

WEBINAR: New COVID-19 Stimulus Package, Including PPP Round Two and New Tax Provisions

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With You Today



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PPP Second- Draw Loans



Application Date: The last day to apply for and receive a PPP loan is **March 31, 2021**



Funding: Over \$284 billion

- This includes \$35 billion for first-time loans



Maximum Loan Size: \$2 million and \$10 million if continued with PPP1

- Borrowers are eligible to receive a loan amount up to 2.5 times their average monthly payroll costs (\$100,000 cap per employee)
- Borrowers with 72 starting NAICS codes are eligible to receive up to 3.5 times their average monthly payroll costs
- Schedule C borrowers loan size is 2.5 times net profit and is subject to previous limits



Terms: Loans are forgiven if certain qualifications are met

- Borrowers may have their loans forgiven if the funds are used on specified eligible costs such as: payroll, rent, and utilities



Covered Forgiveness Period: Borrower can select anywhere between **8 weeks and 24 weeks**

- For complete loan forgiveness, borrowers must spend no less than 60% of the funds on payroll over their choice of 8 and 24 weeks
- Forgiveness is not reduced by EIDL 10k advance

Is my business eligible?

For *continued* access to the PPP, eligible borrowers must fall into one of the following categories:

- ✓ Small businesses (500 employees or less) that meet the qualifications for other SBA 7(a) loans
- ✓ 500 employees or less per location if the borrower's NAICS code begins with 72
- ✓ 501(c)(3) organizations
- ✓ Sole proprietorships, independent contractors, and eligible self-employed individuals
- ✓ Business is not an ineligible business listed in 13 CFR 120.110 other than a business concern described in subsection (a) or (k)
- ✓ Certain 501(c)(6) organizations that have 300 employees or less and receive 15% or less of their total receipts from lobbying activities
- ✓ Specific local newspapers, TV, and radio broadcasters

Is my business eligible?

To be eligible for a PPP second-draw loan of up to \$2 million, businesses *must*:

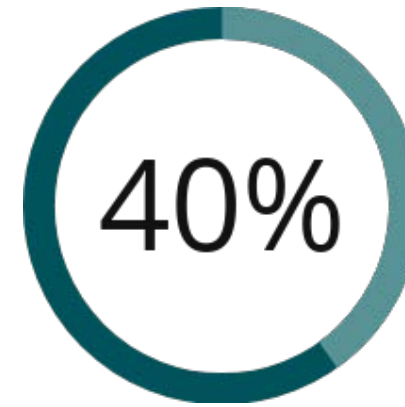
- ✓ Have used *OR* will use their initial PPP's full amount prior to the disbursement date of the second-draw loan
- ✓ Have 300 employees or less
- ✓ Show a calendar quarterly gross receipts reduction of 25% minimum, in comparison to the same quarter in 2019 (**Exception is if the business is not operating during the specified quarters*)
- ✓ Not be an ineligible business listed in 13 CFR 120.110 other than a business concern described in subsection (a) or (k)
- ✓ Not be engaged primarily in political or lobbying activities
- ✓ As an alternative to the quarterly comparison rule, if a PPP 2 Loan borrower was in business for all four quarters in 2019 and experienced a 25% or greater reduction in annual receipts in 2020 compared to 2019, the borrower may submit copies of income tax returns for both years to support the 25% or more decline

Expenses Eligible for PPP Loan Forgiveness










**of payroll
expenses**

**This now includes group insurance payments*



**of nonpayroll
expenses**

Includes the following covered expenses:

-  Mortgage obligation
-  Rent obligation
-  Utility payment
-  Operations expenditures
-  Property damage costs
-  Supplier costs
-  Worker protection expenditures

FTE and Wage Reduction



- Under the CARES Act, the amount of forgiveness for a PPP loan is subject to reduction if the recipient of that PPP loan reduces the average number of full-time equivalent employees (FTEs) during the covered period
- The amount of forgiveness for a PPP loan is also subject to reduction if the recipient of that PPP loan reduces the wages or salaries of certain employees by more than 25%
- The Act clarifies that the deadline for restoring with respect to a PPP loan made on or after December 27, 2020 is the last day of the covered period for that PPP loan.

Revenue Definition

Gross receipts, for this purpose, includes all revenue in whatever form received or accrued (in accordance with the entity's accounting method) from whatever source, including from the sales of products or services, interest, dividends, rents, royalties, fees, or commissions, reduced by returns and allowances.

Generally, receipts are considered "total income" (or in the case of a sole proprietorship, independent contractor, or self-employed individual "gross income") plus "cost of goods sold," and excludes net capital gains or losses as these terms are defined and reported on Internal Revenue Service (IRS) tax return forms.

****Revenue excludes PPP forgiveness***



Audits and Documentation

- Form 3509 (for profit) and 3510 (nonprofit) - Loan Necessity Questionnaire
- Documentation
- **Audits:**
 - The new legislation directs the SBA to provide to Congress audit plans detailing (1) the policies and procedures of the SBA for conducting forgiveness reviews and audits of PPP loans and (2) the metrics that the SBA will use to determine which PPP loans will be audited
 - The SBA will then have to submit monthly reports on its forgiveness review activities, including the number of active reviews and audits, the number of reviews and audits that have been ongoing for more than 60 days, and any substantial changes made to the audit plan the SBA previously submitted to Congress
 - The SBA has 45 days to submit these audit plans, meaning the audit plans may be submitted by the Biden administration



Google [sba.gov](https://www.sba.gov) PPP



Paycheck Protection Program First Draft Borrower Application Form



Paycheck Protection Program Second Draw Borrower Application Form

*Business Loan Program Temporary Changes,
Paycheck Protection Program Second-Draw
Loans, and Paycheck Protection Program as
Amended Interim Final Rules*

When can you apply?

Tax Deductibility



PPP expenses are now deductible for federal income tax purposes



Loan forgiveness is exempt from taxation

Simplified Forgiveness

Borrowers with covered loans up to \$150,000 will have a new one-page forgiveness form to complete

It includes:

- A description of the number of employees the borrower was able to retain as a result of the loan
- The estimated total amount of the loan spent on payroll costs
- The total loan amount

Employee Retention Credit – What Changed?

- Businesses that received a PPP loan in round one, or will seek a PPP loan in round two, are ***now eligible*** to take the Employee Retention Credit
 - *The two programs were previously mutually exclusive*
- PPP recipients can now file amended returns to claim the ERC for 2020 and/or claim ERC in 2021
 - *Cannot use the same wages used to obtain forgiveness*
- Significant enhancements to the ERC for 2021, easier to qualify and now worth up to \$19,000 per employee



Overview of the ERC

- **Refundable Federal payroll tax credit**
- **Designed to encourage businesses to retain their full-time employees through the COVID-19 pandemic**
- **Claimed by companies on their quarterly Form 941, Employer's Quarterly Federal Tax Return**
- **The number of employees a company has does not affect whether a company may claim the credit**

2020

- Equal to **50%** of up to \$10,000 of qualified wages
- Employers can receive up to \$5,000 per full-time employee for 2020
- For qualified wages paid between March 12, 2020 and December 31, 2020

2021

- Equal to **70%** of up to \$10,000 of qualified wages for each the 1st and 2nd quarters of 2021
- Employers can receive up to \$7,000 per full-time employee per quarter
- For qualified wages paid between January 1, 2021 and July 1, 2021

Who is an Eligible Employer?

Any private-sector businesses and tax-exempt organizations that carry on a trade or business that meets any of the following:

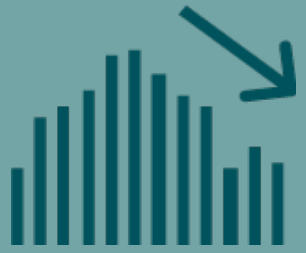
- A business that was ***fully or partially suspended*** due to orders from the Federal or state government limiting commerce, travel, or group meetings due to COVID-19, ***or***
- A business that experienced ***a significant decline in gross receipts*** during any quarter

2020

Gross receipts declined by at least **50%** of what they were for the same calendar quarter in 2019

2021

Gross receipts declined by at least **20%** of what they were for the same calendar quarter in 2019



Significant Decline in Gross Receipts

- Begins with first quarter in 2020, in which gross receipts were 50% for same quarter of 2019
- Ends with quarter following the quarter, in which gross receipts were more than 80% of the gross receipts for same quarter of 2019
- If qualified you get at least two quarters
- Required decline changes from 50% to 20% in 2021 still compared to 2019
- New: election to use immediately preceding quarter (i.e. Q4 2020 compared to Q4 2019 to qualify in Q1 2021 at 20%)

Fully or Partially Suspended?

Facts and Circumstances



A business is deemed to be fully or partially suspended if an appropriate governmental authority imposes restrictions on the business's operations so that:

- The business is forced to cease all operations; or
 - The business can still continue to operate with some, but not all of its normal operations
-
- **More than a "Nominal Portion" of its business operations are suspended by a governmental order**
 - **Impact on suppliers to an Essential Business**
 - **Impact on customers of an Essential Business**
 - **IRS.gov – FAQs on ERC**

An Order from an Appropriate Government Authority



Orders, proclamations, or decrees from the Federal government, or a State or local government ***limiting commerce, travel, or group meetings due to COVID-19***

Government Orders Include:

- An order from the city's mayor stating that all non-essential businesses must close for a specific period
- An emergency proclamation that residents must shelter in place except for employees of essential businesses
- An order imposing a curfew on residents that impacts the operating hours of a trade or business
- An order mandating a workplace closure for cleaning and disinfecting

Calculate The Credit Based on Qualifying Wages



Qualified Wages are different depending upon whether your company has:

2020

- **More than 100 full-time employees:** the credit is available only for compensation paid to employees who are "not providing services"
- **Fewer than 100 full-time employees:** any compensation paid during the period when the operations were affected is eligible for the credit, whether the employees were providing services or not
- For compensation provided to an employee after March 12, 2020 and before January 1, 2021

2021

- **More than 500 full-time employees:** the credit is available only for compensation paid to employees who are "not providing services"
- **Fewer than 500 full-time employees:** any compensation paid during the period when the operations were affected is eligible for the credit, whether the employees were providing services or not
- For compensation provided to an employee after December 31, 2020 and before July 1, 2021

Calculate The Credit Based on Qualifying Wages



- **Qualified Wages** may include the employee's and the employer's qualified health plan expenses that are properly allocable to the wages
- **A company may not double benefit from claiming credits based on the same wages for purposes of the ERC and:**
 - PPP - Wages counted towards forgiveness – use non payroll costs for PPP
 - Wages used in calculating **paid sick and family leave credits** under the Families First Coronavirus Response Act (FFCRA) may not be considered Qualified Wages for the ERC
 - **Work Opportunity Tax Credit (WOTC)**, Others

How to Claim the ERC



- **Reduce a quarter's required payroll tax deposits on Form 941**
- **The ERC is applied against the 6.2% employer's share of Social Security taxes due on all wages paid to all employees for the quarter**
- **If an ERC is more than that amount, the ERC may offset against the rest of the payroll tax liabilities on Form 941 for the quarter**
- **If the ERC exceeds all those payroll tax liabilities, the company may receive a refund or advance – Form 7200**
- **If a company has already filed its Form 941 for that quarter without claiming an ERC, the company may:**
 - File a Form 941-X, Adjusted Employer's Quarterly Federal Tax Return
 - Claim for refund for the quarter in question to claim the credit

ERC Recap 2020 and 2021

Potential Tax Credit of \$19,000 per employee:



	2020	2021
Percentage of Revenue Decline (if not impacted by government order)	50%	20%
Credit Amount per Employee	Up to \$5,000 (for wages paid from March-December 2020)	Up to \$7,000 per quarter (Q1 & Q2 2021)
Wage/ Credit Caps Applied	Annually	Quarterly
Potential Benefit per Employee	Up to \$5,000	Up to \$14,000

Other Tax Credits and Stimulus Provisions

Updates to the Families First Coronavirus Response Act (FFCRA)

March 18th

President Trump signs the **Families First Coronavirus Response Act** into law, requiring certain employers to provide employees with paid sick leave of expanded family and medical leave for specified reasons related to COVID-19.

Tax Credits for Paid Family Leave (PFL) and Paid Sick Leave (PSL)

Non-governmental employers <500 employees

- Credit is equal to >100 percent of the qualified sick and family leave wages that were paid
- The credit is *increased* by certain health expenses, such as employer-paid health plan premiums
 - Plus 1.45% (Employer Medicare Tax)

Applies to federal employment taxes

- Typically due within a few days of payroll
- Funds needed to pay sick and family leave payments are able to be provided
- An employer is able to request advance payment of the credit from the IRS

Maximum Credit Amounts Under the FFCRA

Under CAA 2021...

Paid sick and paid family leave instructions are **NOT** extended

Employer-provided PSL and PFL credits are now available through March 31, 2021

Credits are subject to the limits listed out in the original FFCRA

Emergency FMLA Expansion (EFML)

- Full-time employees are entitled up to 12 weeks of leave between April 1-December 31, 2020
 - First 2 weeks may be unpaid
- Remaining 10 weeks are paid at 2/3 employee's regular rate of pay based on hours of work scheduled
- Capped at \$200 daily and \$10,000 in aggregate
- Part-time employees receive a pro-rated amount

Emergency Paid Sick Leave (EPSL)

- Full-time employees (40 hours per week) are entitled to a maximum of 80 hours
 - Part-time employees are entitled to a pro-rated amount
- The total applies per employee, including if an employee changes employers
- *Leave for:*
 - Employee's own health is capped at \$511 daily and \$5,110 in aggregate
 - Care for another is capped at \$200 daily and \$2,000 in aggregate

Individual Recovery Rebate



- \$600 advanced payment credit per taxpayer (*\$1,200 for married filing joint*)
- \$600 advanced payment credit per qualifying child
- Payments phase out at \$75,000 AGI for single taxpayers (*\$150,000 for married filing jointly*)
- Payments fully phased out at \$87,000 AGI for single taxpayers (*\$174,000 for married filing jointly*)

Repayment of Employee Portion of Social Security Taxes



For employees share of Social Security taxes from 9/1/20 to 12/31/20, under CAA 2021, repayment is now extended through December 31, 2021



Employers will still remain liable to collect and pay the entire amount of Social Security taxes deferred



Penalties and interest will begin to accrue starting on January 1, 2022

Resolution of Tax Issues by CAA 2021



Business meals deduction in 2021 is now 100% up from 50%



Reversal of recent guidance which required lenders to issue 1099 forms to borrowers that benefited from this program



Resolves tax treatment of both PPP Forgiveness and Debt Relief payment

Resolution of Tax Issues by CAA 2021



Charitable Contributions Deductions for Itemizers – For 2020 and 2021, the percentage limitations is now 100%



Charitable Contributions Deductions for Non-Itemizers - For 2020 and 2021 non-itemizers can take a \$300 above the line charitable deduction (for 2021 only married filing joint \$600)



Medical Expense deduction - CAA permanently sets threshold at 7.5% of AGI (was set to rise to 10% in 2021)



Exclusion for Certain Employer Payments of Student Loans - This CARES Act item has been extended through 2025



Extends exclusion on discharged mortgage debt up to \$2 million from gross income through 2025



Flexible Spending Accounts - Now taxpayers can roll unspent funds over to the next year through 2022

Closing Comments

***Thank you for participating in
this webinar.***
