan to March 31, 2021.

PAYCHECK PROTECTION PROGRAM

Allows flexibility in selection of covered period

- **Clarification for those needing more than eight weeks but not the full 24 weeks to use PPP loan proceeds**
- **Allows borrowers to select end date of their covered period**
- **Aligns certain FTE & pay rate reduction provisions with payroll periods that borrower includes**

PAYCHECK PROTECTION PROGRAM

Changes calculation of loan amount for farmers & ranchers

- **Now based on gross income, not net profit shown on 2019 Schedule F**
- **If employees, need to reduce gross income to prevent double-counting**
- **Limited to 2.5 months with \$100,000 annual gross income cap**
- **Supplemental application specifically allowed for these borrowers**

PAYCHECK PROTECTION PROGRAM

Simplifies forgiveness application for loans of \$150,000 & less

- **Borrowers submit one-page online or paper form listing loan amount, number of employees retained, & estimated amount spent on payroll**
- **SBA is directed to release form within twenty-four days of enactment**

Streamlines lender approval

Repeals Economic Injury Disaster Loan (EIDL) Advance reduction to forgiveness amount

PAYCHECK PROTECTION PROGRAM

Permits supplemental funding request related to initial PPP loan

- **Form 1502 restriction removed, allowing all supplemental requests in cases where loan amount would have changed due to new rules**
- **Partnerships & other organizations/entities should review this provision for supplemental loan opportunities**
- **The loan cannot have been forgiven as of the date of enactment**

PAYCHECK PROTECTION PROGRAM

Do-over provision for first draw loans that haven't been forgiven yet

- **In the case of a borrower that returned all or part of an original PPP loan**
Borrower may reapply for a covered loan now in an amount equal to the difference between the amount not returned & the maximum amount applicable
- **In the case of a borrower that did not accept the full amount of the original loan for which it was approved**
Borrower may request a modification to increase the covered loan to the maximum amount applicable

PAYCHECK PROTECTION PROGRAM

Expands eligibility for PPP loans

- Most I.R.C. §501(c)(6) organizations

Excludes lobbying organizations, *i.e.*, those receiving more than 15 percent of receipts from lobbying activities

300 or fewer employees

- Housing cooperatives, newspapers, broadcasters, & radio stations

PPP SECOND DRAW LOANS

- Generally subject to same rules as first draw loans with narrower eligibility criteria
- Only eligible if previously received a PPP loan and have used or will use the full loan proceeds on or before the expected date of disbursement of the second draw loan
- Must be in operation on February 15, 2020
- Same March 31, 2021 due date for applying
- SBA Issued guidance 01/06/2020 (yes – last night!)

PPP SECOND DRAW LOANS



“Hardest-hit small businesses” that employ 300 or fewer employees



Borrowers must show 25 percent decline in revenue in any quarter in 2020 as compared to same quarter in 2019



Maximum loan amount of \$2 million



Based on 2.5 months of average annual payroll (3.5 months for NAICS Code 72 entities, generally hotels & restaurants)

PPP SECOND DRAW LOANS

Paycheck Protection Program Second Draw Loans Comparison Period For Measurement of 25% Reduction In Gross Receipts

Time Period In Operation During 2019			
<u>Full Year</u>	<u>Third and Fourth Quarter</u>	<u>Fourth Quarter</u>	<u>None, Started 1/1/20 to 2/15/20</u>
Any quarter of 2020 compared to corresponding quarter in 2019	Any quarter of 2020 compared to either third or fourth quarter of 2019	Any quarter of 2020 compared to the fourth quarter of 2019	Second, third or fourth quarter of 2020 to first quarter of 2020

Note - Absent from the scenarios is an entity that was not in operation in the first quarter of 2019 but was in the second through fourth quarters of 2019. If the logic of the above provisions was extended to this scenario, the allowed comparisons would be any quarter of 2020 compared to either the second, third or fourth quarter of 2019. This is speculation, but would seem to be the logical answer.

DETERMINING GROSS RECEIPTS

- Uses current SBA definitions (see 13 CFR 121.104)
- Generally gross receipts used for tax return reporting
- Exclusions
 - Net capital gains and losses
 - Taxes collected and remitted to a taxing authority (ie – sales tax)
 - Receipts from affiliates
 - Forgiveness amount of a first draw PPP loan (what about other forms of tax exempt income?)
- Some detailed rules apply where business acquisitions or sales occurred during 2020

SECOND DRAW INELIGIBLE

- **Entities primarily engaged in lobbying or political activities**
- **Entities with certain ties to People's Republic of China**
- **Recipients of grants for shuttered venue operators**
- **Entities with ownership by members of Congress**
- **Publicly traded companies**
- **Entities that have permanently closed**

PAYROLL COST CALCULATIONS

- **Similar to first draw PPP, but simplified to allow 2019 or 2020 full calendar year payroll**
- **Still have the option to use the precise one-year period prior to the loan**
- **Other options for seasonal businesses and new entities not in business for one full year**

SECOND DRAW APPLICATION

- **New SBA Form 2483-SD (not released as of last night)**
- **No new documentation of payroll costs required if using the same lender for both PPP loans, and using 2019 payroll costs to calculate both loans**
- **Loans > \$150,000 have to document the 25% revenue reduction using tax forms or quarterly financials or bank statements**
- **Loans < \$150,000 that documentation isn't required until forgiveness**
- **Loan numbers may be delayed for certain borrowers if the first draw PPP loan is under review by SBA**

PPP SECOND DRAW LOANS

Provides set asides for

- First-time PPP borrowers with 10 or fewer employees
- Second-time PPP borrowers with 10 or fewer employees
- First-time PPP borrowers that have been made newly eligible
- Second-time returning PPP borrowers

EMPLOYEE RETENTION CREDIT

Overview of original Employee Retention Credit (ERC)

- Introduced under the CARES Act as a refundable tax credit equal to 50% of up to \$10,000 in qualified wages per employee (maximum credit of \$5,000 per employee) paid by an eligible employer whose operations were suspended due to a COVID-19 related government shutdown OR had any calendar quarter in 2020 with a greater than 50% revenue decline compared to the same quarter in 2019
- The credit is accounted for on the business's quarterly 941 Forms
- Eligible businesses with under 100 full-time equivalent employees during can take the credit for wages paid to all employees, but businesses with over 100 employees can only take the credit for wages paid to employees who got paid, but did NOT work
- This credit is in effect through December 31, 2020
- Originally, entities that received a PPP loan were ineligible to take the ERC

EXTENDED ELIGIBILITY FOR ERC

Expanded eligibility for the existing ERC

- The major change is that businesses who received a PPP loan are now eligible to ALSO take the ERC
 - There are questions remaining as to the mechanics of this, particularly for businesses who have already filed for PPP forgiveness – SBA guidance is expected relatively soon
- Group health plan expenses have been clarified to be included in eligible wages for purposes of the ERC
- For tax-exempt organizations, gross receipts for determining any quarterly drop in revenue are determined by using all receipts that would count as income for the organization's Form 990

MECHANICS OF THE ERC

Eligibility

- As noted previously, a business must have either a partial or complete shutdown due to a government order OR a revenue decline of at least 50% for any quarter in 2020 when compared to that same quarter in 2019
- In determining what a shutdown is, it appears that the IRS has taken a fairly broad definition of a partial shutdown. Some examples of what does qualify would include:
 - Restaurants or bars that had to shut down their dining rooms, but were able to keep up with take-out and/or drive thru service
 - Gyms, salons, dental offices, or any other business that needed to close for any period of time
 - Businesses that, due to governmental order, suffered capacity restrictions
 - Businesses that had to close one location, but others were able to stay open
- For businesses that claim the ERC based on shutdowns, only the wages paid during the shutdown periods qualify for the ERC computation
- For businesses that claim the ERC based on the greater than 50% drop in revenue, they can continue to claim the credit until the end of the quarter where revenue is at least a 20% drop compared to the prior year's quarter

MECHANICS OF THE ERC

Related Parties

- Note that related parties are impacted by the ERC in several different ways
- Aggregation rules for commonly controlled businesses apply, which could impact the credit calculation or the employee totals (100 or greater employees)
- As well, wages paid to owners, as well as family members of owners, appear to be ineligible, as well, certainly for individuals who own at least 50% of the entity

Additional guidance appears to be needed for other business owners, under 50%

As noted before, businesses now can both receive a PPP loan and take advantage of the ERC, but specific details and guidance are needed from the SBA and IRS

- It appears that businesses will be able to either amend prior quarterly 941's for eligible quarters or catch up the credit on 4th Quarter 941's for 2020, but guidance is forthcoming

For businesses who appear to qualify, they can start planning for the credit and be ready to take advantage once guidance comes

EXPANSION OF THE ERC INTO 2021

Along with an extension of the ERC into the first two quarters of 2021, there are actually some changes to the credit as compared to 2020

New Provisions

- The credit is increased from 50% of wages, up to \$10,000 per year, for a maximum credit of \$5,000 per employee to **70% of wages, up to \$10,000 per quarter, for a maximum credit of \$14,000 per employee**
- The gross receipts test for a revenue decline is based now on a 20% drop from the quarter in 2021 compared to the same quarter in 2019 (or the quarter in 2021 compared to the quarter immediately preceding), compared to the original 50%
- The 100 employee limit for determining qualified wages is increased to 500
- This ERC is available to businesses not in existence at all during 2019

VOLUNTARY EXPANSION OF COVID-19 SICK LEAVE

- Through December 31, 2020, employers were required to provide enhanced COVID-related sick leave to employees through the Families First Coronavirus Response Act (FFCRA)
- Under the new bill, this credit has been voluntarily expanded for businesses who choose to continue to provide this sick leave for employees through March 31, 2021
- Please note that the hours available for the credit are NOT reset, so an employee that already hit the maximum during 2020 would not be eligible for any additional credits into 2021

TARGETED RELIEF FOR CERTAIN HARD-HIT INDUSTRIES

Additional opportunities with the Paycheck Protection Program for Restaurants & Bars and Hotels & Accommodations (NAICS 72)

When calculating the maximum loan amount for the PPP loan, they are able to use 3.5 months worth of their 2019 or most recent twelve months of wages, as opposed to 2.5 months for most businesses

- **Also, these businesses with multiple locations can apply with up to 500 employees, instead of 300**
- **The total maximum loan amount for any entity is still \$2 million**

SHUTTERED VENUE OPERATORS GRANT

Eligible Entities

- Live venue operator or promoter, theatrical producer or live performing arts organization operator
- Move theater operator
- Relevant museum operator (non-profit, public, or tribal)
- Talent representative
- Entities associated with state governments are possibly eligible – unlike the PPP loans

Eligibility Requirement

- Fully operational as of February 29, 2020
- Reduction in gross receipts of at least 25% in any 2020 quarter compared to the same quarter in 2019
- Have either resumed operations or plan to resume operations
- Sign a Certification of Need

Ineligible Entities

- Owned majority by a public issuer of securities
- Derive 10% or more of gross revenue from Federal Funding
- Owned by a large operator (meets two of the following: operations in multiple countries, operating in more than 10 states or employed more than 500 full-time employees at February 29, 2020)
- Received a PPP loan AFTER December 27, 2020, either through first or second round funding

SHUTTERED VENUE OPERATORS GRANT

Initial Grant Details

- **Maximum grant amount of \$10 million**
- **Entities in operation on January 1, 2019**
45% of gross revenue earned during 2019
- **Entities in operation after January 1, 2019**
Six times the average monthly revenue for all full months in operation in 2019
- **Clarity needed on entities started in January/February 2020**
- **Funding Timeline**
In the first 14 days of funding, grants will be awarded to entities with a 90% or greater revenue drop between April 1, 2020 and December 31, 2020 compared to the same period in 2019
In the second 14 days, grants will be awarded to entities with a 70% or greater revenue drop between April 1, 2020 and December 31, 2020 compared to the same period in 2019
After that, remaining grants will be distributed to eligible businesses
At this time, we do not have guidance on when funding will begin; further SBA guidance is needed

SHUTTERED VENUE OPERATORS GRANT

Secondary Grant Details

- There is a second round of funding for businesses that, as of April 1, 2021, revenue for the first quarter of 2021 is no more than 30% of revenue in the first quarter of 2019
- This grant amount is 50% of the initial grant

Businesses that are potentially eligible should review this in comparison to PPP loans and determine both which makes more sense and which is more likely (it's possible this grant could be fully used up before all eligible businesses are funded)

Any funds not used on eligible expenses (discussed next) will need to be returned

- The initial funds can be used for expenses between March 1, 2020 and December 31, 2021
- The secondary grant funds can be used for expenses through June 30, 2022

SHUTTERED VENUE OPERATORS GRANT

Eligible Costs

- Payroll costs for wages and additional employer-paid benefits, capped at \$100,000 annualized for any one employee
- Rent payments for leases in existence before February 15, 2020
- Utility payments for service that began before February 15, 2020
- Worker protection expenditures related to COVID-19
- Interest payments on covered mortgages/debts from prior to February 15, 2020
- Payments to independent contractors, capped at \$100,000 annualized, like employees
- Other ordinary and necessary expenses
 - Maintenance
 - Administrative costs
 - State and local taxes and fees
 - Operating leases
 - Insurance payments
 - Advertising, production, transportation, and capital expenditures related to producing a production or exhibition, so long as these are not the primary costs used by the grant

SBA SECTION 7(A) LOAN PAYMENTS

One provision of the CARES Act allowed for the SBA to make six months of loan payments on the behalf of existing SBA loans

One key provision of the new relief bill is that these payments are NOT taxable income

- **The interest expense is still deductible to the business, even though the SBA has made those payments on the business's behalf**

In addition, the SBA will make an additional three months of payments, bringing the total to nine months, but these additional payments are capped at \$9,000 per month

ECONOMIC INJURY DISASTER LOANS (EIDL)

The ability to apply for these loans through the SBA was set to expire at the end of 2020, but has now been extended to December 31, 2021

As well, there is some extra allocated funding for EIDL Advance Grants, an initial amount of up to \$10,000 that does not need to be repaid, for businesses in certain low-income areas and businesses that did not receive the grant the first time

- **While not clear yet, it may be possible that some of the additional funds can be used for businesses that didn't initially get the full \$10,000 to get additional amounts**
- **The SBA has 21 days from the application to award this grant**



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