

# CLINE WILLIAMS

## **NEW COVID-19 ECONOMIC RELIEF PACKAGE**

On December 21, 2020, Congress reached a bipartisan agreement and passed the latest round of federal coronavirus relief included as part of the Consolidated Appropriations Act (“CAA”). President Trump signed the bill into law on December 27, 2020. This newest round of relief includes \$900 Billion in additional funding, allocated to a variety of industries and causes as summarized below.

### **Relief for Small Businesses**

The CAA revives and expands the Paycheck Protection Program (“PPP”). Certain businesses may be eligible to receive a second round of PPP loan proceeds. Additionally, for those having received PPP loans in amounts less than \$150,000, the CAA provides simplified forgiveness procedures.

Perhaps most interestingly, the CAA effectively obviates IRS Notice 2020-32 in which the IRS stated that any business expenses paid with forgiven PPP loan proceeds that would otherwise be treated as deductible expenses may not be treated as deductible because it would result in a double benefit. The CAA now allows for both (1) forgiven PPP loan proceeds to be excluded from gross income and (2) business expenses paid with forgiven PPP loan proceeds to qualify as deductible.

Additionally, 501(c)(6) nonprofits such as certain newspapers, broadcasters, and marketing organizations are now eligible for PPP relief.

A portion of the funds allocated for small business have been set aside for new EIDL Grants specifically for low-income community businesses. EIDL Advance Grants no longer reduce the amount of PPP forgiveness an applicant may receive, and the advances are not taxable.

The CAA includes a set-aside for Community Development Financial Institutions, Minority Depository Institutions, and very small businesses. Part of this allocation includes a new Neighborhood Capital Investment program intended to provide financial support to Minority Depository Institutions and Community Development Financial Institutions.

### **Extensions to Certain Programs and Funds**

The CAA provides the following extensions to programs or funds already in place:

- **Employee Retention Tax Credit:** extends credit deadline of December 31, 2020 (as originally set forth in the CARES Act) to June 30, 2021.
- **Employer Credit for Sick and Family Leave:** extends credit deadline of December 31, 2020, as originally set forth in the Families First Coronavirus Response Act (“FFCRA”), to March 31, 2021. Employers are required to provide paid sick and family

leave under the FFCRA through December 31, 2020. After December 31, 2020 and until March 31, 2021, employers *may voluntarily* provide paid sick and family leave. If an employer voluntarily provides such leave after December 31, 2020 consistent with the FFCRA, it may collect tax credits for leave taken between January 1, 2021 and March 31, 2021 that would otherwise be covered by the FFCRA. Public employers may voluntarily provide leave in accordance with the FFCRA but will not be entitled to a tax credit. Additionally, employers who are not currently covered by the FFCRA due to having more than 500 employees will still not be entitled to a tax credit for voluntarily provided paid leave.

- **Lookback Period for Earned Income Tax Credit (“EITC”) and Child Tax Credit (“CTC”):** allows certain lower-income individuals to utilize 2019 earned income to determine the EITC and refundable portion of the CTC for purposes of 2020 taxes.
- **Contractor Pay:** federal agencies may reimburse contractors for costs of paid leave, or for other costs associated with being out of work due to facility closures or other restrictions.
- **Coronavirus Relief Fund:** deadline for fund availability for state and local governments extended by one year (until December 31, 2021).

### **Employee Benefits**

The CAA includes numerous provisions that affect retirement and welfare benefits plans, including a temporary rule designed to avoid a partial termination of a retirement plan, new rules regarding qualified disaster distributions and loans from retirement plans, changes to group health plan requirements for out-of-network billing, and optional changes regarding health and dependent care flexible spending accounts.

### **Unemployment Insurance**

The CAA expands benefits available under the Pandemic Emergency Unemployment Compensation (“PEUC”) and the Pandemic Unemployment Assistance Program (“PUA”). Individuals who have exhausted their available state benefits may access additional weeks of federally-funded assistance through the PEUC. Additionally, this law extends available benefits under the PUA for non-traditional workers such as self-employed individuals and gig workers.

Individuals receiving unemployment benefits may now qualify for an additional \$300 per week for the 11-week extension (through March 14, 2021). The CAA also provides \$100 per week for qualifying individuals whose base unemployment insurance benefit does not account for their self-employment income.

### **Direct Payments**

The CAA authorizes second-round stimulus checks for Americans of up to \$600 for individuals making no more than \$75,000 per year (\$1,200 for those married couples filing jointly making no more than \$150,000 per year). The same phase-out thresholds and definitions of dependents as set forth in the CARES Act still apply. However, unlike the last round of direct payments, this time families can claim the full \$600 amount for child dependents. This round of direct payments will be treated as a credit against 2020 taxes. Additionally, under the CAA, married couples filing jointly where one of the filers is a

nonresident alien are now eligible for these second round direct payments as well as retroactively eligible for direct payments under the CARES Act.

### **What is Not Included**

Although intensely negotiated at the Congressional level, the final bill did not include provisions for: (1) state and local government aid; (2) liability protection for businesses; (3) stimulus checks for adult dependents; or (4) hazard pay for essential workers.

Cline Williams will continue to provide updates on these issues as they evolve. In the meantime, if you have any questions related to the coronavirus stimulus legislation or the impact of COVID-19, please [CLICK HERE](#) to access our relevant practice areas and contact information on individual lawyers.

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