GROWERTALKS

Features

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The COVID Emergency Relief Act

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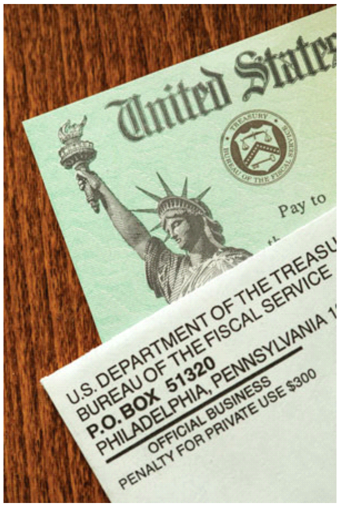

Congress passed and former President Trump signed into law in December the long -anticipated additional round of COVID relief. The legislation is split into two bills: the larger, $748 billion bill, called the Bipartisan Emergency COVID Relief Act of 2020, includes enhanced employment benefits.

The Consolidated Appropriations Act of 2021 renewed the Paycheck Protection Program (PPP) for a second round of forgivable loans while ensuring the deductibility of business expenses paid with forgiven PPP loan amounts. But what made the news are the general benefits such as:

• $166 billion has been allocated for economic impact payments of $600 for individuals making up to $75,000 per year and $1,200 for married couples making up to $150,000 per year, as well as a $600 payment for each dependent child.

• $120 billion to provide workers receiving unemployment benefits a $300 per week supplement until March 14, 2021. And, of interest to self-employed growers, independent contractors and gig workers, the bill extended the Pandemic Unemployment Assistance (PUA) program until March 14, 2021. Eligible individuals can receive up to 50 weeks of PUA with no one eligible to receive it after April 5, 2021. Payments of retroactive PUA for those who'd already exhausted the prior maximum is limited to weeks of unemployment after December 1, 2020.

• The Pandemic Emergency Unemployment Compensation (PUC) program that provides additional weeks of federally funded unemployment benefits to individuals who have exhausted their regular state benefits was also extended.

Employers benefit as well

The wide-sweeping bill contained quite a few provisions that impact employers, both in the private and public sectors in 2021. Among the most significant provisions are:

• Extension of the Employee Retention Credit (ERC), the fully-refundable payroll tax credit for employers paying qualified wages and health plan expenses, through June 30, 2021. The ERC for wages paid between January 1, 2021 and June 30, 2021 will be equal to 70% of qualified wages rather than the former 50%. Plus, the ERC cap on qualified wages was increased from $10,000 of wages per employee per year to $10,000 of wages per employee per calendar quarter.

• Extension of the time allotted for repayment of employee Social Security Taxes deferred under the President Trump's Memorandum through the end of 2021. This applies to payroll taxes on wages paid from September 1 through December 30, 2020. Under the moratorium, employers were required to increase withholding and pay the deferred amount ratably in the first quarter of 2021. The bill extended the repayment period through December 31, 2021.

• Extension of the refundable Payroll Tax Credit for paid sick and family leave enacted as part of the Families First Coronavirus Response Act (FFCRA) through March 2021. Even though FFCRA paid leave benefits are no longer mandatory, employers can voluntarily continue providing paid leave benefits with the option of claiming the payroll tax credit through March 31, 2021.

The amended FICRA rules now allow employers to take a payroll tax credit for voluntarily providing emergency paid sick leave and paid extended family medical leave into the first quarter of 2021. Many employers can now recover the costs of providing required FFCRA leave in 2020 and for "voluntarily" providing emergency leave and family medical emergency leave through March 31, 2021.

Businesses not overlooked

The legislation included approximately $325 billion in funding for the Small Business Administration (SBA) to assist small businesses impacted by the COVID-19 pandemic. Included in that small business funding are:

• $11.2 billion to support agricultural producers, growers, processors and rural communities. Unfortunately, most of these funds appear to be earmarked for fisheries, food processors and distributors, with a little for water and wastewater programs.

• Although designed to help the restaurant industry, restoration of the deduction for business meals for 2021 and 2022 will allow businesses to deduct 100% of the cost of business meals with customers or potential customers. The bill temporarily allows a 100% business expense deduction for meals (rather than the current 50%) as long as the expense is for food or beverages provided by a restaurant. Effective for expenses incurred after December 31, 2020, the provision expires at the end of 2022.

• IRAs and other retirement plans can now be used for "disaster mitigation." Residents in qualified disaster areas can make a distribution of up to $100,000 from an Individual Retirement Account (IRA) or other retirement plan without penalty. Amounts withdrawn may be recontributed to the plan without consequences or included in income over a three-year period.

Funding survival

The legislation provided numerous funding opportunities including:

• Over $300 billion for small businesses struggling after nine months of the coronavirus pandemic. More than $284 billion has been provided to the Small Business Administration (SBA) for first and second PPP forgivable small business loans. It also allocates $20 billion to provide Economic Injury Disaster Loan (EIDL) grants to small businesses in low-income communities.

• The Economic Injury Disaster Loan (EIDL) program designed to provide economic relief to businesses that are currently experiencing a temporary loss of revenue due to the coronavirus pandemic has received a second round of funding. The new law also replenished the EIDL Advance Fund, which allows businesses suffering a substantial economic injury to apply for an advance that doesn't need to be repaid or up to $1,000 per employee limited to $10,000 total. Also eliminated was the requirement that PPP borrowers deduct the amount of an EIDL advance from their PPP forgiveness amount.

Of course, the big news is the renewal of the Paycheck Protection Program (PPP).

PPP again

The bill reopens and strengthens the PPP for both first-time and second-time borrowers. As with the original PPP, small businesses can borrow money from private lenders without collateral, personal guarantees or fees. These loans don't have to be repaid to the extent they've been used to cover certain expenses.

Among the features of the restored PPP is a process for businesses to receive a second PPP loan if they have less than 300 employees and can show a 25% reduction in revenue in any 2020 quarter compared with the same quarter in 2019. Sole proprietors, independent contractors and the self-employed are also eligible to apply.

In general, borrowers are eligible for PPP loan forgiveness if they apply at least 60% of the proceeds to payroll. Partial loan forgiveness may be available to those failing to meet this threshold. Borrowers may spend up to 40% on other qualified expenses during the covered periods.

In addition to rent, mortgage interest and utilities, the list of eligible non-payroll expenses has been expanded to include worker protection and facility modification expenditures, including personal protective equipment, and operating costs, such as software and cloud computing services.

The maximum loan amount is $2 million for "second draw" loans, down from the $10 million maximum that applied under the original CARES Act. Most borrowers can qualify for a loan of up to two and a half times their average monthly payroll costs and PPP loans that aren't forgiven are subject to an interest rate of 1%.

Reversing an earlier ruling by the IRS, business expenses paid with PPP funding would be tax deductible. Beware, however—many states may not go along with allowing these deductions together with loan forgiveness with the result of an unexpected state tax bill.

Unfortunately, the bill rescinded amounts formerly appropriated under the CARES Act for direct loans by the Treasury and emergency lending by the Federal Reserve. That means the end of several lending programs, including the Main Street Loans.

In other areas

Somewhat more targeted, the bill contains provisions in areas such as:

• The New Markets Tax Credit, the program for encouraging tax-favored investments in economically depressed areas, has been extended for five additional years at 2020 levels.

• The popular Work Opportunity Tax Credit that has proven successful in helping employers add disadvantaged individuals has also been extended for five years.

The $900 billion in coronavirus relief bill brings the total amount of government spending in response to the pandemic to more than $3.3 trillion, a staggering amount that highlights the unprecedented shutdown of the economy and the resulting fallout. Best of all, many of the benefits for businesses will remain long after the pandemic is over. Not so surprisingly, professional assistance will be invaluable for any grower, retailer or business owner hoping to reap their share of the tax breaks, unique funding and other benefits. **GT**

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