



Babitzke and Associates

Monthly Newsletter

Tax-Saving Tips

May 2021

Self-Employed During the Pandemic? Lawmakers Did Not Forget You

Usually, in times of economic dislocation such as the COVID-19 pandemic, the self-employed get no special government help. For example, you generally do not receive benefits that employees get, such as unemployment and paid sick leave.

But this time it's different. Because of the COVID-19 pandemic, you can qualify for the following seven benefits:

1. Paycheck Protection Program (PPP) monies.

Self-employed individuals with no employees can obtain forgivable first-draw and second-draw PPP monies of up to \$20,833 for each draw, or \$41,666 in total.

The monies were to be available through May 31, but only if the funds lasted until then. For most borrowers, they did not. Traditional banks have used their allotment, but some nonprofits and credit unions still have funds and expect them to last until May 31.

Apply now if you haven't already done so. If you already received a PPP loan, you may qualify for a second-draw loan if your 2020 income for any quarter declined by 25 percent compared with the same 2019 quarter.

2. Economic Injury Disaster Loans (EIDLs).

These 3.75 percent interest loans of up to \$500,000 are available to the self-employed and are not forgivable. The self-employed can borrow up to \$25,000 without any collateral.

3. Prior EIDL Advances. The Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, enacted on December 27, 2020, eliminates the rules that required reducing your PPP forgiveness by the amount of your EIDL Advance and requires the Small Business Administration to refund your advance if your loan forgiveness has been previously reduced.

4. New Targeted EIDL Advances. You might qualify for a Targeted EIDL Advance of up to \$10,000 if (a) your business is located in a low-income community, and (b) you suffered a 30 percent reduction in revenue during an eight-week period beginning March 2, 2020, or later. Unlike EIDLs, Targeted EIDL Advances need not be paid back. They are tax-free government grants.

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5. Sick and family leave tax credits. If you're unable to work due to COVID-19, or if you need to care for a family member, you can qualify for refundable sick leave and family leave tax credits of up to \$15,511 in 2020 and \$17,511 in 2021. You can get up to \$511 per day for 10 days if you're sick. You can get up to \$200 per day for 70 days if you need to care for others. These credits last through September 30, 2021.

6. Affordable Care Act (ACA) premium tax credits. Congress removed the ACA subsidy cliff (400 percent of the federal poverty level) for 2020 and 2021. During these years, you need pay no more than 8.5 percent of your household income for ACA coverage. You are entitled to premium tax credits to the extent midlevel silver ACA coverage exceeds this amount.

7. Unemployment for the self-employed. For the first time ever, self-employed individuals may receive unemployment benefits. The Pandemic Unemployment Assistance program has been extended to September 6, 2021. You'll qualify for unemployment only if you're earning little or no income.

Deduct 100 Percent of Your Business Meals under New Rules

Since 1986, lawmakers have limited business meal deductions: first to 80 percent, and then to 50 percent (unless an exception applies).

But on December 27, 2020, in an effort to help the restaurant industry due to the COVID-19 pandemic,

lawmakers enacted a new, temporary 100 percent business meal deduction for calendar years 2021 and 2022.

To qualify for the 100 percent deduction, you need a restaurant to provide you with the food or beverages.

The law requires only that the restaurant provide the food and beverages. You don't have to pay the money directly to the restaurant. For example, you qualify for the 100 percent deduction if you order a restaurant meal that's delivered by Uber Eats or Grubhub.

Your deductible business meals must be tax code Section 162 ordinary and necessary business expenses, and they must not be subject to disallowance under tax code Section 274.

You must be present at the business meal, and you must provide the business meal to a person with whom you could reasonably expect to engage or deal with in the active conduct of your business, such as a customer, client, supplier, employee, agent, partner, or professional advisor, whether established or prospective.

Remember, to qualify for the 100 percent deduction, you need a restaurant. The IRS recently provided definitions and examples of what is and is not a restaurant.

A restaurant is "a business that prepares and sells food or beverages to retail customers for immediate consumption, regardless of whether the food or beverages are consumed on the business's premises." It is not any of the following:

- Grocery stores

- Specialty food stores
- Beer, wine, or liquor stores
- Drug stores
- Convenience stores
- Newsstands
- Vending machines or kiosks

In general, the 50 percent limitation applies to business meals from the sources listed above. The restaurant creates the 100 percent deduction.

Deduct 100 Percent of Your Employee Recreation and Parties

When you know the rules, you can party with your employees and deduct 100 percent of the cost.

The IRS says that the following types of entertainment qualify for the 100 percent employee entertainment tax deduction:

- Holiday parties, annual picnics, and summer outings
- Maintaining a swimming pool, baseball diamond, bowling alley, or golf course

The IRS makes it clear that the above are examples, and that other types of entertainment may also qualify for the 100 percent entertainment deduction.

The tax code states that “expenses for recreational, social, or similar activities (including facilities therefor) primarily for the benefit of employees” qualify for the 100 percent deduction.

Who Are These Employees?

Technically, the law requires that the entertainment expenses be primarily for the benefit of employees other than a “tainted group.” The tainted group consists of

- highly compensated employees (employees who are paid more than \$130,000 in 2021);
- anyone, including you, who owns at least a 10 percent interest in your business (this is called a “10 percent owner”); or
- any members of the families of 10 percent owners, i.e., brothers and sisters (including half-brothers and half-sisters); spouses; ancestors (parents, grandparents, etc.); and lineal descendants (children, grandchildren, etc., including adoptees).

As the business owner, you belong to the tainted group. That’s not a big deal. You just need to make sure that partying with the employees is primarily for the benefit of the employees.

“Primary” Means “More Than 50 Percent”

In tax law, the words “primary” and “primarily” mean “more than 50 percent.” For employee recreation, that means the untainted group of

employees has to account for more than 50 percent of the use of the entertainment facility, or in the case of a party, a majority of the attendees must come from the untainted employee group.

Documentation tip. You can measure “primary” by days of use, time of use, number of employees, or any other reasonable method. Regardless of how you measure use, the keys to your deductions are the records that prove the uses.

Helicopter View of Meals and Entertainment (2021-2022)

Have you missed partying and having business meals with your prospects, customers, and employees?

Well, get ready to start again. Soon, COVID-19 will be behind us. It could be just a few short months away.

To help you get ready, check the table below for what you can do in 2021 and 2022 as the law stands now:

Questions? Contact Me

BABITZKE AND ASSOCIATES
TAX RESOLUTION AND PREPARATION SERVICES

PHONE: 712-274-3469

FAX: 712-274-3473

EMAIL: Info@BabitzkeEA.com

VISIT THE WEBSITE: BABITZKEEA.COM

Description	Amount Deductible for Tax Years 2021-2022		
	100%	50%	Zero
Restaurant meals with clients and prospects	X		
Entertainment such as baseball and football games with clients and prospects			X
Employee meals for convenience of employer, served by in-house cafeteria		X	
Employee meals for required business meeting, purchased from a restaurant	X		
Meal served at chamber of commerce meeting held in a hotel meeting room	X		
Meal consumed in a fancy restaurant while in overnight business travel status	X		
Meals cooked by you in your hotel room kitchen while traveling away from home overnight		X	
Year-end party for employees and spouses	X		
Golf outing for employees and spouses	X		
Year-end party for customers, classified as entertainment			X
Meals made on premises for general public at marketing presentation	X		
Team-building recreational event for all employees	X		
Golf, theater, or football game with your best customer			X
Meal with a prospective customer at the country club following your non-deductible round of golf	X		