

# **CARES Act and CAA Tax Conformity**

*Coronavirus Aid, Relief, and Economic Security (CARES) Act  
Consolidated Appropriations Act (CAA) 2021*

# CARES Act and CAA Tax Conformity

- Items currently in the Governor’s introduced budget and additional items to be proposed.

<b>CARES AND CAA CONFORMITY PROVISIONS</b>				
<b>Provision</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
COVID-19 Related Retirement Distributions	-	(\$8.5)	(\$1.4)	(\$0.2)
Above-the-Line Charitable Contributions Deduction	(\$11.1)	(\$2.8)	-	-
Deduction Limitations for Certain Charitable Contributions	(\$19.5)	\$4.3	\$5.8	\$2.3
Exclusion of Educational Payments	(\$3.6)	(\$0.5)	-	-
<b>Total CARES Act Provisions</b>	<b>(\$34.2)</b>	<b>(\$7.5)</b>	<b>\$4.5</b>	<b>\$2.1</b>
Extension of the \$300 deduction for non-itemizers to Taxable Year 2021	-	(\$21.5)	(\$5.4)	-
Enhancing the charitable deduction for individuals for certain contributions	(\$4.5)	(\$19.8)	\$5.4	\$7.2
Temporary full business meals deduction	-	(\$17.8)	(\$10.5)	(\$2.2)
Extension of exclusion for certain employer payments of student loans	-	(\$8.5)	(\$6.2)	(\$6.6)
Depreciation of certain residential rental property over a 30-Year Period	-	(\$8.1)	(\$1.4)	(\$0.9)
Temporary enhancement of the earned income tax credit for certain taxpayers	(\$3.2)	-	-	-
Repeal of the deduction for qualified tuition	-	\$7.7	\$7.9	\$7.4
All other provisions	(\$1.3)	(\$1.8)	(\$0.7)	(\$0.7)
<b>Total CAA Provisions</b>	<b>(\$9.0)</b>	<b>(\$69.7)</b>	<b>(\$10.9)</b>	<b>\$4.3</b>

# CARES Act and CAA Tax Conformity

- Items not conformed to in the Governor’s introduced budget and additional provision to be excluded.

<b>CARES AND CAA DECONFORMITY PROVISIONS</b>				
<b>Provision</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
Enhanced Deduction for NOLs	-	-\$312.6	\$13.1	\$26.8
Excess Business Losses for Noncorporate Taxpayers	-	-\$305.9	-	-
Business Interest Deduction Limitation	-	-\$47.3	(\$1.7)	(\$1.3)
<b>Total CARES Act Provisions</b>	-	-\$665.7	\$11.4	\$25.5
Extension of 7.5% Floor for the Medical Expense Deduction	-	(\$14.5)	(\$29.6)	(\$30.2)
Deductibility of Business Expenses Funded by PPP Loan and EIDL Fund Proceeds	(\$150-\$190)	(\$190-\$310)	Unknown	Unknown
<b>Total CAA Provisions</b>	(\$150-\$190)	(\$205-\$325)	Unknown	Unknown

# Federal Tax Treatment of PPP Loans

- Under the CAA, recipients of Paycheck Protection Program (PPP) loans are entitled to a double tax benefit.
- This results in disparate tax treatment and a significant General Fund revenue loss if Virginia conforms to this change.
  - PPP recipients are treated more favorably than companies that did not receive such loans, including those that received *Rebuild VA* Grants.
  - According to Small Business Administration (SBA) data, more than half of PPP loans went to 5 percent of PPP recipients, many of them larger-sized businesses. As a result, a double tax benefit might disproportionately help larger-sized businesses.
  - The revenue impact of conforming to this treatment would be significant.
- Limited data is available on firms qualifying for PPP loans, forgiveness of the loans, firm size, operating income, and qualifying expenses.
  - Based on available SBA data, the impact would be significant.
  - The timing of the impact would depend on each PPP recipient's tax liability; any amounts not utilized could be carried over as losses.

# Federal Tax Treatment of PPP Loans

- Simplified example demonstrating impact of allowing a double tax benefit:
  - Exclusion from income and the deduction of expenses is authorized under the CAA.

	Inclusion and Deduction	Exclusion and No Deduction	Exclusion and Deduction	NO PPP Loan
PPP Loan Amount	\$150,000	\$150,000	\$150,000	\$ 0
Expense Funded	\$150,000	\$150,000	\$150,000	\$ 150,000
Net Cash Result	\$0	\$0	\$0	\$ (150,000)
Income Reported	\$150,000	\$0	\$0	\$ 0
Deduction Taken	\$150,000	\$0	\$150,000	\$ 150,000
Net Tax Result	\$0	\$0	(\$150,000)	\$ (150,000)

Source: Thimmesch, Adam, "States and the PPP: The Tax Policy Case for State Nondeductibility," *State Tax Notes* 99: 129-135, 11 Jan. 2021.

# Virginia Deduction for PPP Loan Recipients

- If Virginia wants to provide an additional state tax benefit to PPP loan recipients, a state tax deduction could be allowed.
- To target the benefit to smaller businesses and limit the fiscal impact, the deduction could be limited to amounts that do not exceed a threshold.
  - Options include thresholds of \$10,000; \$25,000; \$50,000; and \$100,000.
  - According to the SBA, the average PPP loan was \$107,000.
- A deduction limited to Taxable Year 2020 would provide an additional tax benefit to certain companies that received loans during 2020.
- A deduction for Taxable Years 2020 and 2021 would also allow a benefit for those who receive loans authorized under the CAA.
  - This would increase the estimated revenue loss in FY 2022.
  - Although data is not available for such loans, the impact was estimated using the amount authorized under the CAA and Virginia's share of loans issued during 2020.

## Loan Size by Entity Type: Corporate vs. Non-Corporate

- The table below shows the number and percentage of companies with loans at or below each threshold amount.
- Since a deduction can only be used to offset income, the tax benefit would depend on each company's taxable income.

	Corporate		Non-Corporate		Total	
\$10,000 or less	4,286	13%	19,274	26%	23,560	22%
\$25,000 or less	11,798	35%	41,631	56%	53,429	49%
\$50,000 or less	18,568	55%	53,305	72%	71,873	66%
\$100,000 or less	24,703	73%	62,307	84%	87,010	80%
More than \$100,000	9,266	27%	12,238	16%	21,504	20%
<b>Total Loans (Excluding Non-Profits)</b>	<b>33,969</b>	<b>100%</b>	<b>74,545</b>	<b>100%</b>	<b>108,514</b>	<b>100%</b>

# Options for a Virginia Deduction

- **Deduction Amount** – *up to a threshold of:*
  - \$10,000
  - \$25,000
  - \$50,000
  - \$100,000
- **Timing of Qualified Loans**
  - Could be authorized for loans issued to date (Taxable Year 2020), or
  - Expanded to include additional loans that will be issued under the CAA (Taxable Years 2020 and 2021).
- **Qualifying Taxpayers**
  - Could be limited to the individual income tax, or
  - Expanded to corporate entities.



## Virginia Deduction for PPP Loan Recipients: Taxable Year 2020 Only

Threshold	FY 2021	FY 2022
\$100,000 (Corporate & Individual)	(\$56) - (\$74)	(\$42) - (\$78)
\$100,000 (Individual Only)	(\$56) - (\$74)	(\$24) - (\$32)
\$50,000 (Corporate & Individual)	(\$39) - (\$51)	(\$29) - (\$54)
\$50,000 (Individual Only)	(\$39) - (\$51)	(\$17) - (\$22)
\$25,000 (Corporate & Individual)	(\$25) - (\$33)	(\$18) - (\$35)
\$25,000 (Individual Only)	(\$25) - (\$33)	(\$11) - (\$14)
\$10,000 (Corporate & Individual)	(\$12) - (\$16)	(\$9) - (\$17)
\$10,000 (Individual Only)	(\$12) - (\$16)	(\$5) - (\$7)

*\* Estimated General Fund revenue impact; amounts in millions*

## Virginia Deduction for PPP Loan Recipients: Taxable Year 2020 & Taxable Year 2021

Threshold	FY 2021	FY 2022
\$100,000 (Corporate & Individual)	(\$56) - (\$74)	(\$72) - (\$118)
\$100,000 (Individual Only)	(\$56) - (\$74)	(\$55) - (\$71)
\$50,000 (Corporate & Individual)	(\$39) - (\$51)	(\$50) - (\$81)
\$50,000 (Individual Only)	(\$39) - (\$51)	(\$38) - (\$49)
\$25,000 (Corporate & Individual)	(\$25) - (\$33)	(\$32) - (\$52)
\$25,000 (Individual Only)	(\$25) - (\$33)	(\$24) - (\$32)
\$10,000 (Corporate & Individual)	(\$12) - (\$16)	(\$15) - (\$25)
\$10,000 (Individual Only)	(\$12) - (\$16)	(\$12) - (\$15)

*\* Estimated General Fund revenue impact; amounts in millions*

## Virginia Subtraction for *Rebuild VA* Grants

- Since *Rebuild VA* grants are taxable at the federal level, if Virginia allows a deduction for PPP loan recipients, then Virginia should allow a similar tax treatment for *Rebuild VA* grants by allowing taxpayers to subtract such grants from income on their state returns.
  - Threshold, timing, and definition of qualifying taxpayers should be consistent with the deduction for PPP loan recipients, if such tax benefits are adopted.
- Impact of a subtraction for *Rebuild VA* grants would be much smaller due to the scope of the program as compared to the PPP loan program.
  - \$12.6 billion in PPP loans granted to Virginia businesses, compared with \$120 million authorized in *Rebuild VA* grants.
  - A similar tax treatment for *Rebuild VA* grant recipients would likely have an impact ranging from less than \$1 million (\$10,000 limitation) to a maximum of \$4.5 million (\$100,000 limitation).
  - The actual impact would likely be much less depending on each company's profitability, tax liability, and entity type (non-profit vs. for-profit).