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Congress Has Authorized a Second Round of PPP Loans

Congress passed, and President Trump signed, the Consolidated Appropriations Act, 2021. Included in its approximately 5,600 pages is a second draw of forgivable Paycheck Protection Program (PPP) loans. The first round allowed loans to businesses with 500 or fewer employees and to certain businesses with multiple locations, for which each location could not have more than 500 employees. Unfortunately, this opened the door to some large businesses gobbling up the allocated funding and shutting out the smaller businesses that the loans were intended to help until additional funding was authorized.

Unlike the prior loan program, this round will truly be limited to small businesses that incurred revenue losses. Eligibility is limited to businesses

- with 300 or fewer employees per physical location;
- that had previously received a PPP loan; and
- that can demonstrate that they sustained at least a 25% reduction in gross receipts in the first, second, or third quarter of 2020 relative to the same 2019 quarter. Businesses submitting an application on or after Jan. 1, 2021, are eligible to utilize the gross receipts from the fourth quarter of 2020.

Eligible Entities – The eligible entities include for-profit businesses, certain non-profit organizations, housing cooperatives, veterans' organizations, tribal businesses, self-employed individuals, sole proprietors, independent contractors, and small agricultural co-operatives. Churches and religious organizations are eligible for loans if they otherwise meet the requirements, and the legislation prevents future administrations from making them ineligible.

Loan Terms – The legislation establishes a maximum loan size of 2.5 times the average monthly payroll costs in the one year prior to the loan, or the calendar year, up to $2 million. There is an exception for borrowers in the hospitality or food services industries, who may receive PPP Second Draw Loans of up to 3.5 times average monthly payroll costs. Only a single PPP Second Draw Loan is permitted to an eligible entity.

Loan Forgiveness – Like the first PPP loan, full loan forgiveness is available if the borrower spends at least 60% of the second draw on payroll costs (this time including additional group insurance payments, including vision, dental, disability and life insurance), with allowable nonpayroll costs of 40%.

The allowable non-payroll expense category – which was originally limited to rent, mortgage interest, and utilities – has been expanded to include the following:

- **Operational costs** – Payment for any business software or cloud-computing service 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.

- **Property damage costs** – Include costs related to property damage and vandalism or looting due to public disturbances that occurred during 2020 that were not covered by insurance or other compensation.

- **Supplier costs** –Costs from existing contracts that are essential to the recipient's operations, including the cost of perishable goods at any time.

- **Protective materials and facility modifications** – An operating or a capital expenditure made to facilitate the adaptation of an entity's business activities to comply with requirements established or guidance issued by federal, state, and local governments during the period beginning on March 1, 2020, and ending on the date when the national emergency related to COVID-19 declared by the president expires.

A borrower may choose either an 8-week or a 24-week covered period.

Forgiveness Reduction – The rule reducing loan forgiveness for a borrower who reduced the number of employees retained and reduced employees' salaries by more than 25% continues to apply.

Simplified Loan Forgiveness – The loan-forgiveness process is simplified for borrowers with PPP loans of $150,000 or less. This means another version of the SBA's loan-forgiveness application form will be forthcoming. Congress has specified that it be a one-page certification that includes a description of the number of employees whom the eligible recipient was able to retain because of the loan, the estimated total amount of the loan spent on payroll costs, and the total loan amount. Because borrowers using the simplified application form will be certifying that they meet the requirements for forgiveness and will be subject to penalties if they are found not to qualify, it may be a good idea for applicants to fill out a "draft" of the longer version of the form to substantiate their certification as well as retain it with the business's employment and expense records. The legislation requires employment records to be kept for 4 years and for other records to be kept for 3 years after the date when the forgiveness request is submitted.

Deductibility of Expenses – The IRS recently issued a ruling essentially saying that because businesses aren't taxed on the proceeds of a forgiven PPP loan, the expenses paid from the forgiven loan aren't deductible. However, Congress members have been saying all along that this was not the Congressional intent in the original PPP legislation.

In a rebuttal to the IRS, Congress has made it crystal clear in the recently passed legislation that taxpayers whose PPP loans are forgiven are allowed deductions for otherwise deductible expenses paid with the proceeds of a PPP loan, and that the tax basis and other attributes of the borrower's assets will not be reduced as a result of the loan forgiveness. This applies retroactively to the first round of PPP loans as well.

Funds Availability – The legislation requires the SBA to prepare regulations and implement the second-draw PPP within 10 days after the bill was signed into law (December 27, 2020) and for the program to continue through March 31, 2021.

Please give this office a call if you have questions related to the PPP loan second draw.

4 Questions Business Owners Should Consider During the 2020 Tax Season

As if 2020 wasn't challenging enough, this season's tax-filing is going to be even more complicated than usual. Though the CARES Act and the Paycheck Protection Program were put into place to help small businesses, the old adage about "no such thing as a free lunch" is proving true once again as business owners sit down to gather their documents and realize just how big an impact the changes will make on what they can and can't deduct, on payroll tax, and many other elements of their filing. We encourage you to speak with our office as soon as possible so that you can get some insights into the specific effect on you and your business. Start by asking these questions and go from there.

1. I took a Paycheck Protection Program loan. How will it impact my taxes?

The PPP loans were attractive because they were forgivable if used for the intended purposes. Normally, under tax law, when debt is forgiven it becomes taxable income. However, by law the PPP loan forgiveness is also tax exempt, which means it is not taxable income. The IRS had taken the position that the business expenses paid for with the forgiven loan proceeds would not be deductible expenses for tax purposes. The passage of the COVID-Related Tax Relief Act in December 2020 has overridden the IRS's interpretation in Rev Ruling 2020-27. Thus, the expenses are fully deductible even though the loan is forgiven. CAUTION: This may not be true for state tax purposes.

2. I deferred my payroll taxes. When are they due?

As part of the CARES Act, employers struggling with making payroll were offered a life raft in the form of a deferral of the employer's portion of their employees' Social Security payroll taxes. The deferral applied to the 6.2% Social Security tax on wages paid for the period from March 27, 2020 to the end of the year. If you are one of the many businesses that chose to take advantage of the deferral, you will need to pay the first half of what's owed by December 31, 2021 with the balance due one year later on December 31, 2022.

3. How does the CARES Act impact how net operating losses are handled?

Back in 2017, the Tax Cuts and Jobs Act eliminated the net operating loss (NOL) carrybacks for most businesses, but under the CARES Act, NOL carrybacks are allowed for tax years 2018, 2019 and 2020 in the form of a five-year carryback That means that for each of the last three tax years you can carryback losses five years and any unused NOL is then carried forward until used up. You can also elect to forgo the carryback and carry the losses forward, whichever provides the best outcome for your business. The CARES Act also suspended the rule that the taxable income of the carryback or carryforward year can only be reduced by 80% as a result of the NOL. That suspension only applies to NOLs originating in 2018, 2019 and 2020.

4. I had employees working remotely in different states. Will that affect my taxes?

One of the biggest tax headaches introduced by the pandemic has been the effect of having employees working in different states. Though in most cases these temporary changes will not have an impact, it is important that you ask your accountant about your specific situation, as some states have introduced new tax regulations in order to recoup some of their tax losses.

Additionally, if your business is like many others and you are considering making remote work permanent, then any employees living and working in other states may put you in the position of having to pay those states' business taxes as well as withhold state income tax on the employees' wages.

Understanding the full impact of this past year may take a long time, but for right now, business owners need to address the challenge of preparing their taxes. Start speaking with our office as early as possible so that you have plenty of time to come up with a workable strategy.

IRS Offers New Identity Protection for Taxpayers

In the past, the IRS has assigned verification numbers to victims of identity theft to file their tax returns, if requested by the victimized individual. These numbers are referred to as identity protection (IP) PINs. The IP PIN is a six-digit code known only to the taxpayer and the IRS. It helps prevent identity thieves from filing fraudulent tax returns using a taxpayer's personally identifiable information.

The IP PIN serves as the key to an individual's tax account. Electronically filed returns that do not contain the correct IP PIN will be rejected, and paper returns will go through additional scrutiny for fraud.

The IRS launched the IP PIN program nearly a decade ago to protect confirmed identity theft victims from ongoing tax-related fraud. In recent years, the IRS has expanded the program to specific states where taxpayers can opt into the IP PIN program. Now, the voluntary program is going nationwide.

Key things you should know about the IP PIN opt-in program:

- The program is voluntary.
- You must pass a rigorous identity verification process before IRS will issue you an IP PIN.
- Spouses and dependents are eligible for an IP PIN if they can verify their identities.
- An IP PIN is valid for a calendar year, and a new IP PIN must be obtained each year.
- The online tool to apply for IP PINs is offline between November and mid-January each year.
- Correct IP PINs must be entered on electronic and paper tax returns to avoid rejections and delays.
- Never share your IP PIN with anyone but your trusted tax professional. The IRS will never call, text or email requesting your IP PIN. Beware of scams to steal your IP PIN.
- There currently is no opt-out option, but the IRS is working on one for 2022.

If you want an IP PIN for 2021, go to IRS.gov/IPPIN and use the Get an IP PIN tool. This online process will require that you verify your identity using the Secure Access authentication process if you do not already have an IRS account. See IRS.gov/SecureAccess for what information you need to be successful. There is no need to file a Form 14039 (Identity Theft Affidavit) to opt into the program.

After you have authenticated your identity, a 2021 IP PIN will immediately be revealed. Once in the program, this PIN must be used when prompted for electronic tax returns or entered by hand near the signature line on paper tax returns.

All taxpayers are encouraged to first use the online IP PIN tool to obtain their IP PIN. Taxpayers who cannot verify their identities online have options, as explained next.

Taxpayers whose adjusted gross income is $72,000 or less may complete Form 15227, Application for an Identity Protection Personal Identification Number, and mail or fax it to the IRS. An IRS customer service representative will contact the taxpayer and verify their identity by phone. Taxpayers should have their prior year's tax return at hand for the verification process.

Taxpayers who verify their identities through this process will have an IP PIN mailed to them the following tax year. This is for security reasons. Once in the program, the IP PIN will be mailed to these taxpayers each year.

Taxpayers who cannot verify their identities online or by phone and who are ineligible to file Form 15227 can contact the IRS and make an appointment at a Taxpayer Assistance Center to verify their identities in person. Taxpayers should bring two forms of identification, including one government-issued picture identification.

Taxpayers who are confirmed identity theft victims or who have filed an identity theft affidavit because of suspected stolen-identity refund fraud will automatically receive an IP PIN via mail once their cases are resolved. Current tax-related identity theft victims who have been receiving IP PINs via mail will experience no change.

If you have questions related to the IP PIN program, please call.

Opening for Seasonal Administrative Clerical Assistant

In all the years we have shared a monthly newsletter, we've never done this before. We thought we would use this newsletter to share an opening we have in our office for a seasonal part time position. With many college students taking college courses from home this spring and others experiencing changes in their schedules, we thought we would share information on this opening in case you know anyone that might be interested.

Kramer & Jensen, LLC is looking for a Seasonal Administrative/Clerical Assistant to provide support to our office. The ideal candidate must be highly organized with a strong attention to detail. Must be proficient in software applications including MS Office products and be able to type at least 50 words per minute. Time management skills and ability to prioritize work are highly valued. Experience in an office environment, background in bookkeeping, accounting, and/or taxes are all a plus. High School diploma required. This is a great opportunity for a college student or other person that is looking for a temporary part time work opportunity and that has excellent computer skills.

Responsibilities include but are not limited to: organizing, sorting and scanning client documents into a paperless environment; verifying and entering data; supporting full time executive assistant; and other general office tasks. The successful candidate will work approximately 25-30 hours a week with a flexible work schedule to be agreed upon. Seasonal position to start February 15th and run through April 9th.

Please email your resume and wage requirements to info@kramerjensen.com

Thank you for selecting our firm for your tax and accounting needs. We appreciate the confidence you have shown in us, and we remain ready to assist you at any time.

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