THE JOURNAL RECORD

Gavel to Gavel: Employer tax considerations under relief bill

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A second round of COVID-19 relief includes many tax benefits to employers. First, although the bill did not extend the mandatory leave available through the Families First Coronavirus Response Act (which expired on Dec. 31, 2020), the bill allows covered employers to voluntarily continue to provide that leave and still claim the FFCRA tax credit through March 31, 2021.

In addition, the legislation includes the following:

- Expenses paid with forgiven Paycheck Protection Program loans are now fully deductible under the regular tax rules, despite prior IRS guidance to the contrary. Similar treatment is provided for other available debt relief.
- Several favorable changes to PPP loan rules that impact existing loans and new loans, including streamlined forgiveness for loans under $150,000, additional qualified expenses for use of loans, and flexibility to choose a forgiveness covered period of between eight and 24 weeks.
- Reopening of PPP loan program ("PPP1") for those that have not participated or returned unused loans, with a smaller maximum available loan and addition of IRC section 501(c)(6) organizations and "destination marketing organizations" as eligible borrowers.
- Creation of second round of PPP loans ("PPP2") for those who have used or will use PPP1 loan in full and qualify under new eligibility rules. Eligible borrowers in the hospitality industry may borrow more than those in other industries, but subject to the same maximum loan amount.
- Extension and expansion of employee retention tax credits for certain wages paid, which most importantly retroactively repeals the prior rule prohibiting employers who took PPP loans from claiming these tax credits, meaning these should now be available to more employers in 2020 and the first half of 2021.
- Creation of new SBA grant program for shuttered venue operators.

- Creation of special rules for health and dependent care FSAs, including allowing unlimited carryover of unused amounts from 2020 and 2021 plan years to the following plan year, and to extend grace periods (where available) for use of these amounts for 2020 and 2021 plan years to 12 months after the end of the plan years.
- Extension of rules allowing employers to pay employee student loans in tax-favorable manner under IRC section 127 programs through 2025.
- Extension of due date for repayment of deferral of employee payroll taxes per August 2020 presidential memorandum from April 30, 2021 to Dec. 31, 2021.
- Modification of existing rules to allow business meals provided by restaurants to be 100% deductible in 2021 and 2022.

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