A photograph of a woman and a young girl standing in a school hallway. The woman, on the right, is wearing a green zip-up shirt and has her arm around the girl. The girl, on the left, is wearing a purple shirt and a grey cardigan. They are both smiling at the camera. In the background, other people are walking in the hallway, and there are red doors on the right side.

Legislative Updates: Employee Retention Credit, Paycheck Protection Program, and the Federal COVID-19 Response

National CASA/GAL Association for Children

March 24, 2021



About This Session

- We will record this session and make the recording and deck available on the portal
- Submit questions through the Q&A feature



DISCLAIMER

These materials were prepared without input or review from the government speakers. They reflect the views of the authors solely.

The speakers are not providing legal or tax advice. The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.



Welcome

SALLY WILSON ERNY
DEPUTY CHIEF EXECUTIVE OFFICER

Panelists



Ruth Madrigal

*Principal, Leader of Exempt Organizations Group,
Washington National Tax Practice*



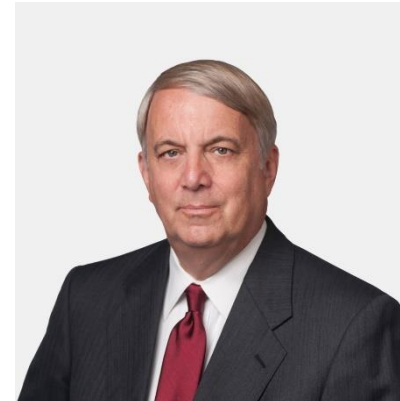
Dixie Pond

General Attorney, Employment Tax, Branch 1, IRS Office of Chief Counsel



Jane Sargent

Partner, Government Affairs and Public Policy



Rick Spees

Partner, Government Affairs and Public Policy



A photograph of a woman with long, wavy brown hair, seen from the side, wearing a blue top. She is looking down at a young boy with short dark hair, who is looking up at her. They are in a modern building with large windows and balconies. The boy is wearing a grey and white hoodie. The image has a blue gradient overlay at the bottom.

Agenda

WELCOME

CONSOLIDATED APPROPRIATIONS ACT, 2021

AMERICAN RESCUE PLAN ACT

EMPLOYEE RETENTION CREDIT

PAYCHECK PROTECTION PROGRAM

ERC AND PPP IN ACTION

QUESTIONS

Consolidated Appropriations Act, 2021

SALLY ERNY, DEPUTY CHIEF EXECUTIVE OFFICER



Consolidated Appropriations Act, 2021

Funding

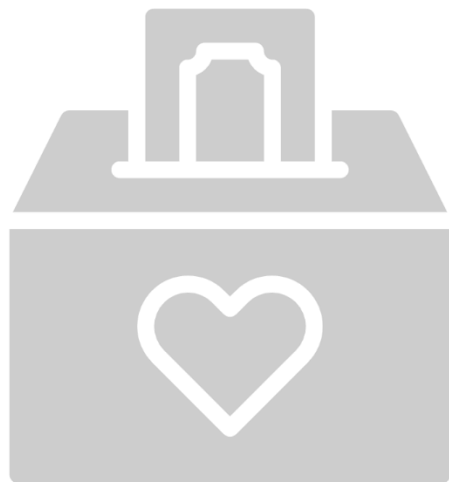
- Victims of Crime Act (VOCA) – \$2.015 billion distribution from the Crime Victims Fund (including a five percent set aside for tribes); below the FY2020 cap of \$2.641 billion
- National CASA/GAL Program funding – \$12.5 million; up from \$12 million in FY2020
- Youth Mentoring Grants – \$100 million; \$3 million above FY2020
- Child Abuse Prevention and Treatment Act (CAPTA) State Grants – \$90 million; same as FY2020

Consolidated Appropriations Act, 2021

Funding (continued)

- CAPTA Discretionary Grants – \$35 million; same as FY2020
- Byrne Justice Assistance Grants (JAG) – \$484 million; \$62 million below FY2020
- Victims of Child Abuse Programs – \$30 million; \$3 million more than FY2020

Consolidated Appropriations Act, 2021



Charitable Giving Incentives

- extension through end of 2021

American Rescue Plan Act

JANE SARGENT, AKERMAN LLP



American Rescue Plan (ARP) Act

- American Rescue Plan was signed into law by President Biden on March 11, 2021
- Provides federal funding and economic relief related to the ongoing COVID-19 pandemic



American Rescue Plan (ARP) Act

ARP Items of Special Interest for CASA/GAL Programs:

- **CAPTA Grants** – \$350 million for CAPTA including:
 - \$100 million for CAPTA Title I for grants to support state child protective services programs
 - \$250 million for CAPTA Title II for Community-Based Child Abuse Prevent (CB-CAP) grants

American Rescue Plan (ARP) Act

ARP Items of Special Interest for CASA/GAL Programs:

- **\$362 billion state and local relief –**
 - \$219.8 billion for States and the District of Columbia;
 - \$130.2 billion for counties and cities of all sizes
 - Funding can be used to respond to the coronavirus and economic impacts including assistance to households, small businesses, nonprofits and impacted industries including hospitality, travel and tourism.
 - Can also be used to cover lost revenue and help to prevent pending and future budget cuts

American Rescue Plan (ARP) Act

ARP Items of Special Interest for CASA/GAL Programs:

- **Corporation for National and Community Service (AmeriCorps)**
 - Provides \$1 billion for CNCS to increase the number of participants and stipends

Support for Individuals and Families

- **Unemployment Insurance Benefits –**
 - Adds an additional \$300 per week through September 6, 2021
- **Direct Payments/Tax Rebate Checks –**
 - Provides \$1,400 in direct payments to adults and married couples (earning up to \$75,000/\$150,000)
 - \$1,400 for each dependent
 - Completely phases out for individuals/couples earning \$80,000/\$160,000
 - Foster parents and relative caregivers eligible if they claimed a child in the tax year the rebate is based on

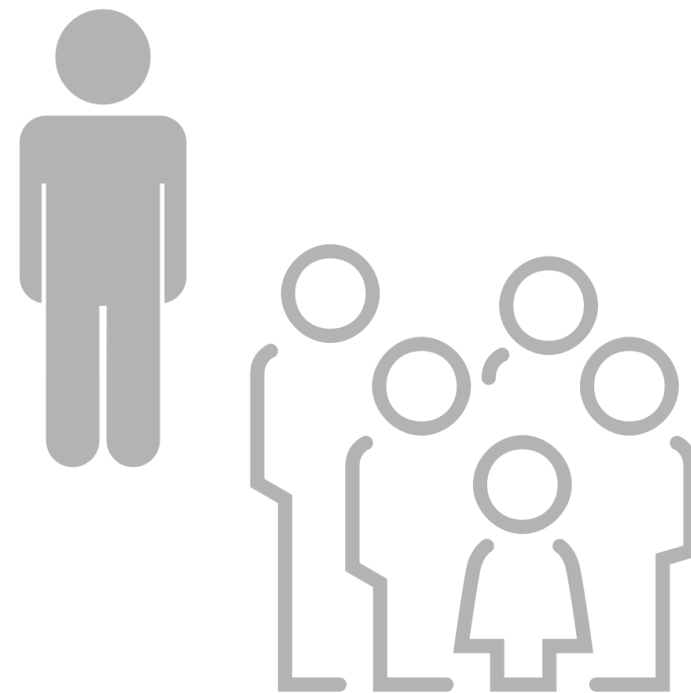
Support for Individuals and Families

Tax Credits

- **One-year expansion of the Child Tax Credit (CTC)** –
 - increases the CTC to \$3,600 per child under age 6 and \$3,000 per child age 6 to 17
 - Paid out monthly (\$300 or \$250/month) beginning in July for 6 months, with the other half received through their 2021 tax return
 - Credit begins to phase out at \$112,000 per individual/\$150,000 per couple
- **Earned Income Tax Credit (EITC)** –
 - Increases the maximum tax credit to \$1,500 for childless workers
 - Expands eligibility to young workers ages 19-24 who are not full-time students and workers over age 65
 - Homeless and former foster youth are covered even if they are students.
- **Child and Dependent Care Tax Credit (CDCTC)**
 - Increased temporarily to \$3,000 (\$3,600 for a child under age 6)

Additional ARP Support for Individuals and Families

- Expands the Affordable Care Act's premium subsidies to help reduce the number of uninsured
- Provides additional funding for Child Care Development Block Grant (CCDBG)
- Provides over \$50 billion in assistance for housing and utility assistance for renters and homeowners
- Provides additional nutrition assistance including extending the increase in SNAP benefits
- Provides \$1 billion for Temporary Assistance for Needy Families (TANF)
- Provides additional funding the maternal and young children home visiting program



ARP Provisions of Interest for Employers

- **Paid Leave Tax Credits for Employers**
 - Extends through September 30, 2021 the refundable payroll tax credits for paid sick and family leave originally established in the Families First Coronavirus Response Act
 - Increases the amount of wages for which an employer may claim the paid family credit in a year from \$10,000 to \$12,000
 - Expands leave to cover obtaining vaccinations and any resulting injury or illness related to the vaccination
- **Unemployment Insurance**
 - Extends through September 6, 2021 the federal payment for a portion of unemployment costs of reimbursing nonprofits originally enacted in the CARES Act
 - Federal coverage is 50% through March 31st and 75% from April through September 6, 2021



Employee Retention Credit

DIXIE POND, IRS

RUTH MADRIGAL, KPMG

2020 Employee Retention Credit - Overview



Potential \$5,000 credit per employee

Eligible employers may receive 50% credit for qualified wages up to \$10,000 per employee (\$5,000 maximum credit per employee)

- Wages paid Mar. 13 through Dec. 31, 2020
 - Including certain health plan expenses
- Credit against federal employment tax deposits (including income tax withholding)
 - Excess refunded
- Controlled group under sections 52 and 414
- Applies ACA definition of full-time employee
- Precludes double benefits under work-opportunity, leave, and other tax credits
- Tax-exempt organizations may consider all operations without regard to “trade or business” requirement
- Wage deduction reduced by employee retention credit

Eligible Employer: carries on a trade or business during calendar year 2020 and *either* –

- Fully or partially suspends operation during any calendar quarter in 2020 due to orders from an appropriate government authority limiting commerce, travel, or group meetings (for commercial, social, religious, or other purposes) due to COVID-19, *or*
- Over 50% reduction in quarterly gross receipts measured year over year



NOTE: Employers that received an SBA Paycheck Protection Program (PPP) loan may now be eligible (prior exclusion was retroactively repealed)

2021 Employee Retention Credit - Overview



Potential \$28,000 credit per employee

Eligible employers may receive 70% credit for qualified wages up to \$10,000 per employee (\$7,000 max credit per employee) for each calendar quarter in 2021

- Wages paid Jan. 1 through Dec. 31, 2021
 - Including certain health plan expenses
- Credit against federal employment tax deposits (including income tax withholding)
 - Excess refunded
- Controlled group under sections 52 and 414
- Applies ACA definition of full-time employee
- Precludes double benefits under work-opportunity, leave, and other tax credits
- Tax-exempt organizations may consider all operations without regard to “trade or business” requirement
- Wage deduction reduced by employee retention credit
- Additional flexibility in relief for Q3 and Q4 of 2021 for severely financially distressed employers

Eligible Employer: carries on a trade or business during the applicable calendar quarter and *either* –

- Fully or partially suspends operation during the calendar quarter due to orders from an appropriate government authority limiting commerce, travel, or group meetings (for commercial, social, religious, or other purposes) due to COVID-19,
- Over 20% reduction in gross receipts measured against same quarter in 2019 (alternatively, may elect to compare immediately preceding quarter), or
- For Q3 or Q4 of 2021, the employer is a recovery startup business (began carrying on any trade or business after Feb. 15, 2020) and average annual gross received for 3-taxable-year period ending prior to applicable quarter does not exceed \$1,000,000



NOTE: Employers that received an SBA PPP loan as well as public colleges and universities and governmental health care organizations may be eligible

2020 vs 2021 ERC Comparison

	2020	2021
Credit (% of Qualified Wages)	50%	70%
Max. Qualified Wages	\$10,000 aggregate	\$10,000 per quarter
Max. Credit per Employee	\$5,000	\$28,000
Applicable Period for Wages	Mar. 13 - Dec. 31, 2020	Jan. 1 – Dec. 31, 2021
30-Day Limitation on Wage amount?	Yes	No
Decline in Gross Receipts	> 50%	> 20%
Employee Threshold for Measuring Qualified Wages	100	500
Employers with a PPP loan?	May be eligible (New)	May be eligible
Public Colleges & Universities?	<u>Not</u> eligible	May be eligible
Governmental Health Care Orgs?	<u>Not</u> eligible	May be eligible

*** For calendar quarters 3 and 4 of 2021, eligible employer also includes a “recovery start-up business”*

*** Additional relief for a “severely financially distressed employer”*

Paycheck Protection Program

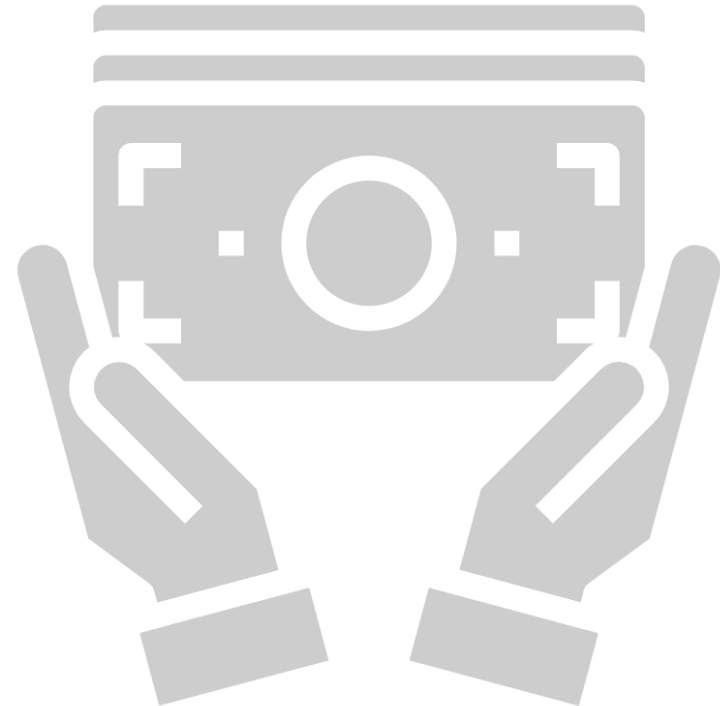
RICK SPEES, AKERMAN LLP

RUSSELL JACOBS, GENERAL COUNSEL, CHIEF PUBLIC POLICY OFFICER



Paycheck Protection Program

- First and second draw loans available
- Loan applications due to SBA by March 31, 2021 (House has passed legislation extending program to May 31, 2021)
- Some banks have already closed applications – check US Chamber for fintech loan processors



PPP First Draw Loans

- 500 or fewer employees
- Facing economic uncertainty
- No requirement regarding specific drop in gross receipts
- Up to 2.5 times average monthly payroll (capped at \$10 million)



PPP First Draw Loans

- Created in the CARES Act
- Extended in Consolidated Appropriations Act
 - Entities that returned portions of the first loan or did not apply for the full amount can apply for the difference between what they have and the full amount
- Interest rate 1%
- Loans made before June 5, 2020 have maturity of two years
- Loans made after June 5, 2020 have a maturity of five years
- Other covered expenses include mortgages, rent, utilities, worker protection costs, operations and supplier costs.

PPP Second Draw Loans

- **300** or fewer employees
- Used all of the first draw PPP loan (only for authorized uses)
- **25% drop in gross receipts** in any quarter of 2020 compared to same quarter in 2019
- Up to 2.5 times average monthly payroll (capped at \$2 million)



PPP Payroll definition

Payroll includes

- Wages
- Employer-paid health benefits
- Retirement contribution
- Life and disability insurance
- State unemployment taxes



PPP Gross Receipts definition

Same definition as Form 990 and ERC

Gross receipts includes

- In-kind contributions of assets
- Sale of assets or investments
- CARES Act funding other than PPP loan
- Pass-through revenues
- Multi-year grants/pledges

Gross receipts excludes

- In-kind contribution of services
- Realized or unrealized gain/loss on investments
- PPP first-draw revenues

Simplified Loan Forgiveness

- For loans under \$150,000, SBA will provide a simplified loan forgiveness application.
- The information required includes only –
 - the number of employees that the borrower was able to retain
 - the amount of the loan used for payroll, and
 - the total size of the loan.



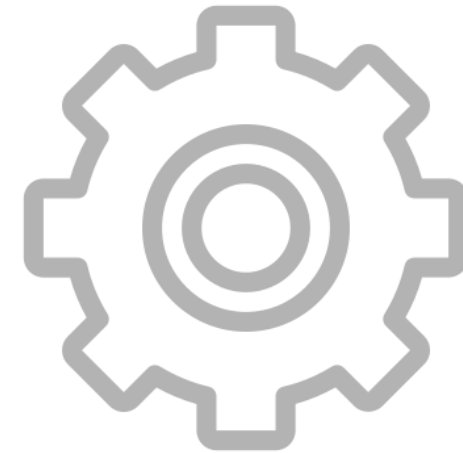
Eligible Expenses for Loan Forgiveness (PPP 2)

- 60% of the proceeds **MUST** be used for payroll or none of the loan proceeds can be forgiven
- Other expenses allowed:
 - Mortgage or rent
 - Utilities
 - Operations expenses
 - Supplier costs if essential to the operation of the entity
 - Worker health protection expenses, such as barriers, equipment
 - Group Insurance payments



PPP Technical Changes

- PPP loans not included in taxable income
- Deductions are allowed for expenses paid with proceeds of a forgiven PPP loan, effective as of the date of enactment of the CARES Act and applicable to subsequent PPP loans



PPP Fraud

More than 90 PPP
fraud prosecutions as of
December 2020



More than \$250 million in
alleged losses

- Still focused on higher dollar amounts
- One case in Arkansas involved only \$20,800
- Another in Montana \$35,000
- Another in Florida \$22,000

PPP Good Governance

- Track use of funds
- Keep employment records for four years and records of other expenses for three years
- Government may audit the borrowers



ERC and PPP in Action

RUSSELL JACOBS, GENERAL COUNSEL, CHIEF PUBLIC POLICY OFFICER



ERC and PPP in Action

Hypothetical

One employee in organization

Qualified Wages \$52,000 per year (\$13,000 per quarter / \$4,333.33 per month / \$1,000 per week)

Already took PPP first draw

Gross receipts dropped 25%

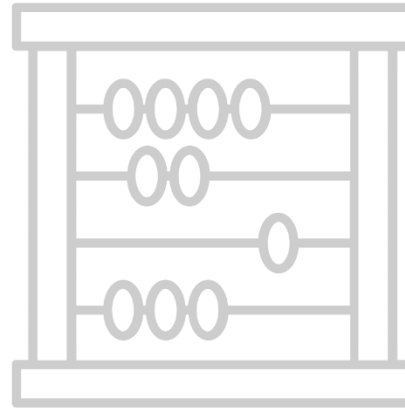
Eligible for

- ERC up to \$7,000 per quarter [70% of qualified wages, up to \$7,000]
- PPP 2 up to \$10,833.33 [up to 2.5 times monthly qualified wages] {at least 60% – \$6,500 – for payroll}
 - BUT no double benefit
 - AND “qualified wages for which the employer claims the ERC are excluded from payroll costs paid during the covered period (payroll costs) that qualify for forgiveness under the PPP.” (Question 49, IRS Notice 2021-20)
 - Stacking of paid leave credits, ERC, and PPP and definition of qualified wages will limit total amount
 - ERC eligibility determination considered each quarter / PPP 2 is a one-time event

ERC and PPP in Action



ERC and PPP not mutually exclusive, but the terms of each (and the paid leave credit and any grants) may limit the amount you can access



Must track PPP dollars



Watch grant conditions

Questions

Upcoming Webinars and Training Opportunities

Upcoming Webinars

WEBINARS

- ***Urban Affinity Group Call – March 2021***
 - March 25, 2021, 1 p.m. – 2:30 p.m. ET | 10 a.m. – 11:30 a.m. PT
- ***Suburban Affinity Group Call – March 2021***
 - March 25, 2021, 2:30 p.m. – 4 p.m. ET | 11:30 a.m. – 1 p.m. PT
- ***Human Trafficking: What You Need To Know To Keep Youth Safe Online***
 - March 26, 2021, 2 p.m. – 3 p.m. ET | 11 a.m. – 12 p.m. PT
- ***Standards for Publicly Administered Local CASA/GAL Programs***
 - March 31, 2021 , 12 – 1:30 p.m. ET | 9 – 10:30 a.m. PT

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Upcoming Events

Walk.Run.Thrive Virtual Event

May 1-2, 2021 | *Register on the Events Page* | **Cost = \$35**



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Thank you