



CPAS & ADVISORS

An Update on PPP Rounds 1 and 2, plus PPP Forgiveness

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Presented by Annette Benson
CPA, CFE and Partner

Handout available at:

<https://bit.ly/36e5C20>

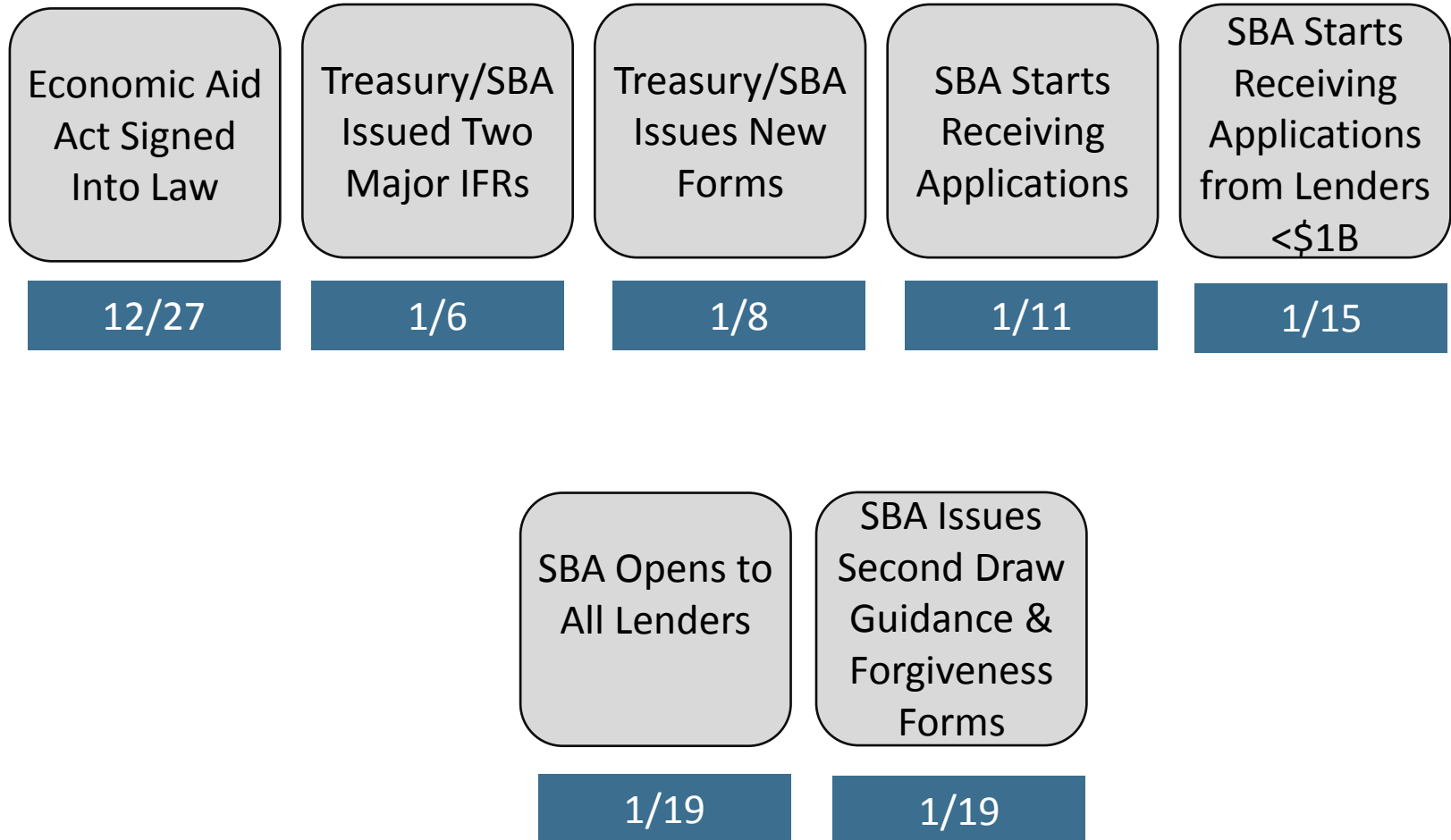
*Subject to further updates/guidelines from
SBA/Treasury

*Consult your CPA for your particular situation

Agenda/Topics

- First draw loan (Round 1)
- Modified first draw loan
- Second draw loan (Round 2)
- New eligible costs for payroll and non-payroll costs
- Excess loan amount errors
- Simplified forgiveness
- Miscellaneous tips/considerations

\$900 Billion Stimulus Act Timeline*



*The Consolidated Appropriations Act, 2021 contains the Economic Aid Act, which includes the PPP provisions. We'll refer to this as Economic Aid Act.

Data on New PPP Applications

- \$284.5 billion was appropriated for PPP.
- SBA announced that it approved approx. 60,000 loan applications submitted by nearly 3,000 lenders, for over \$5 billion
 - Program's re-opening on Monday, Jan. 11 at 9 a.m. ET through to Sunday, Jan. 17

Reflection on complexity behind PPP



Documents Driving PPP Rules & Criteria

- CARES ACT (included PPP) – over 300 pages
- Paycheck Flexibility Act
- 24 Interim Final Rules issued by Treasury over 100 pages
- 77 SBA FAQs – over 25 pages
- **AND now \$900 Billion Stimulus Act – PPP2**
 - 500 pages in Act + 200 pages in new IFRs



So many components to take into account...

- Eligibility criteria – PPP2 more complex
- Loan amount rules
- Application Process
- Allowable use of PPP funds
- Forgiveness Process and Criteria
- Documentation requirements

What's the latest?

- No FEDERAL tax consequences
- Simplified forgiveness form
- Added payroll costs
- Added non-payroll costs
- EIDL advances/grants no longer reduce PPP forgiveness
- SBA has revamped their website to be more user friendly
[SBA.gov/PPP](https://www.sba.gov/ppp)
- SBA application forms contain better and updated information

First draw loan (Round 1): Receiving in 2021

Eligibility

- Did not receive a first draw PPP loan in 2020
- Were in operation on February 15, 2020
- Any business, 501(c)(3) non-profit organization (including faith-based organizations), 501(c)(19) veterans' organization, or Tribal business concern (sec. 31(b)(2)(C) of the Small Business Act) with:
 - No more than 500 employees, or
 - Meets either the SBA industry or alternative size standard
 - The SBA has indicated in their FAQ #36 that all employees, whether full-time, part-time or other basis are included in determining eligibility.
- Sole proprietors, independent contractors, and self-employed persons, S corporations, C corporations, LLCs, partnerships (Partners can not apply individually)
- Any business with a NAICS Code that begins with 72 (Accommodations and Food Services) that has more than one physical location and employs less than 500 per location

First draw loan (Round 1): Receiving in 2021

Eligibility

Additionally, new categories of borrowers have been added via the Act:

- **501(c)(6) nonprofits (such as Chambers of Commerce)** with 300 or fewer employees (subject to lobbying threshold: 15% of receipts, 15% of activities, \$1M lobbying costs)
 - Professional sports leagues and organizations with the purpose of promoting or participating in a political campaign or other activity are not eligible.
- Destination marketing organizations with 300 or fewer employees (subject to lobbying threshold: 15% of receipts, 15% of activities, \$1M lobbying costs)
- Local newspapers, TV and radio stations (NAICS code beginning with 511110 or 5151) that make a good faith certification that PPP will be used to support expenses at the component of the organization that produces or distributes locally focused or emergency information
- Housing cooperatives with 300 or fewer employees

First Draw Loans - Calculations

Amount of loan for first draw borrowers

First draw loans for **borrowers with employees** are calculated as **2.5 times** average monthly payroll costs, up to **\$10 million**.

- Average monthly payroll costs can be based on calendar **2019**, calendar **2020** or the **12-month period prior to loan application**.
 - Average monthly payroll is adjusted for items such as compensation paid to an employee in excess of \$100,000 on an annualized basis, compensation to non-US residents, and other adjustments.
 - Payroll includes gross wages and tips; employer contributions to employee group health, life, disability, vision and dental insurance; retirement contributions; and state and local taxes assessed on employee compensation (i.e. SUTA).

First Draw Loans - Calculations

- For **seasonal employers** the loan amount is based on **2.5 times** the average monthly payroll costs for any 12-week period between Feb. 15, 2019 and Feb. 15, 2020.
 - A seasonal employer (1) operates for no more than seven months in a year, or (2) earned no more than 1/3 of its receipts in any six months in the prior calendar year.
- **Entities that did not exist for the full one-year period before Feb. 15, 2020**, should calculate the maximum loan amount based on **2.5 times** payroll cost paid or incurred as of the date of the application divided by the number of months costs were paid or incurred.
- **Partners in a Partnership** (line 14a from Form k-1, less 179 deduction) x .9235. (capped at \$100,000) + employee costs /12 x 2.5

First Draw Loans - Calculations

- **Schedule C filers:** same as before line 31 of 2019 or 2020 Schedule C (capped at \$100,000) plus employee payroll costs/12 x 2.5
- **Schedule F filers:** similar to Schedule C, but are allowed to use 2019 or 2020 line 9 gross income (capped at \$100,000) 12 x 2.5
Employee payroll costs, if any, are deducted from the gross income to avoid duplication.

Modified First Draw Loans

Eligibility

Borrower received loan prior to December 27, 2020 and new guidance changes result in increased original loan amount (i.e. seasonal employers, farmers and partners in partnership missed first time)

Also Eligible

- Borrower returns all of original loan; can reapply under current rules
- Borrower returned portion of loan, can reapply for the difference
- Borrower accepted a reduced amount; can reapply for full amount eligible for
- Borrowers can reapply or request an increase in their first draw PPP loan amount **if forgiveness has not been obtained.**

Second Draw Loans

Eligibility

Entities may be eligible if they were **in operation on February 15, 2020 and received a first draw previously:**

- **300 employees or less** (First draw loans are available for borrowers with 500 or fewer employees)
 - This is based on headcount and includes all full- or part-time employees.
 - Guidance has not been provided as to what timeframe is to be used in calculating the headcount,
and
- **25% reduction in gross revenue** between comparable quarters in 2019 and 2020 (This is not a requirement of first draw loans)

Second Draw Loans

Eligibility (Cont'd.)

- Has used or will use all first draw PPP funds (including the amount of any increase of a first draw) on eligible expenses on or before expected date of the second draw loan disbursement

The SBA will require lenders to delay funding the second draw until the borrower has **fully used all of the first draw funds**. For the second draw application, the borrower will be required to attest that they have used or will use the full amount of the first draw funds on **eligible** expenses.

A second draw may be approved but for it to actually be received, the borrower will need to certify that the first draw funds have, in fact, been used.

It is **not a requirement that forgiveness** of the first draw loan has been applied for or been received. However, some lenders are requiring that the application for forgiveness for the first draw has been submitted.

Second Draw Loans

Eligibility (Cont'd.)

- For businesses with NAICS code 72 (such as hotels and restaurants), business must have 300 or less employees per physical location.
- The same affiliation rules apply as with the first draw. See Second Draw IFR for information on calculating gross receipts of affiliates and how to address situations in which an affiliate has been acquired during 2020.

Entities ineligible to receive a first draw are also ineligible to receive second draw.

Second Draw Loans

Amount of Loan

Second draw loans for borrowers with employees are calculated as **2.5 times** average monthly payroll costs, up to **\$2 million**. Borrowers with a NAICS code that begins with 72 (such as hotels and restaurants) are eligible for loans up to **3.5 times** average monthly payroll costs.

- Borrower can choose to calculate average monthly payroll based on **2019, 2020 or the 12-month period** prior to when the loan is made.
 1. Average monthly payroll is adjusted for items such as compensation paid to an employee in excess of \$100,000 on an annualized basis, compensation to non- US residents, and other adjustments.
 2. Payroll includes gross wages and tips; employer contributions to employee group health, life, disability, vision and dental insurance; retirement contributions; and state and local taxes assessed on employee compensation
- For **seasonal employers** the average monthly payroll costs are calculated based on any 12- week period between Feb. 15, 2019 and Feb. 15, 2020.
- For **entities that did not exist** for the full one-year period before Feb. 15, 2020, average monthly payroll costs are calculated as payroll cost paid or incurred as of the date of the application divided by the number of months costs were paid or incurred.

New Eligible Costs

Payroll Costs

- Added group insurance for vision, dental, disability and life

Non-Payroll Costs

- **Covered operations expenditures:** payments for any business software or cloud computing service that facilitates business operations, product or service delivery, the processing, payment, or tracking of payroll expenses, human resources, sales and billing functions, or accounting or tracking of supplies, inventory, records and expenses.
- **Covered property damage costs:** costs related to property damage and vandalism or looting due to public disturbances that occurred during 2020 that was not covered by insurance or other compensation.

New Eligible Costs

Payroll Costs

- **Covered supplier costs:** expenditures made by a borrower to a supplier of goods for the supply of goods that are essential to the operations of the borrower at the time at which the expenditure is made; and are made pursuant to a contract, order, or purchase order
 - in effect at any time before the covered period with respect to the applicable covered loan; or with respect to perishable goods, in effect before or at any time during the covered period with respect to the applicable covered loan.
- **Covered worker protection expenditures:** operating or a capital expenditures to facilitate the adaptation of the business activities of an entity to comply with requirements established or guidance issued by the Department of Health and Human Services, the Centers for Disease Control, or the Occupational Safety and Health Administration, or any equivalent requirements established or guidance issued by a State or local government, during the period beginning on March 1, 2020 and ending the date on which the national emergency with respect to the COVID–19 expires related to the maintenance of standards for sanitation, social distancing, or any other worker or customer safety

Excess Loan Amount Errors

- A borrower **can not receive loan forgiveness** for an amount in **excess** of the correct maximum loan amount permitted.
- Error can be caused by either borrower or lender error that was made in **good faith**.
- **Unforgiven amount becomes a loan** and borrower will be required to begin making repayments.
- Knowing misstatements may result in additional action such as fraud charges

Simplified Forgiveness: Loans of \$150k or Less

- Form 3508S was originally for loans of \$50k or less
- Economic Aid Act required a one-page form for loans of \$150k or less for SBA revised 3508S
- 3508S is for an individual first or second draw loan forgiveness
- Does not require borrowers to show the calculations used to determine their loan forgiveness amount
- If loan is \$50k or less, not subject to FTE reduction or wage reduction adjustments
- When is forgiveness due? 10 months after end of covered period (spending period)
 - Example: April 3, 2020 loan disbursement + 24 weeks (6 months) = October 3, 2020 end of covered period. + 10 months=August 3, 2021 payments would be required if forgiveness has not been applied for.

Simplified Forgiveness: Loans of \$150k or Less

- Borrower certifies it has complied with all requirements including the rules related to:
 - Eligible use of PPP loan proceeds;
 - The amount of PPP loan proceeds that must be used for payroll costs such as 60/40 payroll to non-payroll;
 - The calculation and documentation of the borrower's revenue reduction (for second draw loans); and
 - The calculation of the loan forgiveness amount
 - FTE reductions and wage reductions
 - Owner compensation limits
- Must apply for first draw forgiveness prior to second draw forgiveness

Miscellaneous Tips/Considerations

- Closed businesses cannot apply for PPP
- Make sure to use most current forms/guidance
- Can use 2019 or 2020 information to compute first or second draw PPP loans, whichever is higher
- Remember forgiveness is limited to eligible expenses spent during the covered period: if you know your loan is for more than you will be spending, a loan will remain to repay

Miscellaneous Tips/Considerations

- Be sure to read and understand all of the items being signed off on the application
- There have been technical difficulties for the banks/SBA. The SBA replaced the platform interface from the first round of loans. There have been issues with first draw forgiveness applications in process at the same time as a second draw loan. The American Bankers Association has reported that lenders are receiving a high number of incorrect error message when submitting loan applications to the SBA portal. SBA is working with the banks.

Questions?



Annette Benson, CPA, CFE
Partner
(320) 214-2910
abenson@cdscpa.com

CDS is committed to providing you with timely information, guidance, and updates on legislation enacted as a result of the COVID-19 pandemic. To discuss your individual or business situation or for any questions, please contact your CDS professional or Annette Benson.



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Thank you!

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