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## **Paycheck Protection Program (PPP) Updates and Second Draw PPP**

The following is to assist you with the PPP provisions in the Consolidated Appropriations Act, 2021 signed by Trump on December 27, 2020 and is current based on the information available as of January 11, 2021. There are several items that are subject to interpretation; we have interpreted these items based on our understanding of the Consolidated Appropriations Act, 2021, SBA Guidance issued Jan. 6, 2021 Interim Final Rules on PPP and Second Draw Loans, etc.

The new application form (SBA Form 2483-SD) for the second draw of the Paychex Protection Program loans has been released on Friday, January 8, 2021 and applications can begin on Monday, January 11, 2021. The last day to apply for the first or second draw PPP loan is March 31, 2021.

The following is information from the January 9, 2021 article in the Journal of Accountancy regarding the release of the PPP2 application form.

In both the first-time PPP loans and second-time PPP loans, borrowers may receive a loan amount of up to 2.5 times their average monthly payroll costs (with a cap per employee of \$100,000 annualized) in 2019, 2020, or the year prior to the loan. PPP borrowers with North American Industry Classification System (NAICS) codes starting with 72 (such as hotels and restaurants) can receive up to 3.5 times their average monthly payroll costs on second-draw loans.

The SBA and Treasury said initially only community financial institutions that serve minority- and women-owned businesses will be able to make loans to first-time PPP borrowers beginning on Monday, January 11, 2021 and second-time PPP borrowers beginning on Wednesday, January 13, 2021.

The maximum loan amount is \$10 million for first-time borrowers and \$2 million for second time borrowers. To be eligible for full loan forgiveness, PPP borrowers must spend no less than 60% of the funds on payroll over a covered period of their choice between 8 and 24 weeks. The type of costs used to determine forgiveness has expanded to include covered worker protection and facility modification expenditures, covered property damage costs, covered payments to suppliers and payments for business software or cloud computing services that facilitate business operations, product or service delivery and a number of back-office functions, including accounting.

The following is a brief list of key qualifying criteria for the PPP1 (original PPP loans) and PPP2 (second draw PPP loans).

**First time PPP loans are available to borrows that were in operations on Feb. 15, 2020 and are from one of the following groups:**

- Businesses with 500 or fewer employees that are eligible for other SBA 7(a) loans.
- Sole proprietors, independent contractors, and eligible self-employed individuals.
- Not-for-profits, including churches.

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- Accommodation and food services operations with NAICS codes starting with 72 that have fewer than 500 employees per physical location.
- Sec. 501( c)(6) business leagues, such as chambers of commerce, visitors' bureaus, etc., and "destination marketing organizations" that have 300 or fewer employees and do not receive more than 15% of receipts from lobbying. The lobbying activities must comprise no more than 15% of the organization's total activities and have cost no more than \$1 million during the most recent tax year that ended prior to Feb. 15, 2020. Sports leagues are not eligible.
- News organizations that are majority-owned or controlled by an NAICS code 511110 or 5151 business or not-for-profit public broadcasting entities with a trade or business under NAICS code 511110 or 5151. The size limit for this category is not more than 500 employees per location.

### **Borrowers are eligible for a second-draw PPP loan of up to \$2 million, provided they have:**

- 300 or fewer employees.
- Used or will use the full amount of their first PPP loan on or before the expected date for the second PPP loan to be disbursed to the borrower. The IFR also clarifies that the borrower must have spent the full amount of the first PPP loan on eligible expenses.
- Experienced a revenue reduction of 25% or more in all or part of 2020 compared with all or part of 2019. This is calculated by comparing gross receipts in any 2020 quarter with an applicable quarter in 2019, or, in a provision added in the IFR, a borrower that was in operation for all four quarters of 2019 can submit copies of its annual tax forms that show a reduction in annual receipts of 25% or greater in 2020 compared with 2019.

### **The second-draw PPP loans are for the hardest hit borrowers. Other provisions of the Act include:**

For businesses with multiple locations, the 300 or fewer employees is per physical location.

For purposes of the 25% decline in gross receipts in any quarter in 2020 compared to the same quarter in 2019, gross receipts do not include EIDL and PPP loan forgiveness amounts. Gross receipts do include sales of products or services, interest, dividends, rents, royalties, fees, commissions, and reductions for returns and allowances

No additional documentation is needed to substantiate payroll costs for PPP2 if the borrower used calendar year 2019 figures to determine its First Draw and Second Draw loan amount AND the lender is the same for both PPP loans.

For PPP loans of \$150,000 or less, the forgiveness application has been simplified. A forgiveness application form will need to be filed and the borrower will need to attest to complying with PPP requirements. All PPP rules need to be followed and supporting documentation retained for up to 4 years.



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As with the PPP1 loan application, certifications will need to be made by the borrower with the application for the PPP2 loan. A borrower does not need to apply for forgiveness of the first-time PPP loan before applying for the second-time PPP loan.

Schedule F farmers and ranchers can use gross income instead of net income for either 2019 or 2020 for calculating the PPP loan amount. Loans can be recalculated if it would result in a larger loan. This applies to PPP loans before, on, or after the date of enactment (unless the loan is already forgiven).

Included in the PPP provisions of the **Consolidated Appropriations Act, 2021** is the deductibility of the expenses paid with the PPP loan proceeds that are forgiven. There is no reduction in forgiveness if the borrower received an EIDL Advance.

For more information or if you have any questions, contact your CPA at TWRU CPAs & Financial Advisors at (225) 926-1050.