HARDING, SHYMANSKI & COMPANY, P.S.C.
Certified Public Accountants and Consultants

The Consolidated Appropriations Act, 2021

On December 27, 2020, the President signed the Consolidated Appropriations Act, 2021 into law. This document covers the major provisions of the $900 billion stimulus relief package included in the spending bill.

Business Provisions:

PPP Expense Deductibility

In late November, the IRS issued Revenue Ruling 2020-27 which said that you could not deduct expenses paid with funds from a PPP loan if your loan was forgiven or if you expect it to be forgiven. Unfortunately, the CARES Act did not specifically address the deductibility of expenses paid with PPP loan funds and many felt that the IRS ruling went against the spirit of the CARES Act. The Consolidated Appropriations Act, 2021 fixes the issue for borrowers by stating that expenses paid with PPP loan funds are in fact tax-deductible.

Forgiveness for PPP Loans Less Than $150K

PPP borrowers with loans of $150,000 or less can now use the simplified form 3508S when applying for loan forgiveness. This form used to be limited to loans of $50,000 or less. Not only does the form streamline the application process, but borrowers who use the form 3508S are exempt from reductions in loan forgiveness amounts based on cuts in full-time equivalent employees or salaries and wages. So, if you're using the Form 3508S and reduced employee headcount or employee compensation, you will not be penalized with a reduction in the loan forgiveness amount.

Forgivable Expenses

For PPP borrowers, non-payroll forgivable expenses originally included utilities, rent, and business mortgage interest. The Consolidated Appropriations Act, 2021 expands the types of eligible non-payroll expenses to include:

- Covered operating costs such as software and cloud computing services and accounting needs.
- Covered property damage costs such as property damage, vandalism, or looting due to public disturbances that occurred during 2020 that were not covered by insurance.
- Covered supplier costs that are essential at time of purchase to the recipient's current operations.
- Covered worker protection and facility modification expenditures, including personal protective equipment, to comply with COVID-19 federal health and safety guidelines.

Even though the Act expands the categories of non-payroll expenses, no more than 40% of the forgivable amount can be attributable to non-payroll expenses.

While discussing loan forgiveness, the Act does provide one more benefit. If you received an EIDL Advance, it is no longer required that the amount of the advance be deducted from the total forgivable amount.

New PPP Loan Availability

The Act provides for access to a new round of PPP loans, regardless of whether or not you received a loan in the first round. First-time borrowers can apply for a PPP loan under slightly revised terms as compared to the first round of PPP loans.

The Act expands what types of businesses may now receive a PPP loan to include 501(c)(6) organizations and destination marketing organizations. It also includes certain local newspapers, TV and radio broadcasters, colleges and universities. However, specific qualification restrictions exist for these various types of businesses.

Second-Draw Program

Borrowers who received a PPP loan in the first round can apply for another loan under the Second-Draw Program. Loan amounts are based on the same calculation as before, which is 2.5X qualified monthly payroll, but the loan size is limited to $2 million. There are new restrictions to qualify for a second draw loan. Borrowers must have 300 or fewer employees and have experienced a decline in gross receipts of 25% or more during any quarter in 2020 as compared to the same quarter in 2019. If the borrower received a PPP loan in the first round, they must have used, or will use, the full amount of that first PPP loan.

Businesses assigned an NAICS code starting with 72, such as restaurants and hotels, may base the total loan amount on 3.5X the prior year's average or the trailing twelve-month average monthly payroll. Also, the 300 or fewer employee restriction is based on each individual location instead of aggregate employees across all locations.

EIDL Grants

EIDL grants up to $10,000 are available for businesses who qualify but did not receive a grant in the first round. If a business did not receive the full EIDL Grant of $1,000 per employee, up to $10,000, in the first round, they can apply to receive the full amount.

Employee Retention Credit

The Act extends the ending date for the Employee Retention Credit from December 31, 2020 to June 30, 2021. The Act also expands the eligibility rules for the Employee Retention Credit to include borrowers of a PPP loan, a change that is retroactive to March 12, 2020. This makes the credit available to many more businesses.

The credit calculations are modified for 2021. The credit has been increased from 50% to 70% of qualified wages. Qualifying wages are now capped at $10,000 per employee per quarter instead of $10,000 per employee for all quarters.

To be eligible for the extended credit, the business must have less than 500 employees and also have gross receipts for a quarter that are less than 80% of the gross receipts for the same quarter in 2019. It is important to note that wages that were paid with PPP loan funds that were or will be forgiven do not count as qualified wages.

Employers Offering Qualified Paid Sick and Family Leave

The Act extends the tax credit relating to qualified paid sick and family leave under the Families First Coronavirus Response Act from December 31, 2020 to March 31, 2021.

Corporate Meal Expenses

In an effort to help restaurants, corporations will be able to deduct 100% of meal expenses in 2021 and 2022. This is up from 50% in 2020.

Individual Provisions:

Direct Payments

The Act authorizes direct payments of $600 per individual taxpayer and qualifying child. The amount of the payment is based on the taxpayer's 2019 adjusted gross income. The adjusted gross income limit is $150,000 for married filing jointly, $112,500 for head of household, and $75,000 for all other taxpayers. If your adjusted gross income exceeds the threshold, then the check amount is reduced by 5% of the portion of AGI that exceeds the threshold. The $600 amount may be increased to $2,000 if new legislation is passed.

Unemployment Benefits

Federal unemployment benefits of $300 per week will be provided for up to 11 weeks through March 14, 2021.

Charitable Contributions

The Act extends the $300 charitable contribution deduction for qualified contributions made by taxpayers who do not itemize deductions. For married filing jointly, the deduction limit is $600.

The Act also extends the charitable deduction limitations for those who do itemize and for corporations. Individuals are able to deduct 100% of qualified contributions in 2021 up to their 2021 adjusted gross income and then carry forward any excess contributions for up to five years. Corporations may deduct up to 25% of qualified contributions, including donations of food inventory, in 2021.

Emergency Financial Aid Grants

Emergency financial aid grants made after March 26, 2020, do not constitute taxable income to the recipient students. Additionally, the grants will not be considered when determining eligibility for the American Opportunity and Lifetime Learning tax credits.

Final Thoughts

The Consolidated Appropriations Act, 2021 is over 5,000 pages and contains a great amount of information. This document provides a general overview of certain provisions in the Act and is not a substitute for discussing the Act with one of our advisors. Please contact our office to discuss how the Act may impact you and your business.

About Harding, Shymanski & Co.

Harding, Shymanski & Company, P.S.C. is a public accounting firm with offices in Evansville, Indiana, and Louisville, Kentucky. We are one of the largest accounting firms in Southern Indiana and Kentucky, providing experienced professionals who look beyond the numbers to the heart of complex issues.

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1-800-880-7800

info@hsccpa.com

www.hsccpa.com

Contact:

Kyle Wininger
p - 812-491-1412
kwininger@hsccpa.com

Scott Touro
p - 502-882-8467
stouro@hsccpa.com