

PPP: Breaking Down the Recent Legislation

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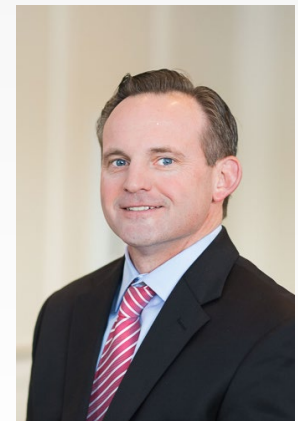
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Agenda

- 1. New rules for existing PPP/Expanded PPP**
- 2. Other Federal changes/programs**
- 3. Tax Changes, including Employee Retention Credit**
- 4. Current MN Governor Executive Orders**
- 5. State/Local Grants/Programs**
- 6. Workforce Updates**

PPP – Key Changes

- Additional eligible expenses that qualify for forgiveness are added in addition to rent, interest, and utilities which are already forgivable as “40% expenses.”
- Borrowers may select the end of their covered period any time between 8 - 24 weeks from receipt of loan.
- Simplified Loan Forgiveness process for borrowers with less than \$150,000 of loans.
- Payroll costs now include employer payments for group life, disability, vision, and dental insurance payments.
- Borrowers can amend their original application to request increased loan amount due to changes in PPP loan rules if the original loan amount was less than amount that would have otherwise applied.
- For the purposes of calculating covered payroll expenses, an owner’s \$100,000 salary/wage limitation now applies on an annualized basis

PPP – Key Changes cont...

- Not eligible if not in operation before Feb 15th, 2020
- SBA can now may modify dates of safe harbors/exceptions for FTE reductions
- Act makes it clear the Schedule F Farmers are eligible for PPP loans based on 2019 Schedule F income
- 501(c)(6) entities (Chambers of commerce, trade associations, etc.) are now eligible
- The \$100,000 salary/wage limitation on determining loan amounts and forgiveness expenditures applies on an annualized basis.
- Can receive both PPP and Employee Tax Retention Credit! Do not file PPP 2020 forgiveness application until you are clear on whether it could cause loss of Employee Tax Retention Credit.
- EIDL Advances are non-taxable and will not reduce PPP loan forgiveness.

PPP – Second Draw Rules

1. Small businesses with less than 300 employees and a 25% or more drop in gross receipts for a calendar quarter (as compared to the prior applicable calendar quarter) may be eligible for a second PPP loan if they meet the necessity requirement.
 - The 1st quarter of 2019 as compared to the 1st quarter 2020.
 - The 2nd quarter of 2019 as compared to the 2nd quarter of 2020.
 - The 3rd quarter of 2019 as compared to the 3rd quarter of 2020.
 - The 4th quarter of 2019 as compared to the 4th quarter of 2020
2. The loan will be for 3.5 times the average monthly payroll (instead of 2.5 times) for restaurants, hotels, motels and certain other food and lodging businesses.
3. Borrowers can elect to calculate the second round based on 2.5x the average monthly payroll costs during any 12 month period ending prior to the date of the loan or the 2019 calendar year.
4. March 31, 2021 new deadline to apply for and receive a PPP Loan.
5. Make sure to understand interaction with wage credit. PPP second draw may interfere with or complicate Employee Tax Retention Credit.

Other Federal Changes/Programs

- Expansion of **SBA 7(a) Loan Payments** & Forgiveness
 - REMINDER: SBA provided 6 mos. principal payments on existing/new 7(a) loans under previous CARES Act
 - Under new COVID-Relief Bill:
 - SBA Payments Extended, add'l 3 months, capped at \$9k/mo
 - Hard Hit Industries (specific NAICS) can receive pymts up to 8 mos.
 - Payments do not result in income forgiveness to Borrower
 - Consistent with other grant programs, borrower's expense deductions not disallowed as a result of income exclusion resulting from funds provided by SBA

Other Federal Changes/Programs

- **SAVE OUR STAGES:**

- who: Live Arts Venues, Theaters, Museums, Promoters, etc. shuttered by pandemic
- what: \$15B allotted, with not less than \$2B protected for biz w/ <50 EEs
- eligibility? Demonstrate quarterly gross revenue reductions >25% for same period in 2019. Strict requirements for qualifications & ownership structure.
- Disbursed in Tranches:
 - 1st 14 days: Grant applicants must show >90% rev. reduction YOY
 - 2nd Wave (next 14 days): for those with >70% rev. reduction YOY
 - Then All others after that, with \$2B protected for small independents
- How much? 45% of recipient's reported 2019 revenue, with possibility for more
- NOTE: Grantee can't also apply for PPP2

Other Federal Changes/Programs

- **\$600/\$1200 Stimulus Checks – if income < \$75k individual; \$150k couples (plus dependent children)**
- **Myriad other programs to discuss with your Accountant/Tax Advisor**

TAX CHANGES

- **Business Provisions Made Permanent**
 - Energy efficient commercial buildings deduction (179D)
- **Business Provisions Extended through 2025**
 - New Markets Tax Credit
 - Work Opportunity Tax Credit (certain empowerment zone employees eligible for late filing)
 - Small Employer Credit for FMLA
 - Exclusion for certain employer payments of student loans

TAX CHANGES

- Extension of certain other provisions
 - Credit for electricity produced from certain renewable resources
 - Extension and phase out of energy credit
 - Energy efficient homes credit
- Temporary allowance of full deduction for business meals
 - Business meals in 2021 and 2022 will be fully deductible (rather than limited to 50%) if the meal is provided by a restaurant. Somewhat unclear as to whether carryout or catering are eligible.
- Temporary special rules for flex spending arrangements.
 - Carryover allowed from 2020 to 2021 or from 2021 to 2022

EMPLOYEE RETENTION CREDIT (ERC)

- Expanded and modified.
- Prior to CAA – could not take ERC if you took PPP.
- Now – eligible to use PPP and ERC, but not for the same wages.
 - This provision is retroactive for the 2020 credit.
- Expires June 30, 2021

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Recap of Governor Walz EOs

<u>Executive Order</u>	<u>Businesses Impacted</u>	<u>Dates Shut Down</u>
<u>Executive Order 20-04</u> Providing for Temporary Closure of Bars, Restaurants, and Other Places of Public Accommodation	Restaurants, bars, theaters, exercise centers, recreational facilities	March 17, 2020 – March 27, 2020
<u>Executive Order 20-08</u> Clarifying Public Accommodations Subject to Executive Order 20-04	Salons, barbershops, and spas	March 17, 2020 – March 27, 2020
<u>Executive Order 20-09</u> Directing Delay of Inpatient and Outpatient Elective Surgery and Procedural Cases during COVID-19 Peacetime Emergency	Providers of elective surgeries and procedures, including non-emergent or elective dental care, that utilize PPE or ventilators	March 23, 2020 – May 10, 2020
<u>Executive Order 20-17</u> Clarifying Application of Executive Order 20-09 to Veterinary Surgeries and Procedures	Veterinarians	March 23, 2020 – May 10, 2020
<u>Executive Order 20-18</u> Continuing the Closure of Bars, Restaurants, and Other Places of Public Accommodation	Restaurants, bars, theaters, exercise centers, recreational facilities, salons, barbershops, and spas	March 27, 2020 – May 1, 2020
<u>Executive Order 20-20</u> Directing Minnesotans to Stay at Home	Non-“Critical Sector” businesses (CISA list)	March 27, 2020 – April 10, 2020
<u>Executive Order 20-33</u> Extending Stay at Home Order and Temporary Closure of Bars, Restaurants, and Other Places of Public Accommodation	Non-“Critical Sector” businesses (updated CISA list)	April 8, 2020 – May 3, 2020
<u>Executive Order 20-38</u> Allowing for Safe Outdoor Recreation	Exempting outdoor recreational facilities	Shutdown ends April 18, 2020

What Constitutes Fully or Partially Suspended Due to a Governmental Order?

- 9 IRS FAQs with Examples <https://www.irs.gov/newsroom/covid-19-related-employee-retention-credits-determining-when-an-employers-trade-or-business-operations-are-considered-to-be-fully-or-partially-suspended-due-to-a-governmental-order-faqs>
 - Focus on essential v. non-essential
 - Examples talk about eligibility in situations where an essential business:\ul> - Has a non-essential portion of the business closed
 - Operating hours reduced
 - Suppliers to the business ordered shut that causes closure
- But no eligibility just because an essential business that is not required to close, but closes for the sole reason that its customers are subject to government order requiring them to stay at home
- If ordered closed by a governmental order, but business is able to continue operations by requiring telework, operations are not considered to have been fully suspended
 - But might be considered partially suspended *"if the closure of the workplace causes the employer to suspend business operations for certain purposes"*
- If closed by a governmental order for certain purposes, but may remain open for other purposes or business is able to continue certain operations remotely, the operations would be considered to be partially suspended.

"However, if all of an employer's business operations may continue, even if subject to modification (for example, to satisfy distancing requirements), such a modification of operations is not considered to be a partial suspension of business operations due to a governmental order, unless the modification required by the governmental order has more than a nominal effect on the business operations under the facts and circumstances."

Recap of Governor Walz EOs

<u>Executive Order</u>	<u>Businesses Impacted</u>	<u>Dates Shut Down</u>
<u>Executive Order 20-40</u> Allowing Workers in Certain Non-Critical Sectors to Return to Safe Workplaces	Exempting “Non-Critical Exempt” businesses (industrial, manufacturing, and office-based businesses)	Shutdown ends April 26, 2020
<u>Executive Order 20-48</u> Extending and Modifying Stay at Home Order, Continuing Temporary Closure of Bars, Restaurants, and Other Places of Public Accommodation, and Allowing Additional Workers in Certain Non-Critical Sectors to Return to Safe Work places	Non-“Critical Sector” or “Non-Critical Exempt” businesses (industrial, manufacturing, office-based, or retail businesses).	May 3, 2020 – May 17, 2020
<u>Executive Order 20-56</u> Safely Reopening Minnesota’s Economy and Ensuring Safe Non-Work Activities during the COVID-19 Peacetime Emergency	Allowing non-critical businesses to reopen, except bars, restaurants, and other public accommodations, barbershops, salons	May 17, 2020 – May 31, 2020
<u>Executive Order 20-63</u> Continuing to Safely Reopen Minnesota’s Economy and Ensure Safe Non-Work Activities during the COVID-19 Peacetime Emergency	Bars, restaurants, places of public accommodation (on-premises consumption), fitness centers	May 31, 2020 – June 9, 2020
<u>Executive Order 20-74</u> Continuing to Safely Reopen Minnesota’s Economy and Ensure Safe Non-Work Activities during the COVID-19 Peacetime Emergency	Reopening bars, restaurants, gyms, and places of public accommodation	June 9, 2020 – November 20, 2020
<u>Executive Order 20-96</u> Restricting Social Gatherings, Celebrations, and the Hours and Operations of Bars, Restaurants, and Venues to Prevent Further Spread of COVID-19	Closing bars and restaurants for on-premises consumption between the hours of 10:00 PM and 4:00 AM	November 13, 2020 – November 20, 2020
<u>Executive Order 20-99</u> Implementing a Four Week Dial Back on Certain Activities to Slow the Spread of COVID-19	Closing bars and restaurants for on-premises consumption; closing exercise centers and indoor entertainment venues	November 20, 2020 – December 18, 2020
<u>Executive Order 20-103</u> Extending and Modifying Executive Order 20-99	Extending closure of bars and restaurants, but allowing outdoor service; extending closure of indoor entertainment venues; including trampoline parks and party buses; reopening exercise facilities for individual exercise	December 18, 2020 –January 10, 2021

Latest Executive Order

- **Restaurants & Bars Indoor Service Opens At 50% Capacity This Coming Monday; Indoor Entertainment Reopens + Other Dial Turns**

At a press conference going on now, Governor Walz is announcing the loosening of restrictions including **restaurants and bars** opening for in-person indoor service at 50% capacity (150 people maximum both indoor and outdoor, 6 people per table maximum) starting on **January 11**. Bar seating will be open for parties of 2 people with 6 feet of spacing. Reservations are still required and the 10:00 p.m.-4:00 a.m. closure for restaurants and bars will remain in place. Mall food courts following restaurant and bar guidance may open.

Other measures being announced this afternoon beginning January 11 include:

- **Gyms** will remain at 25% capacity, but the maximum is increased to 150 people. Masking is still required as well as 9 feet of social distancing. Fitness classes must not have more than 25 people.
- **Indoor entertainment and events** open to 25% capacity with a maximum of 150 people. This includes movie theaters, bowling alleys, and amusement. Face coverings are required and food service may not be offered after 10:00 p.m.
- **Outdoor events and entertainment** will remain at 25% capacity, but the maximum is increased to 250 people. Social distancing is required.
- **Churches** remain open at 50% capacity but with no maximum.
- **Pools** may open at 25% capacity with a maximum of 150 people.
- **Youth sports games** may resume on January 14. Spectators are allowed at youth/high school sports with a 25% capacity and a maximum of 250 people outdoor or 150 people indoor. Masks are still required. Inter-region tournaments and out of state play is discouraged.

State/Local Grants/Programs

- **\$88M Direct Relief to eligible MN Businesses**
 - E.g., Restaurants, bars, bowling alleys, breweries, gyms
 - Eligibility established on 2019 & 2020 MN sales tax records
 - NO APPLICATION
 - Between \$15k-45k depending on # of EEs
 - Disbursed in early January 2021
- **\$14M in other MN DEED Programs Kicked Off 1/5/2021**
 - Minnesota Convention Center Relief Grant
 - Up to \$500k available to qualified convention centers
 - MN Movie Theater Relief Grant
 - Up to \$150k available for qualified theaters

State/Local Grants/Programs

- **\$114M to all 87 MN Counties based on Pop.**
 - Winona County : \$1M to disburse (in process)
 - Each county has discretion to stand up its own grant programs
 - Follow the Winona Area Chamber of Commerce closely to understand eligibility & application basics for these funds

Workforce Updates

QUESTIONS?

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