

Stimulus Act (PPP 2.0)

Do the New Rules, Eligibility, and Lending Parameters Impact My Business?

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Agenda

- Latest Changes and Updates
- The New PPP Act – *Economic Aid Act*
 - Funds available and timeline
- Revisions to the PPP
 - Borrower eligibility
 - First Draw loans
 - Second Draw loans
- Loan forgiveness
- Tax treatment
- Alternative Stimulus Assistance

What Administration Changes were announced on February 22, 2021?

- Instituted a 14-day period, that began yesterday, February 24, during which only businesses with fewer than 20 employees can apply for a PPP loan. This period will end at 5:00 p.m. on Tuesday, March 9th. 98% of small businesses have fewer than 20 employees.
- Eliminated an exclusion preventing small business owners with prior non-fraud felony convictions from obtaining a PPP loan. Currently, a business is ineligible for PPP if it is at least 20% owned by an individual who has either:
 - (1) an arrest or conviction for a felony related to financial assistance fraud within the previous five years; or
 - (2) any other felony within the previous year. Bipartisan reforms included in the PPP Second Chance Act are implemented by administrative action to eliminate the one-year look-back, unless the applicant or owner is incarcerated at the time of the application.

What Administration Changes were announced on February 22, 2021?

- Eliminated an exclusion preventing small business owners who are delinquent on their federal student loans from obtaining a PPP loan.
- Ensure access for non-citizen small business owners who are lawful U.S. residents by permitting Individual Taxpayer Identification Numbers (ITINs) to be used for PPP loan applications. All lawful U.S. residents may access the program, but a lack of SBA guidance causes inconsistency in access for ITIN holders like Green Card holders or those here on a visa. The SBA will issue guidance.

What Administration Changes were announced on February 22, 2021?

- Schedule C filers can now use gross income from their form 1040 instead of net income to complete their PPP loan calculation amount. By doing this the SBA is working to help sole proprietors, independent contractors, and self-employed individuals receive more financial support. 70% of these businesses are owned by women and people of color. The loan calculation formula for these applicants
- Addressing waste, fraud, and abuse across all federal programs. Unlike the previous round of the PPP, loan guaranty approval is now contingent on passing SBA fraud checks, Treasury's Do Not Pay database, and public records. The SBA now also conducts manual loan reviews for the largest loans in the PPP portfolio and a random sampling of other loans.

What did the New PPP Act: “PPP 2.0” change?

- Signed into law December 27, 2020.
- Guidelines issued through Interim Final Rules released on:
 - January 6, 2021: [Interim Final Rule on Paycheck Protection Program as Amended by Economic Aid Act and Interim Final Rule on Second Draw Loans](#)
 - January 19, 2021: [Interim Final Rule on Loan Forgiveness Requirements and Loan Review Procedures as Amended by Economic Aid Act](#)
- SBA Procedural Notices.
- Updated FAQs dated January 29, 2021.
- PPP loan application expiration date is March 31, 2021.
- Focus shift & balancing act.

What did the New PPP Act: “PPP 2.0” change?

- An additional \$284.45 billion for initial and "second draw" PPP loans applied for by March 31, 2021.
- First Draw
 - Retroactive changes to “covered period”, expanded borrower eligibility, tax-deductibility (check your state rules), repeal of EIDL advance deduction, use of funds, etc.
 - First draw loan increases, “hold code” issues.
- Second Draw
 - Limits borrower eligibility, strict size standard.
 - Limited loan amounts.

What are the specific changes to Borrower Eligibility?

- The “second draw” of PPP funding has a different set of eligibility requirements than the PPP did when originally introduced.
- Under the Economic Aid Act, businesses are eligible if they:
 - Have less than 300 employees, or 300 employees if there is more than one physical location and they fit under a certain category of employer (i.e. NAICS 72 & Public Broadcasting); and
 - Demonstrate a gross receipts reduction of 25% or more for any quarter of 2020 as compared to the same quarter of 2019, or a 25% reduction over the year of 2020.
- 501(c)6 non-profits are now eligible for second draw PPP Loans.
- Publicly-traded companies are no longer eligible.
- Entities with an association with China and, or Hong Kong are no longer eligible.
- How to apply first draw vs second draw issue discussion

What are the rules regarding allowable expenses?

- 60/40 percent split remains.
- New eligible expense items under these retroactive new rules include:
 - Cloud-computing or work-from-home expenditures.
 - Property damage caused by civil unrest in 2020 that was not covered by insurance.
 - Certain supplier costs for perishable or other goods purchased under a written agreement.
 - Worker protection expenses, including PPE.
 - Certain additional employee group benefit premium payments.

What are the rules regarding allowable expenses?

- The payroll maximum per employee remains at \$46,154 for a 24-week covered period.
- However, the maximum amount is still \$15,385 for borrowers using the original 8-week covered period.
- Owner-employees, self-employed individuals and general partners are limited during the 8-week period to \$15,385, and \$20,833 during the 24-week period.

What are the loan amounts allowed under a “Second Draw” PPP Loan?

- Limits all “second draw” PPP loans to no more than \$2 million, or \$4 million for a corporate group
- NAICS code businesses beginning with 72 (accommodations and food service) can use the multiplier of 3.5 times the average 2019 or 2020 monthly payroll amount, instead of 2.5 times

What are some Loan Forgiveness issues that are currently being discussed?

- Simplified forgiveness application now applies to loans under \$150,000.
- If the borrower has received forgiveness, a “first draw” loan can no longer be increased.
- Some of the retroactive changes adjust a borrower’s loan forgiveness application.
- Borrower can choose a unique “covered period” as any time frame between eight and 24-weeks.
- Deferral period.

What are some Loan Forgiveness issues that are currently being discussed?

- Loan necessity forms 3509 and 3510.
- The EIDL Advance deduction has been repealed.
- Resubmissions of loan forgiveness applications using form 3508S.
- 150 days loan forgiveness timeline.
- Correcting a loan forgiveness application.
- Application of safe harbors.

What are the federal tax rules related to the PPP?

- Section 1112 payments are excluded from gross income for the purposes of the Internal Revenue Code.
- Sec. 276 of the Consolidated Appropriations Act of 2021 clarified the tax treatment for PPP loans that are forgiven, it states:
 - “no amount shall be included in the gross income of the eligible recipient by reason of forgiveness ...”, and
 - “no deduction shall be denied, no tax attribute shall be reduced, and no basis increase shall be denied, by reason of the exclusion from gross income ...”
- Tax deductibility federal vs state rules.

What are some of the other stimulus benefits under the act?

- Allows for an extension and expansion of payroll tax credits.
- Provides an extension of SBA debt relief.
- Includes targeted expansion of the EIDL Program.
- Shuttered Venue Operators Grant.

What does the targeted expansion of the EIDL Program consist of?

- Provides additional \$10,000 grants to eligible applicants.
- Applicants must:
 1. Be in a low-income community,
 2. Have suffered an economic loss of greater than 30 percent, and
 3. Have not more than 300 employees.

What is the additional SBA debt relief offered?

- Borrowers with qualifying loans approved by the SBA prior to the CARES Act to receive an additional three months of principal and interest (P&I), starting in February 2021.
- Payments capped at \$9,000 per borrower, per month.
- After the three month period ends, borrowers considered to be underserved (namely the smallest or hardest-hit by the pandemic) may receive an additional five months of P&I payments, also capped at \$9,000 per borrower, per month.
- For all SBA loans approved between Feb. 1 and Sept. 30, 2021, SBA will make payments of P&I for the first six months of newly approved loans (also capped at \$9,000 per month).

Are there any additional stimulus benefits?

- Employee Tax Retention Credit (originally established under the CARES Act and were applicable through July 1, 2021) extended and expanded.
- Eligibility expanded by reducing the required quarter-over-quarter decline in gross receipts from 50% to 20%, or full/partial suspension of business. (i.e. restaurant take-out)
- Threshold for treatment as a 'large employer' modified by increasing the 100-employee delineation for determining the relevant qualified wage base to employers with 500 or fewer employees.

Are there any additional stimulus benefits?

- Limit on per-employee qualified wages raised from \$10,000 for the year to \$10,000 for each quarter.
- Has a per employee maximum of \$14,000.
- Expansion of SBA lending programs.
 - **7(a) and Express Loan Programs**
 - Increases a lender's guaranty to 90 percent of the loan amount on 7(a) loans, including for Community Advantage loans, until Oct. 1, 2021.
 - Increase from \$350,000 to \$1 million for SBA Express loans on Jan. 1, 2021, through Sept. 30, 2021, at which point on Oct. 1, 2021, it will be reduced to \$500,000.
 - The Express Loan guaranty amount for loans of \$350,000 or less is temporarily increased from 50 percent to 75 percent, and for loans above \$350,000, the guarantee remains at 50 percent. On Oct. 1, 2021, the guarantee reverts to 50 percent for all Express Loans.

Are there any additional stimulus benefits?

- **504 Low-Interest Refinancing**

- Enhances the 504 refinancing rules in order to create reciprocity for refinancing between 504 and 7(a) programs.
- Grants authority through Sept. 30, 2023, for the SBA to establish a 504 Express Loan Program for the most experienced and successful 504 lenders to expedite 504 loans of less than \$500,000.

- **Recovery Assistance Under the Micro-loan Program**

- Enhances the micro-loan program to increase access to micro capital and technical assistance under the program for businesses impacted by the COVID-19 pandemic.
- Temporarily increases the amount of time that borrowers can repay their loans from six to eight years.
- Temporarily increases the outstanding aggregate amount each intermediary may borrow from \$6 million to \$10 million to expand their capacity to deploy more capital to small businesses.

QUESTIONS?



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