New Stimulus Package
"The Consolidated Appropriations Act, 2021"

Late Sunday night, President Trump signed the Consolidated Appropriates Act, 2021 ("CAA"), which includes the latest $900 billion of additional COVID relief stimulus. While the bill itself is some 5,600 pages in length and many of the details and specifics are still to be announced, we would like to share with you some of the highlights of the new stimulus package.

Paycheck Protection Program (PPP) is fully tax exempt – The Act clarifies that amounts forgiven under the PPP program are excluded from taxable income ***and*** that the expenses paid funds from the PPP loan are fully deductible. While the CARES Act specifically stated the PPP loan forgiveness non-taxable, the IRS' position was that the qualifying expenses paid for by the PPP loan would not be deductible. This effectively made the PPP forgiveness taxable. The latest bill makes both the PPP loan forgiveness tax-exempt and the expenses paid for with the PPP funding tax deductible.

PPP Round 2 – The Act provides for a second round of PPP funding for qualifying business that can document a decline in revenues of at least 25% in any calendar quarter in 2020 from the comparable quarter in the prior year. The second round of PPP funding will be available to businesses with 300 or fewer employees and loans are limited to $2 million. As with the initial PPP loans, the amounts will be based on 2.5 times the average monthly payroll costs in the one year prior to application or calendar year 2019. Businesses classified as Accommodation and Food Services Industries (NAICS code 72) can qualify for loans of 3.5 times monthly payroll.

At this point, lenders are still awaiting forms and application procedures from the SBA. We anticipate banks will likely begin taking applications for PPP funding some time in mid-January. As this additional round of funding may go quickly, we suggest companies that believe they will be eligible for the additional PPP loan contact their lender to see when they will begin accepting applications. Businesses applying for the second round of PPP funding will need to submit applications by March 31, 2021.

Simplified PPP Forgiveness Procedures – the CAA again simplifies loan forgiveness procedures for PPP recipients. For loans under $150,000, borrowers are no longer required to submit documentation, but will be required to submit a simplified one page form attesting to a good faith effort to comply with PPP loan requirements. For loans between $150,000 and $2,000,000, borrowers will similarly not be required to submit documentation, but will be required to complete various certifications. All borrowers should still retain payroll and other non-payroll records for a minimum of four years to support the PPP forgiveness.

Expansion of Eligible PPP Qualifying Expenditures – In addition to the payroll and non-payroll qualifying expenditures for loan forgiveness under the original CARES Act, the CAA added a number of additional qualifying expenses, including IT and computing costs, property damage related to vandalism or looting that occurred in 2020, covered supplier costs and protective equipment related to COVID requirements.

Stimulus Payments – The CAA includes a second round of direct payments to individuals of $600 similar to those provided in the CARES Act earlier this year. Eligibility to receive the payments will be based on 2019 income and will phase out for single taxpayers with income over $75,000; head of household taxpayers with income over $112,500 and married filing joint taxpayers with income over $150,000. The stimulus payments will include dependent children age 16 and under, but dependents age 17 and older will not be eligible.

As you may be aware, there was a push by President Trump and House Democrats to increase the stimulus payments to $2,000 per individual. However, at the time of this writing, the Senate has not yet approved the increased amount.

Extended Unemployment Benefits – The CAA extends enhanced unemployment benefits of $300 per week through March 2021 and also extends the benefits to self-employed and gig workers who would not normally qualify for unemployment benefits.

Employee Retention Credits ("ERC") Extension and Retroactive Changes – The CARES Act passed in March of 2020 provided employers with a refundable tax credit against the employer's Social Security Tax equal to 50% of qualifying wages limited to a credit of $5,000 per employee. Under the CARES Act, the credit was available to employers who:

- Businesses were fully or partially suspended by government mandated closures related to COVID-19, or

- The business suffered a decline of 50% or more in revenues in a calendar quarter of 2020 when compared to the comparable quarter in 2019.

Originally, the ERC created by the CARES Act, was not available to employers that received PPP loans.

The CAA made a number of beneficial changes to the ERC. First, the CAA permits employers who received PPP loans to claim the ERC provided that the qualifying wages for the ERC were not paid for by the PPP loan (i.e. no double dipping). With this change, employers whose qualifying expenses and wages for PPP forgiveness exceeded their PPP loan amount would now be permitted to claim the ERC if eligible. This change is made retroactive for 2020. Employers who meet the requirements for the ERC for earlier quarters in 2020, and have not previously claimed the credit, can file amended payroll tax returns for the earlier quarters.

The second major change is an extension of the ERC through June 30, 2021 coupled with a higher potential maximum credit of 70% of the first $10,000 in qualified wages paid in first two quarters of 2021. Accordingly, the maximum credit per employee is $14,000 in 2021 in addition to the $5,000 ERC for 2020. Eligibility for 2021 has also been expanded to permit the ERC to businesses fully or partially suspended due to COVID-19 or if gross receipts are less than 80% of the comparable quarter in 2019 (up from the 50% threshold for 2020).

The ERC does have a number of additional requirements and limitations beyond the scope of this brief overview.

Extension of the Families First Coronavirus Response Act ("FFCRA") Paid Leave –

The FFCRA required employers with fewer than 500 employees to provide a specified amount of paid sick and family leave to employees affected by COVID-19 and provided tax credits to the affected employers to cover these expenditures. The FFCRA paid leave provisions were set to expire December 31, 2020.

The CAA extends the tax credits for the COVID related leave to March 31, 2021 for employers with 500 or less employees. However, unlike the mandated paid leave for 2020, the extended paid leave and corresponding tax credits in the first quarter of 2021 are not required and are optional for employers.

Miscellaneous Tax Provisions – The CAA includes numerous, miscellaneous tax changes, including (but not limited to) the following:

- ***Medical Deductions for Individual –*** The itemized deduction for medical expenses threshold is reduced for all taxpayers from 10% to 7.5%.

- ***Business Meals Deductions for 2021 and 2022 –*** The CAA makes business meals 100% deductible for 2021 and 2022. Prior to this change, the deduction was limited to 50% of the cost of business meals.

- ***Charitable Contributions –*** The CAA extends into 2021 the $300 per individual ($600 for joint filers) above the line deduction for charitable contributions for taxpayers who do not itemize their deductions. Additionally, the CAA extends the 100% of AGI charitable deduction limit for 2020 and 2021 (which would have been 60% of AGI prior).

- ***Residential Real Estate Depreciation -*** The CAA provides the recovery period applicable to residential rental property placed in service before Jan. 1, 2018, and held by an electing real property trade or business is 30 years.

As always, we are happy to help if you have questions or want to discuss any of the provisions of the new stimulus package, and we wish everyone a very healthy and happy new year.