



Latest Covid-19 Relief Bill

What do business and individuals need to know?

January 2021

Episode 6

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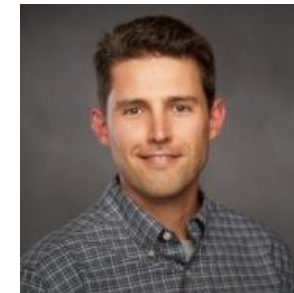
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Coming Soon!



- *Consolidated Appropriations Act: Tax Implications for Business*
- *Consolidated Appropriations Act: Tax Implications for Individuals*



**FAMILIES FIRST
CORONAVIRUS
RESPONSE ACT
(FFCRA) UPDATE**



Families First Coronavirus Response Act

General Information

The Families First Coronavirus Response Act was passed by the Senate and signed by President Trump on March 19, 2020. The Act provides for two paid leaves that employers across the United States must provide to employees who are directly affected by COVID-19, whether they are caring for themselves or others. The Act is effective as of April 1, 2020 and applies to employers with 1 to 499 employees. Large employers with 500 or more employees do not have to comply with this law. It expires on December 31, 2020. The Act provides for two sources of paid leave: Emergency Paid Sick Leave (EPSL) Act and the Emergency Family and Medical Leave Expansion (EFMLA) Act.



Families First Coronavirus Response Act

General Information

In the new Consolidated Appropriations Act, the FFCRA was extended until March 31, 2021, though the participation in providing EPSL/EFMLA is now voluntary. The credit for wages paid, the employer portion of Medicare tax, and allocated qualified medical expenses will be available still to employers participating.

It is important to note that the CAA does not “renew” the number of allowable hours/days available but rather extends the period in which they can be used. However, dependent upon an employer’s FMLA calendar, the 10 paid weeks of EFMLA may be restarted.

The CAA also extended the expanded FFCRA benefits to sole proprietorships and will be reported as an offset from self-employment tax.



Families First Coronavirus Response Act

Emergency Paid Sick Leave

- Example 1:
 - Employee A is a full-time employee who typically works 40 hours per week.
 - They used 36 hours of Emergency Paid Sick Leave in 2020 to quarantine as directed by a health care provider.
 - If the employer voluntarily continues to provide the FFCRA benefits, Employee A would be eligible to use the remaining 44 hours of Emergency Paid Sick Leave for the qualified reasons.
- Example 2:
 - Employee B is a full-time employee who typically works 40 hours per week.
 - They used the full 80 hours of Emergency Paid Sick Leave in 2020 to care for a child due to day care/school closures.
 - Even if the employer voluntarily continues to provide FFCRA benefits, they have already used the allowed 80 hours and therefore do not have any other Emergency Paid Sick Leave to use (though they may qualify for EFMLA).



Families First Coronavirus Response Act

Emergency Paid Sick Leave

<u>Covered Reason For Leave</u>	<u>Rate of Pay</u>	<u>Cap on Payments</u>
(1) The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19	The employee's regular rate of pay (as determined under section 7(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(e)).	\$511 per day and \$5,110 in the aggregate
(2) The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19	The employee's regular rate of pay (as determined under section 7(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(e)).	\$511 per day and \$5,110 in the aggregate
(3) The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.	The employee's regular rate of pay (as determined under section 7(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(e)).	\$511 per day and \$5,110 in the aggregate
(4) The employee is caring for an individual who is subject to an order as described in subparagraph (1) or has been advised as described in paragraph (2).	Two-thirds of the employee's regular rate of pay.	\$200 per day and \$2,000 in the aggregate
(5) The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions.	Two-thirds of the employee's regular rate of pay.	\$200 per day and \$2,000 in the aggregate
(6) The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.	Two-thirds of the employee's regular rate of pay.	\$200 per day and \$2,000 in the aggregate



Families First Coronavirus Response Act

Expanded FMLA

- Example:
 - Employee C is a full-time employee who typically works 40 hours per week.
 - They took 80 hours of EPSL for the qualified reason of day care/school closure.
 - Then they took 5 weeks of EFMLA for the qualified reason of day care/school closure.
 - If the employer voluntarily continues to provide the FFCRA benefits, Employee C is eligible for the remaining 5 weeks of EFMLA for the qualified reason of day care/school closure.

<u>Covered Reason For Leave</u>	<u>Rate of Pay</u>	<u>Cap on Payments</u>
The employee is caring for a son or daughter of the employee if the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions.	Two-thirds of the employee's regular rate of pay.	\$200 per day and \$10,000 in the aggregate



Families First Coronavirus Response Act

Exclusions and Exemptions:

One area of confusion is how/when an employer may have been excluded from providing the FFCRA benefits in 2020.

- Private Sector Employer with more than 500 employees – **excluded**
- Some Public Sector Employees – **excluded**
- Health Care Provider and/or Emergency Responder – **excluded**
- Business/nonprofit or religious organizations with fewer than 50 employees may potentially be exempt from providing EPSL/EFMLA for child-care related reasons – **exempt dependent upon decision tree**
 - Provision would result in expenses and financial obligations to exceed available business revenues and cause the small business to cease operating at a minimal capacity
 - Absence of the employee(s) would entail a substantial risk to the financial health or operational capabilities because of their specialized skills, knowledge of business, responsibilities, etc.
 - Not enough sufficient workers who are able, willing, qualified and available to perform the services/labor provided by the employee(s) requesting leave
- There is **NO** exemption to providing EPSL for quarantine reasons (#1-3)



Families First Coronavirus Response Act

Unemployment Insurance

- Extension of Pandemic Unemployment Compensation to March 14, 2021.
 - This restores the supplemental FPUC at \$300 per week
- Pandemic Unemployment Assistance allows individuals to receive benefits as of 3/14/2021 to continue through April 5, 2021 (as long as the individual has not reached the maximum number of weeks, which has been updated to 50 weeks)
- Extension of “no waiting week for benefits” through March 14, 2021



Families First Coronavirus Response Act

Outstanding Issues

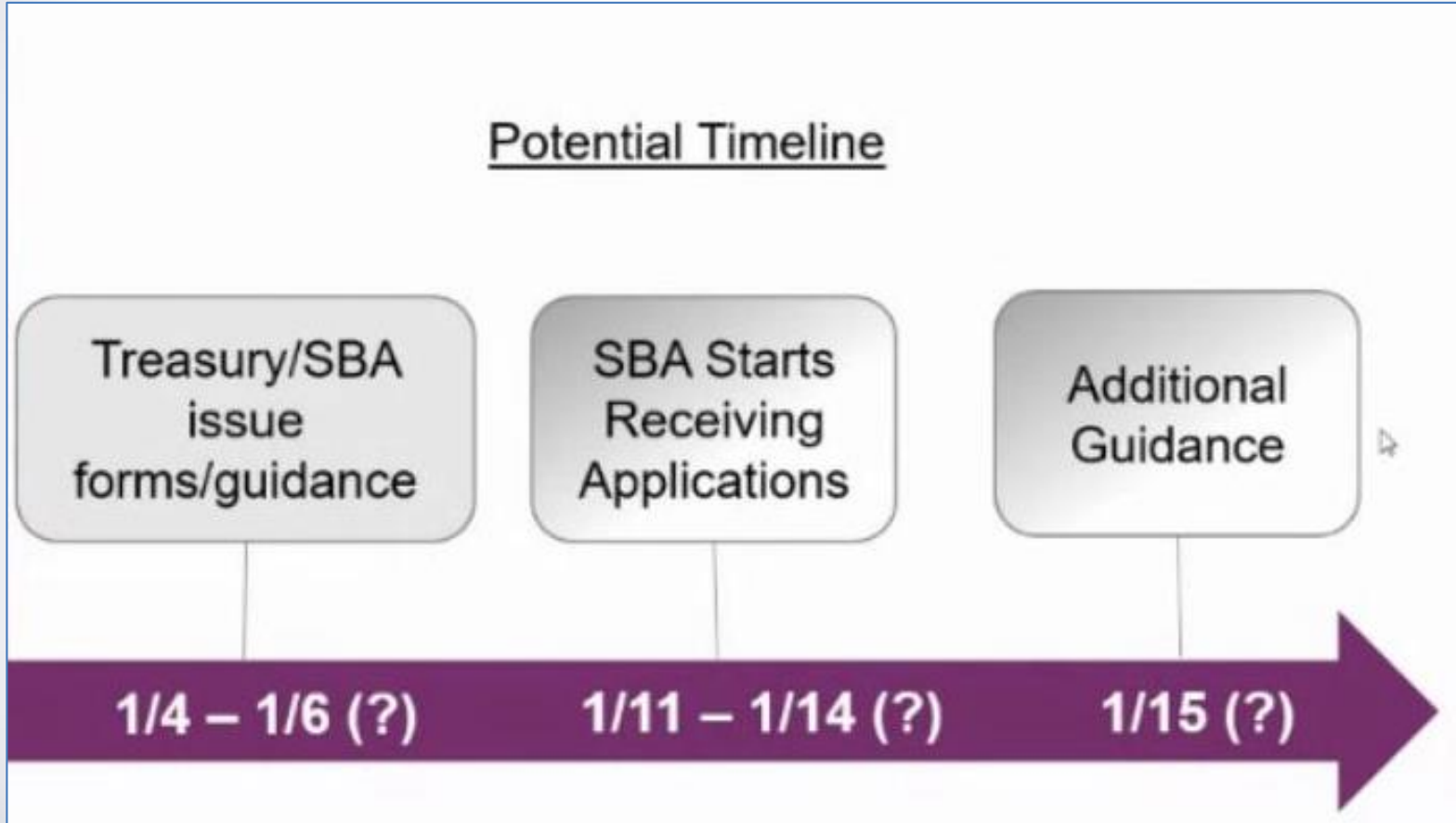
- Is the March 31, 2021, deadline based on hours paid or hours used?
 - Example: employee uses hours at the end of March that would traditionally be paid on the first pay date in April. Do we need to run a special payroll at end of March to capture those wages or will the IRS update the quarter 2 941 to allow for wages paid in April for hours from March?
- Clarification is still needed regarding the Expanded FMLA on renewal. Based on initial reading of the Act, it seems as if an employer's FMLA calendar ends/renews between April 1st, 2020, and March 31st, 2021, the employee may be eligible for another 12 weeks of EFMLA (first 2 weeks unpaid, and 10 weeks of 2/3 wage rate).



PAYCHECK PROTECTION PROGRAM UPDATED



Paycheck Protection Program



Paycheck Protection Program

Various Provisions

- PPP and EIDL advances not counted as gross receipts
- Differences between first draw or second draw
- Simplified loan forgiveness for loans under \$150k
- Deductibility of expense has been clarified
- EIDL advances no longer reduce loan forgiveness
- Loan calculations for Farmers (gross Sch F income)
- Specific set aside for small borrowers (\$25B)



Paycheck Protection Program

Paycheck Protection Program

A new round of PPP loans has been made available! PPP Round 2

Requirements to be eligible are different for first-draw recipients and second-draw recipients.

First-Draw:

- Operating as of 2/15/2020
- 500 employees or fewer

Second-Draw:

- Operating as of 2/15/2020
- 300 employees or fewer (per location)
- Revenue decrease of 25% or more for any quarter in 2020 as compared to the same quarter in 2019
- You have used or will use ALL funds from the first-draw



Paycheck Protection Program

Paycheck Protection Program

Loan Amounts are slightly different for first-draw recipients and second-draw recipients

First-Draw:

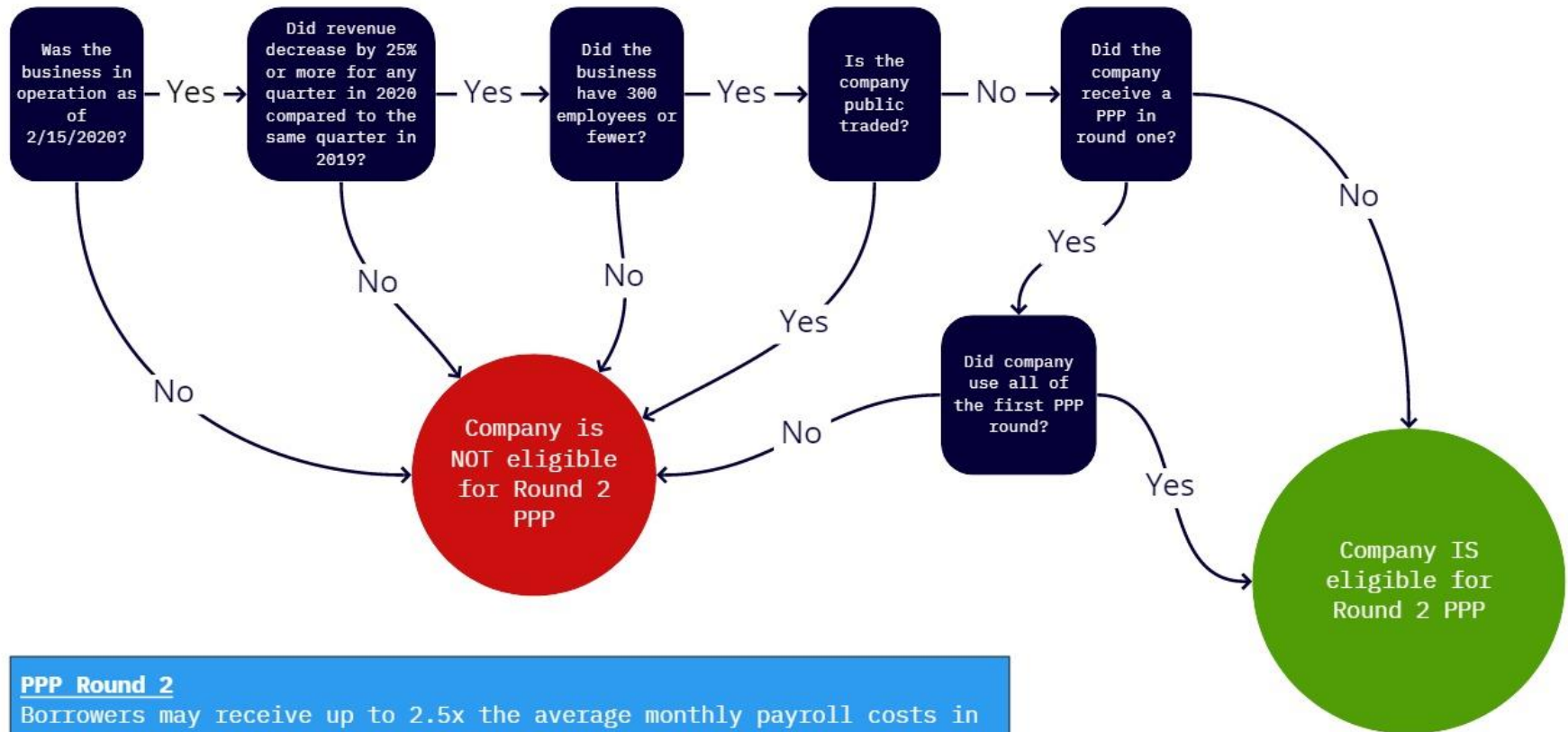
- 2.5x average monthly payroll costs in 2019 (or one-year period prior to the loan date)
- Hospitality businesses with industry codes starting with 72 may be eligible to receive up to 3.5x average monthly payroll costs
- \$10M max

Second-Draw:

- 2.5x average monthly payroll costs in 2019 (or one-year period prior to the loan date)
- Hospitality businesses with industry codes starting with 72 may be eligible to receive up to 3.5x average monthly payroll costs
- \$2M max



Paycheck Protection Program



PPP Round 2

Borrowers may receive up to 2.5x the average monthly payroll costs in 2019 or one year period prior to the loan date.

Maximum loan amount is \$2 million

Entities with industry codes starting with 72 (accommodation and food services) may receive up to 3.5x average monthly payroll costs.



Paycheck Protection Program

Covered Expenses

The CAA also expanded the definition of “covered expenses”:

- Payroll Expenses (gross wages, retirement benefits, group health plan benefits, taxes paid to states/localities, etc.)
- Mortgage Interest Expense
- Rent and Lease Expense
- Utilities Expense
- **Operations Expenditures**
- **Property Damage Costs**
- **Supplier Costs**
- **Worker Protection Expenditures**

60/40 Rule still applies



The Covered Period

- You get to choose
- Anywhere between 8 to 24 weeks
- Gives more flexibility to use funds AND expedite forgiveness process



**EMPLOYEE RETENTION
CREDIT AND PAYROLL
TAX DEFERRAL**



Employee Retention Credit - Original

- Fully refundable tax credit on 50% of qualified wages
- Wages paid from March 13, 2020 through December 31, 2020
- Limited to first \$10,000 of wages per employee (\$5,000 max credit per employee)
- Eligible Employers:
 - Operations must have been fully or partially suspended due to orders from a governmental authority that limits commerce, travel, or group meetings due to COVID-19, OR
 - Experienced a “significant” decline in gross receipts during the calendar quarter
- Credit is reconciled on Form 941
 - Reduce amount due with Form 941
 - Any excess is refunded to employer



ERC and Payroll Tax Deferral

Employee Retention Credit (Cont'd)

EXAMPLE: “Significant” decline in gross receipts

	2019	2020	% of '19
Sales – Q1	210,000	100,000	48%
Sales – Q2	230,000	190,000	83%
Sales – Q3	250,000	230,000	92%
Sales – Q4	270,000	265,000	98%

Eligible for credit in
Q1 and Q2 only

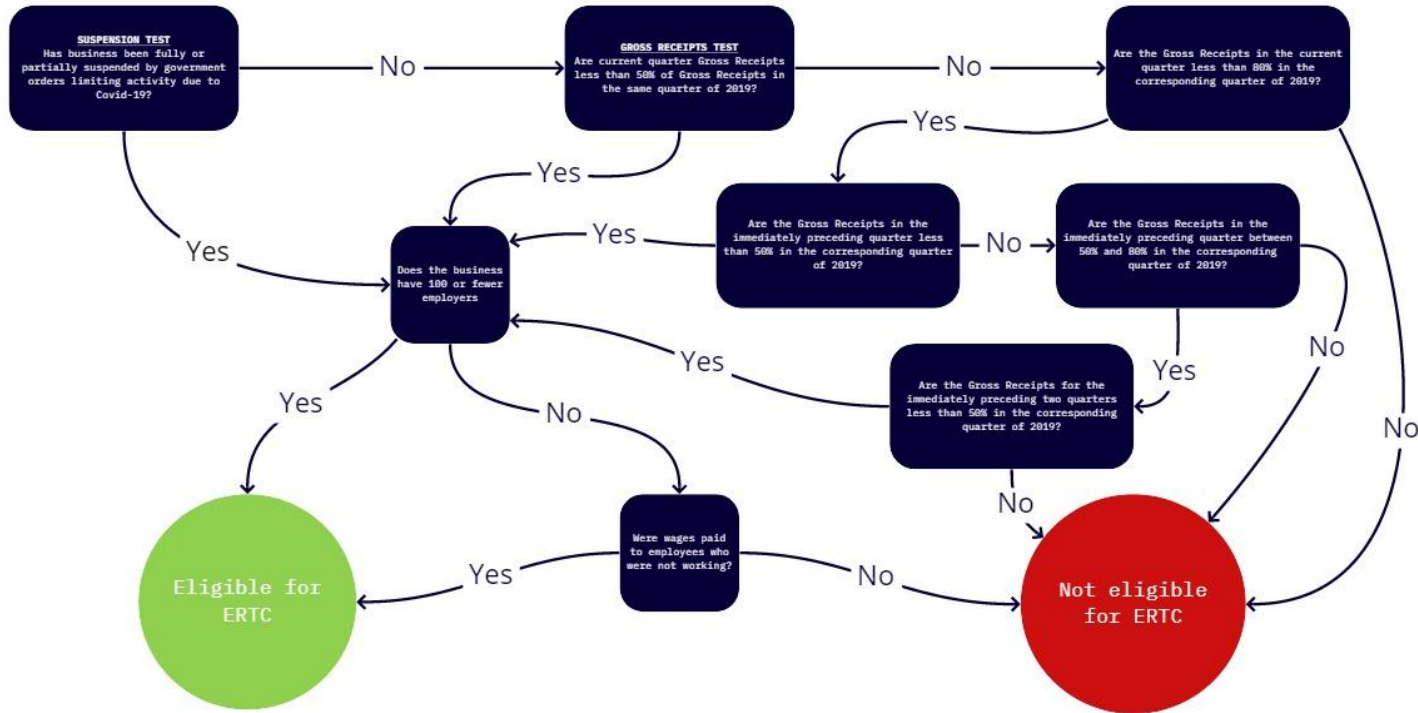
	2019	2020	% of '19
Sales – Q1	210,000	100,000	48%
Sales – Q2	230,000	175,000	76%
Sales – Q3	250,000	230,000	92%
Sales – Q4	270,000	265,000	98%

Eligible for credit in
Q1, Q2, and Q3



ERC and Payroll Tax Deferral

2020



ERTC
50% of Qualified Wages
Qualified wages up to \$10,000 per employee for 2020
Max Credit of \$5,000 per employee for 2020



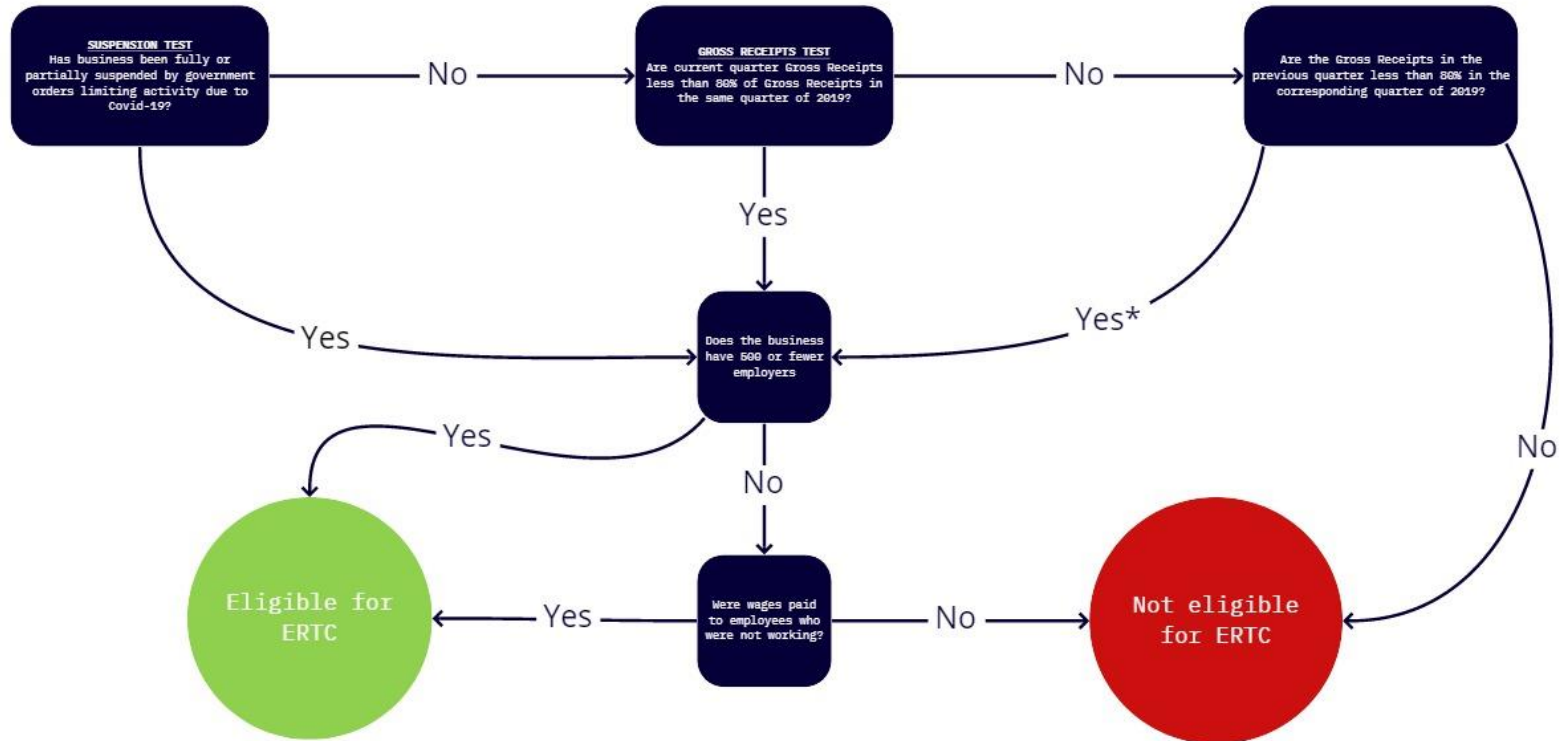
Employee Retention Credit - Update

- Now eligible to recipients of PPP Loans (both Round 1 and Round 2) if they can satisfy the other eligibility requirements:
 - Gross Receipts Reduction
 - Fully or partially suspended due to governmental restrictions/orders
 - Montana was under a stay-at-home order and closure of nonessential businesses due to Governor's orders from 3/28/2020 through 4/26/2020.
- Expansion of Credit through June 30, 2021
 - Other items changed/updated:
 - Increases credit rate from 50% to 70% of qualified wages
 - Year-over-year gross receipts reduction changed from 50% to 20%
 - Increase on limit of employee wages from \$10,000 for the year to \$10,000 per quarter
 - Increases number of employees delineation



ERC and Payroll Tax Deferral

2021



*Election is required to use alternative quarter for prior year comparison.



Payroll Tax Deferral

- Very few employers chose to provide this option to employees as the employer was still on the hook for the deferred social security tax.
- Originally, employers who allowed employees to defer this tax had to collect and remit the tax in Q1 of 2021
- The CAA extended the due date of those collected taxes to December 31, 2021 and extended the date upon which penalties and interest will start accruing on those deferred taxes until January 1, 2022.



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QUESTIONS?



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