



# Relief Is On the Way: The Second COVID-19 Relief Bill and What You Need to Know

December 28, 2020

Just before midnight on December 21, 2020, Congress passed the Consolidated Appropriations Act of 2021 (the "Act"), a nearly 5,500 page stimulus bill allocating roughly \$900 billion of much needed relief to United States businesses and individuals while funding the federal government until September 2021.[1] Six days later, President Trump signed the Act into law. The bipartisan Act touches many industries ranging from agriculture to financial services, and provides multiple forms of relief, including increasing funds reserved for PPP loans, providing direct payments to individuals, relaxing certain accounting and taxation requirements, and allocating funds to the hardest hit industries such as small businesses, entertainment venues and nonprofits.

Below is a brief summary of certain COVID-19 related relief provisions in the Act by industry or program:

## Agriculture

- Supplies \$13 billion to farmers, producers, suppliers and processors who have experienced COVID-19 related loss.

## Benefits to Individuals

- Allocates \$166 billion to provide one-time payments of \$600 to individuals earning up to \$75,000 annually, \$1,200 to couples earning \$150,000 annually and \$600 per eligible child dependent. Note that this applies to mixed-status households and this provision retroactively applies to the CARES Act.
- The Act creates an emergency rental assistance program responsible for distributing \$25 billion to states, local governments and local housing agencies to help residential tenants pay rent and utilities.
- Provides \$120 billion to the Federal Pandemic Unemployment Compensation program to supplement unemployment benefits with an additional \$300 per week from December 2020 until March 14, 2021. The Act requires states to develop processes to address claimants who refuse to return to work or accept suitable employment without good cause.

## Education

- Allocates \$81.88 billion to K-12 schools, higher education institutions and to states for education-related spending.



## Entertainment Venues

- Directs \$15 billion in Small Business Administration grants to live entertainment venues, independent movie theatres, zoos and cultural institutions up to \$10 million per entity. The grants may fund expenses such as payroll costs, rent, utilities and personal protective equipment.

## Financial Services

- Provides a one-year extension of CARES Act provisions relieving lenders from certain accounting requirements including compliance with generally accepted accounting principles for Troubled Debt Restructuring classifications on loans and the Current Expected Credit Loss accounting standard.
- Allocates \$12 billion to Community Development Financial Institutions and Minority Depository Institutions to aid communities disproportionately affected by COVID-19.

## Health Care

- Provides \$73 billion to the Department of Health and Human Services to be allocated to a variety of entities and funds, including the Centers for Disease Control and Prevention, the Substance Abuse and Mental Health Services Administration, the Administration for Community Living, and the Public Health and Social Services Emergency Fund.
- Numerous changes to Medicare and extensions of CARES Act provisions aimed at expediting and expanding access to health care.

## Paycheck Protection Program (PPP)

- The Act allocates \$284.5 billion to the PPP and permits businesses to receive a "second draw" loan if the business has 300 or fewer employees and can show a 25% reduction in gross revenue between 2019 and 2020. These loans are not to surpass 2.5 times average monthly payroll costs and cannot exceed \$2 million.
- Enables restaurants, hotels and other NAICS code 72 hospitality businesses to receive "second draw" loans in the amount of 3.5 times average monthly payroll costs.
- PPP borrowers may receive full loan forgiveness if 60 percent of the "second draw" loan is spent on payroll costs over a time period of 8 or 24 weeks.
- Extends PPP eligibility to certain 501(c)6 organizations, destination marketing organizations, churches, religious organizations, local newspapers, television and radio stations.
- Provides stronger protections for PPP lenders, permits small businesses to deduct business expenses paid for with PPP funds and repeals the CARES Act provision requiring borrowers to deduct their Economic Injury Disaster Loan Advance from their PPP forgiveness amount.
- Simplifies PPP loan forgiveness for loans under \$150,000 by requiring the Small Business Administration to create a forgiveness document.

## Small Business Administration (SBA) Programs

- Grants \$3.5 billion to fund debt relief payments of principal and interest on small business loans guaranteed by the SBA in the 7(a), 504, and microloan programs and provides an additional three months of payments. These monthly payments may not exceed \$9,000 per borrower. Some borrowers may be eligible to receive an additional five months of payments.
- Allocates \$2 billion to improve SBA's programs including increasing loan availability for minority-owned and underserved small businesses.
- Includes provisions targeting fraud, waste and abuse of SBA programs.

## Tax

- Extends the Employee Retention Tax Credit until July 1, 2021 to permit small businesses and nonprofits to keep more employees on payroll. The Act also increases the credit rate from 50% to 70%, increases the per-employee creditable wages limit from \$10,000 per year to per quarter, widens the decline in gross receipts eligibility requirement from 50% to 20% and changes the definition of "large employer" from 100 employees to 500 employees.
- Excludes forgiven PPP loans from taxable income.
- Encourages individuals to donate to charitable organizations by extending the CARES Act provision that permits individuals to deduct \$300 for charitable contributions as an above-the-line deduction, meaning taxpayers that do not itemize deductions could still benefit from such contributions.
- Extends the repayment period for payroll taxes from April 31, 2021 to December 31, 2021 for taxpayers that took advantage of the deferral under the presidential memorandum issued in August 2020.[2]

## Transportation

- Designates \$27 billion to transportation agencies including airports, transit agencies, Amtrak and highway improvements and \$15 billion for airlines to maintain payroll until March 2021.

The Act further includes a \$1.4 trillion omnibus spending bill for the 2021 fiscal year. This portion of the Act impacts a number of tax and community development matters, including:

- Extending the New Markets Tax Credit for five years with an annual allocation amount of \$5 billion. The Act provides for these credits to be used against the alternative minimum tax.
- Setting the floor for Low Income Housing Tax Credits for bond financed projects to 4%. Previously this floor fluctuated, often being set closer to 3% of a project's eligible basis. It is anticipated that this increase could mean more than 100,000 additional affordable housing units being constructed over the next 10 years.
- Extending certain renewable energy tax credits and energy efficiency deductions.

The Act is wide ranging and is likely to contain provisions of particular interest that are not covered above. For more specific information or questions regarding specific requirements or provisions, contact Litigation &



Dispute Resolution Practice Group Chair Matthew Jacober, Daryn McBeth, Nicholas Anderson, Kristin Stock or your regular Lathrop GPM attorney.

[1] Access the legislative text here.

[2] Memorandum on Deferring Payroll Tax Obligations in Light of the Ongoing COVID-19 Disaster. Please access our previous articles on this memorandum here: <https://www.lathropgpm.com/newsroom-alerts-Update-More-Payroll-Tax-Deferrals-Weighing-the-Risks-and-Benefits-of-Employers-Options-in-Light-of-the-Presidents-Executive-Order.html>