



COVID-19 Relief Bill – What it Means for Small Businesses

A COVID-19 Update from Questco – January 5th, 2021

On December 27, 2020, the president signed into law the \$900 billion Consolidated Appropriations Act of 2021 (“CAA21”). CAA21 generally provides the annual funding for the federal government and contains several important rules giving further COVID-19 relief. These include, among other things, revisions to the Paycheck Protection Program (PPP), expansion of the employee retention tax credit and changes to other employer-related tax provisions.

Below is a summary of the key provisions in the bill impacting small and midsize businesses in the area of payroll and employee benefits. These highlights are presented based on the information available to date and, as with any new law, are subject to further clarification and guidance.

Extension of Paid Sick and Family Leave Tax Credits

The Families First Coronavirus Response Act (“FFCRA”) provides an “eligible employer” with refundable payroll tax credits to cover wages paid to employees while they take time off under new paid sick and family leave programs authorized between April 1, 2020 and December 31, 2020. The CAA21 extends the paid sick and family leave credits through March 31, 2021 on a **voluntary basis**. Employers are not required to provide FFCRA leave between January 1, 2021 and March 31, 2021, but if they do so, they are eligible for the federal social security tax credits to cover wages paid with respect to the leave.

The relief package does not change the qualifying reasons for which employees may take leave, the **caps on the amount of pay employees** are entitled to receive, or the FFCRA’s documentation requirements. If an employer elects to offer extended leave during 2021 they may do so and still qualify for the tax credits only up to the total limits allowed under the initial FFCRA caps. Please note that any FFCRA paid leave in 2020 counts towards that limit – the available hours do not restart in 2021.

While not mandated, we encourage our clients to offer the extended paid sick and family leave to any employees who qualify to ensure that employees who have been exposed to the coronavirus or who might otherwise have virus-related family obligations are not forced to come to the workplace.

A link to the form that should be completed by the employee requesting extended leave for COVID-19 related reasons can be found [here](#).

The completed form should be submitted to your Questco Payroll Representative **prior** to reporting paid leave hours for payment. Please specifically call out any FFCRA paid leave to ensure that we properly track the cumulative hours, including any paid leave issued in 2020.

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Changes to the Employee Retention Tax Credit (“ERTC”)

The CARES Act provided an eligible employer with a refundable payroll tax credit equal to 50% of certain “qualified wages” (including certain health plan expenses) paid to its employees beginning March 13, 2020 through December 31, 2020 if the employer is engaged in a trade or business in 2020 and the wages are paid (i) while operation of that trade or business is fully or partially suspended due to a governmental order related to COVID-19 (the “suspension test”) or (ii) during the period beginning in the first quarter in which gross receipts for that trade or business are less than 50% of gross receipts for the same calendar quarter of 2019 and ending at the end of the first subsequent quarter in which gross receipts are more than 80% for the same calendar quarter of 2019 (the “gross receipts test”). The employee retention tax credit can be used to offset all federal payroll taxes, including federal withholding tax, and the employer’s and employee’s share of social security tax and Medicare, but not the federal unemployment tax (“FUTA”).

Changes to the ERTC provided for under the new Act include the following:

- Repeals the provision denying the ERTC to employers receiving a PPP loan. Instead, mechanisms will be created to prevent the same wages from being used for both PPP loan forgiveness and the ERTC.
- Extends the ERTC to apply to wages paid before July 1, 2021 (instead of January 1, 2021).
- Increases the credit percentage from 50 percent to 70 percent of applicable wages.
- Increases the per-employee limitation on applicable wages from \$10,000 total to \$10,000 per calendar quarter. In combination with the increased credit percentage, this would increase the maximum credit per employee from \$5,000 to \$7,000 per quarter (up to \$14,000 for the first two quarters in 2021).
- Makes the ERTC available if the business experienced a decline of at least 20 percent in gross receipts (instead of a 50 percent decline) as compared to the same calendar quarter in the prior year.
- Modifies the small employer definition of qualified wages to apply to employers that have 500 or fewer employees (instead of 100 or fewer employees).

Paycheck Protection Program and Other Small Business Assistance

In addition to the tax provisions, the COVID-19 relief portion of this legislation contains additional assistance for small businesses. Specifically, it contains the following provisions designed to assist small businesses:

- Creates a second loan from the Paycheck Protection Program, called a “PPP second draw” loan, for smaller and harder-hit businesses, with a maximum amount of \$2 million and modifies forgiveness provisions for the existing PPP loan program (a separate communication from Questco outlining the details of the PPP program changes will be issued to clients).
- The omnibus spending bill contained so-called “tax extenders,” which are temporary provisions in the tax code that are designed to support specific economic activities. There are two provisions that might be of interest to our clients that have been extended for five years. They are:

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- The employer credit under section 45S for paid family and medical leave, originally enacted as part of tax reform in 2017.
- The expanded exclusion for employer-provided educational assistance, including student loan repayment benefits as enacted as part of the CARES Act. NAPEO has lobbied in support of this provision.

Unemployment Insurance

The COVID-19 relief provisions included in the CAA21 also make the following changes to unemployment insurance:

- Unemployed individuals get an additional \$300 per week from December 26, 2020 to March 14, 2021.
- Extends and phases out Pandemic Emergency Unemployment Compensation (PEUC) which provides additional weeks when state unemployment runs out, to March 14, 2021 providing additional weeks of federally funded unemployment benefits to individuals who exhaust their regular state benefits.

No federal money was provided to shore up the short falls in state unemployment funds.

In Conclusion

As previously noted, there are still many unanswered questions and clarifications needed in order to fully understand the relief provisions enacted by the CAA21. We will continue to monitor developments and share them with you as additional guidance becomes available.

Please reach out to your Client Success Manager if Questco can assist you with PPP loan requests or any other COVID-19 compliance needs. As always, our team is here to serve you.

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