

# PPP Loan Update: Changes Under the Consolidated Appropriations Act

## **Presented by:**

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# Today's Speakers



**Jessica Kizmann**  
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# Housekeeping

The content of this webinar is based on the information that is currently available as of January 7, 2021.

## To Ask Any Questions?

Please use the questions pane in the GoToWebinar dashboard on your screen.

We will try to answer as many questions as possible at the end.

## Please Note

This webinar is being recorded and will be uploaded on to [wgcpas.com](http://wgcpas.com).

# Agenda

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Changes to PPP loans

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Simplified Loan Forgiveness  
Process

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Increase in Initial PPP Loans

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PPP Second Draw Loans

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Employee Retention Credit

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# Changes to the Paycheck Protection Program (PPP)

# Selection of the Covered Period

- Covered period begins on the date the loan is originated
- Covered period ends on a date selected by the borrower between:
  - The date 8 weeks after the loan is originated and
  - The date that is 24 weeks after the loan is originated

# Expanded Eligibility

- 501(c)(6) organizations (no more than 300 employees)
- News organizations including individual stations, newspapers and public broadcasting organizations (no more than 500 employees per location)
- Cooperative housing corporations (no more than 300 employees)
- Direct marketing organizations (no more than 300 employees)

# Definition of Seasonal Employer

- Does not operate for more than 7 months in any calendar year or
- During the preceding calendar year, had gross receipts for any 6 months of that year that were not more than 33.33% of the gross receipts for the other 6 months



# Tax Treatment Regarding PPP Expenses

- Expenses paid for with PPP loan funds are deductible
- No reduction of tax attributes (losses, credits, fixed asset basis, etc.)
- No denial of basis increases
- Applies to initial and second draw PPP loans
- IRS issues Revenue Ruling 2021-2 to make earlier PPP guidance obsolete

***Note:*** EIDL Grants are also now treated as tax-exempt income

# Tax Treatment Regarding PPP Expenses

## Pass-through Entities

- Applies to S corporations and Partnerships
- Confirms loan forgiveness is treated as tax-exempt income
- Increase in basis for owners equal to the amount of forgiveness
- Applies to both initial draw and second draw PPP loans



## Expanded Definition of Eligible PPP Expenses

- Covered worker protection expenditures
- Covered supplier costs
- Covered operating expenditures
- Covered property damage costs

Clarification on payroll costs-includes group life, disability, vision and dental insurance in addition to health insurance

***\*Does not apply to loans already forgiven before the date of enactment of the CAA***

# Covered Worker Protection Expenditures

- Operating or capital expenditure to comply with requirements or guidance issued by governmental agencies
- Applies to costs for standards of sanitation, social distancing or any other worker/customer safety requirement
- Applies to guidance given between March 1, 2020 and ending when the COVID-19 national emergency expires

# Covered Worker Protection Expenditures

## Examples

- Installation of a drive-through window facility
- Air pressure ventilation or filtration system
- Physical barrier such as a sneeze guard
- Expansion of additional indoor, outdoor, or combined business space
- Onsite or offsite health screening capability
- Filtering facepiece respirators
- Personal protective equipment

*Does not include costs relating to residential real property or intangible property*

# Covered Supplier Costs

Expenditure made by an entity to a supplier of goods for items that:

- Are essential to the operations of the entity
- Made pursuant to a contract, order or purchase order that:
  - Was in effect at any time before the covered period or
  - For perishable goods, in effect before or at any time during the covered period

# Covered Operating Expenditures

Payment for any business software or cloud computing service that:

- Facilitates business operations
- Product or service delivery
- Processing, payment or tracking of payroll expenses
- Human resource
- Sales and billing functions
- Accounting or tracking of supplies, inventory, records and expenses

# Covered Property Damage Costs



Cost related to property damage and vandalism or looting due to public disturbances during 2020



Costs only qualify if not covered by insurance



# Additional Certifications

- The applicant has not and will not receive a Shuttered Venue Operator grant from SBA.
- The President, the Vice-President, the head of an Executive department, or a Member of Congress, or the spouse of such person as determined under applicable common law, does not directly or indirectly hold a controlling interest in the Applicant, with such terms having the meanings provided in section 322 of the Economic Aid to Hart-Hit Small Businesses, Nonprofits and Venues Act.
- The Applicant is not an issuer, the securities of which are listed on an exchange registered as a national securities exchange under section 6 of the Securities Exchange Act of 1934.



# PPP Loan Forgiveness

## EIDL Grants

- PPP loan forgiveness is no longer reduced by EIDL grants received
- Any amounts previously deducted from forgiveness will be remitted to the lender along with interest due

# Simplified Loan Forgiveness Process

# Loan Forgiveness

## Simplified Process for Loans up to \$150,000

Form yet to be issued by SBA, but will be one page certification:

- Attest to compliance with PPP spending requirements and headcount
- Show number of employees retained during covered period
- Amount of loan proceeds spent on payroll costs (should be 60% or more)
- Original loan amount

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**One-page simplified certification on form yet to be released by SBA (expected to be similar to 3508EZ now in effect for loans <\$50,000)**

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# Simplified Loan Forgiveness Application

## Compliance Requirements

### Compliance

- Even if completing simplified form, should go through calculations to make sure you have met all requirements (headcount, 60% payroll)
- Keep documentation of payroll for 4 years
- Keep other records for 3 years

# Increase in Initial PPP Loans

# Increase in Initial Loan Amount

- Applies to loans which have not received forgiveness as of the date of enactment of the CAA
- Borrowers may re-apply for additional funds if:
  - Borrower received and returned a PPP loan
  - Borrower only accepted a portion of the initial PPP loan
  - Borrower would have been entitled to a larger loan as a result of SBA Interim Final Rules published after the date of the initial PPP loan
- SBA has 17 days to publish guidance
- Request must be submitted by March 31, 2021

# Paycheck Protection Program Second Draw Loan (PPPSD)



# The Act creates an Opportunity for a Second Draw PPP Loan for Smaller and Harder Hit Business

## Eligibility

- No more than 300 employees- subject to affiliation rules
- Hospitality and Restaurants (NAICS Code 72)- exceptions to affiliation rules apply
- Must have used **or will use** the full amount of their initial PPP loan by the time the second draw loan is funded
- Must have at least a 25% reduction and gross receipts in the first, second, third, or fourth quarter of 2020 relative to the same quarter as 2019

# The Act creates an Opportunity for a Second Draw PPP Loan for Smaller and Harder Hit Business

## Eligibility

- Eligible entities defined- any business concern, nonprofit organization, housing cooperative, veteran's organization, Tribal business concern, eligible self-employed individual, sole proprietor, independent contractor or small agriculture cooperative
- Entities who received a grant under section 24 (shuttered venue operator grant) are **NOT** eligible for a PPP2 loan
- Other Rules
  - Prohibits use of loan proceeds for lobbying activities
  - Only one second draw of funds allowed



# Maximum Loan Amount

- Is the lesser of  $2.5 \times$  average monthly payroll costs or \$2 million
- Average monthly payroll costs are calculated using either calendar 2019, 2020 or the 12-month period before the date on which the loan is made

# Maximum Loan Amount for Hospitality and Restaurants

(NAICS Code 72)

- Is the lesser of  $3.5 \times$  average monthly payroll costs or \$2 million
- Average monthly payroll costs are calculated using either calendar 2019, 2020 or the 12-month period before the date on which the loan is made

# PPP2 Anticipated Timing

- SBA issued guidance last night to establish regulations
- SBA to issue SBA form 2483-SD
- Lenders ready TDB

# Save Our Stages Act

- Eligible recipient must have been in operation on February 29, 2020 and have suffered at least a 25% decline in earned revenue during a calendar quarter in 2020 relative to the same calendar quarter in 2019
- Eligible recipient must plan to resume its business when it is able to do so
- Eligible recipient will be required to submit a good faith certification
- Eligible recipients applying for a grant will be required to submit a good faith certification that the uncertainty of current economic conditions makes the grant necessary to support the ongoing operations of the eligible recipient.
- The amount of the grant will be the lesser of 45% of gross revenue of the eligible recipient during 2019 or 10 million dollars

# Employee Retention Credit (ERC)

# Cares Act

## Eligibility

- A company that received a Paycheck Protection Program (PPP) loan was ineligible to claim the employee retention credit
- This disallowance rule extended to all affiliated companies that shared common ownership, so that if one company received a PPP loan, any other company with more than 50% common ownership was ineligible to claim the credit
- Qualified wages paid after March 12, 2020, and before January 1, 2021
- Businesses with operations that were either
  1. Fully or partially suspended by a COVID-19 governmental order and only during the period the order is in force; or
  2. Gross receipts were less than 50% of gross receipts for the same quarter in 2019 until such quarter as gross receipts are 80% of same quarter in 2019.



# Cares Act

## Eligibility

- The credit was 50% of the qualified wages paid to an employee, plus the cost to continue providing health benefits to the employee
- Annual cap of \$5,000 per employee (\$10,000 in qualified wages x 50%)
- A company with more than 100 employees could not take the credit for wages paid to an employee performing services for the employer (either teleworking, or working at the workplace, even though at reduced capacity due to reduction in business)
- A company with 100 or fewer employees was eligible for the credit, even if the employee was working.

# Consolidated Appropriations Act, 2021

- A company that received or receives a PPP loan is no longer prohibited from claiming the employee retention tax credit
- The credit, however, may not be claimed for wages paid with the proceeds of a PPP loan that have been forgiven
- Qualified wages paid after March 12, 2020, and before July 1, 2021 (now available in the first two quarters of 2021)
- Beginning January 1, 2021, the credit will be available to businesses with operations that are either
  1. Fully or partially suspended by a COVID-19 governmental order and only during the period the order is in force; or
  2. Gross receipts are less than 80% of gross receipts for the same quarter in 2019

# Consolidated Appropriations Act, 2021

## Continued

- Beginning January 1, 2021, the credit is 70% of qualified wages, plus the cost to continue providing health benefits to the employee
- Beginning January 1, 2021, the cap is increased to \$7,000 per employee for each of the first two quarters of 2021 (\$10,000 in qualified wages x 70%) for a possible \$14,000 credit per employee
- The 2021 credit is available even if the employer received the \$5,000 maximum credit for wages paid to such employee in 2020
- Beginning January 1, 2021, the employee threshold increases to **500**

# Consolidated Appropriations Act, 2021

## Continued

- An employer with 500 or fewer employees will be eligible for the credit, even if employees are working
- When calculating the 500-employee threshold, the employees of all affiliated companies sharing more the 50% common ownership are aggregated
- An employer's tax deductions will be reduced by the amount of the credit

# Thank You!

Want to learn more?



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