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# Hughes Hubbard & Reed

## Pandemic Economic Stimulus: Legislative and Regulatory Developments as of March 5, 2021

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**March 5, 2021** – This week, the U.S. Senate began debate on the Biden Administration’s \$1.9 trillion economic stimulus package, while bills were introduced in the U.S. House of Representatives extending Economic Injury Disaster Loan program repayment deadlines and expanding access to the Paycheck Protection Program for farmers and ranchers. In addition, the Small Business Administration published additional Paycheck Protection Program FAQs addressing a range of specific issues.

### **Regulatory Developments Relating to the Pandemic**

#### **Paycheck Protection Program FAQ Expanded**

On March 3, the Small Business Administration published Paycheck Protection Program (PPP) FAQ numbers 57 through 65. These new FAQs:

- Address the definition of “lobbying activities” for purposes of determining eligibility of section 501(c)(6) organizations and destination marketing organizations for PPP loans.
- Clarify that PPP funds may not be used for lobbying activities or expenditures.
- Address eligibility for loan forgiveness and second draw PPP loans in the event of bankruptcy.
- Clarify first draw and second draw PPP loan requirements regarding certification of the use of the funds for eligible expenses.
- Explain that a borrower that received partial loan forgiveness for a first draw PPP loan can still be eligible for a second draw PPP loan as long as it used all of its first draw funds for eligible expenses.
- Clarify that the applicant size standards (in terms of revenues and employees) that apply to first draw loan applications do not apply to second draw loan applications, which have more limited size standards.
- Clarify that a borrower may use an Individual Taxpayer Identification Number (ITIN) (which is available to certain nonresident and resident aliens, their spouses, and dependents) instead of a social security number on

the PPP loan borrower application form, but that the applicant must still meet the PPP's U.S. domestic residency requirements.

- Clarify the circumstances in which an employer that receives a PPP loan can be eligible for the employee retention credit under the CARES Act. On March 1, the Internal Revenue Service issued companion guidance regarding the employee retention credit that includes additional clarifications primarily relating to expanded eligibility for the credit.
- [FAQ](#)
- [IRS press release](#)
- [IRS Notice 2021-20](#)

## **Fiscal Stimulus Legislative Proposals**

### **American Rescue Plan Act of 2021**

On March 4, the U.S. Senate voted 51-50 to begin debate on the Biden Administration's \$1.9 trillion economic stimulus package, which previously cleared the House of Representatives. The debate on the legislation, and consideration and voting on proposed amendments that is expected to follow the debate, may extend into the weekend.

### **H.R. 1533: COVID Economic Injury Disaster Loan Relief Act**

On March 3, Representatives Maria Salazar (R-FL), Sharice Davids (D-KS), Mario Diaz-Balart (R-FL), Angie Craig (D-MN), and Dan Meuser (D-PA) introduced bipartisan legislation that would extend the deadline to repay Economic Injury Disaster Loan (EIDL) loans for one additional year. Currently, EIDL loan recipients must start repaying loans after one year, which means the first payments of many loan recipients will be due in March and April of 2021.

- [Press release](#)

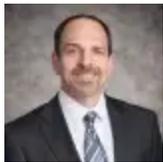
### **H.R. 1411: PPP Flexibility for Farmers and Ranchers Act**

On February 26, Representative Jim Hagedorn (R-MN) introduced legislation that would allow certain farmers and ranchers to utilize gross income when calculating maximum Paycheck Protection Program (PPP) loan amounts. Currently, the CARES Act allows farmers and ranchers to utilize net income when applying for PPP loans, which provides a lower limit on the size of the allowable PPP loan. The bill would also retroactively enable farmers and ranchers to recalculate the maximum size of their allowable PPP loans using gross income rather than net income, as long as the PPP loan has not yet been forgiven.

- [Press release](#)

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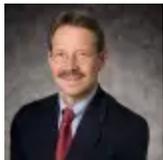
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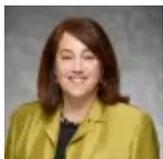
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