

Paycheck Protection Program (PPP)/Federal COVID Relief – Round 2: What You Need to Know

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On Dec. 27, 2020 the Consolidated Appropriations Act of 2021 was signed into law, including a second round of PPP loans, as well as expansion of the forgiveness criteria for existing PPP loans. Congress appropriated \$285 billion to fund these additional PPP loans, with \$35 billion specifically earmarked for first time borrowers. With the passage of the PPP Extension Act, all applicants, whether first time or second draw, may apply for PPP loans **until May 31, 2021** (unless funds are exhausted earlier).

Paycheck Protection Program Loans – Round 2	
Changes to Eligibility and Loan Amount	<ul style="list-style-type: none"> Publicly traded entities are NOT eligible. Hotel businesses (NAICS code 72) now eligible for: <ul style="list-style-type: none"> 3.5x (vs. 2.5x for other industries) average monthly 2019 or 2020 payroll costs, but capped at \$2 million.
First Time PPP Borrowers	<ul style="list-style-type: none"> Hotel business must have no more than 500 employees at a single location. Apply through May 31, 2021. Borrowers receiving a previous PPP not forgiven by Dec. 27, 2020 may re-apply as first time borrowers if they: <ul style="list-style-type: none"> Previously returned some or all of their first draw, OR In certain circumstances, request to modify their first draw if they didn't initially accept the full amount they were eligible for (click here for more information).
PPP Second Draw	<ul style="list-style-type: none"> Hotel business must have no more than 300 employees at a single location. Must be able to demonstrate at least a 25% reduction in gross revenues between any comparable quarter of 2019 and 2020. Apply through May 31, 2021. Borrowers receiving a previous PPP must have exhausted original loan before receipt of second draw. Keep in Mind: Because the eligibility rules have changed, it is possible that a business met the requirements for and received an initial PPP loan, but would not meet the second draw requirements.
Simplified Forgiveness Process for Certain Loans	<ul style="list-style-type: none"> Borrowers with loans <\$150,000 who have yet to receive funds or apply for forgiveness, now only need to provide a 1-page certification to lenders to qualify for forgiveness. <ul style="list-style-type: none"> This certification identifies the amount of the loan, number of employees retained due to the loan, and estimates the loan amount spent on payroll costs. Documentation is not required to be submitted along with the certification, but you should retain such supporting documentation (4 years for employment records and 3 years for all other records).
Increased Flexibility in Forgiveness	<ul style="list-style-type: none"> All borrowers may now elect either an 8 week or 24 week covered period during which the loan proceeds were used. Previously, PPP borrowers also receiving an Economic Injury Disaster Loan advance of \$10,000 had their PPP forgiveness reduced by the advance amount – this reduction has now been eliminated. <ul style="list-style-type: none"> Don't worry if you already had an EIDL advance deducted from PPP forgiveness, as you will be made whole.
Eligible Expenses	<ul style="list-style-type: none"> In addition to mortgage interest, rent, or utility payments, now up to 40% of loan proceeds may be used to cover: <ul style="list-style-type: none"> PPE and costs of complying with COVID-related operational restrictions. Business software needed for operations (e.g., accounting, HR). Property damage from public disturbances in 2020 (not covered by insurance). Pre-existing supplier contracts for items essential to operations.

The Act enhanced the PPP by providing for the following:

- New PPP loans may be obtained by 1st time borrowers.
- Some businesses that have already obtained a PPP loan are permitted to obtain a 2nd PPP loan, called a "second draw".
- For all PPP loans, rules relating to eligibility, allowable expenses and forgiveness have changed – although the impact of these changes may vary for borrowers who have already received forgiveness for a first round PPP.

Keep in Mind:

- Because the eligibility rules have changed, it is possible that a business met the requirements for the initial PPP loan, but would not meet the new requirements.

Additional Provisions of the Act

SBA 7(a) and Microloan Program Updates	<ul style="list-style-type: none"> The Act reinstates the CARES Act provision that the SBA pays principal and interest (“P&I”) on its 7(a), 504 and Microloan programs. Loans existing prior to the CARES Act will receive an additional 3 months of P&I, starting in Feb. 2021, capped at \$9,000/borrower/month. After 3 months, borrowers in industries hardest-hit by the pandemic, including hotels, will receive an additional 5 months of P&I payments (again capped at \$9,000/borrower/month). For new loans approved between Feb. 1 and Sept. 30, 2021, the SBA will cover P&I for 6 months, also subject to the \$9,000/month cap.
Troubled Debt Restructuring	<ul style="list-style-type: none"> Lenders may provide continued forbearance, loan modifications or other forms of borrower relief through Dec. 31, 2021, without having to classify the impacted loans as troubled debt.
ERTC Extension	<ul style="list-style-type: none"> The CARES Act employee retention tax credit (ERTC) has been extended from Jan. 1 through Jun. 30, 2021. Will include an increase from 50% to 70% of qualified wages up to \$10,000 per quarter (up from \$10,000 annually). Will reduce the gross receipts decline required in order to qualify from 50% to 20%. Businesses can now also take advantage of ERTC even if they have received a PPP loan.
Tax Deductibility	<ul style="list-style-type: none"> Expenses paid with forgiven PPP loan proceeds are now tax-deductible giving a tax windfall to borrowers in addition to loan forgiveness.
Additional Resources	<ul style="list-style-type: none"> Please refer to our previous guides on the CARES Act (including more detail on the PPP, EIDL and ERTC) as well as PPP forgiveness. First Time PPP Application Form Second Draw PPP Application Form Forgiveness Application for loans under \$150,000 EZ Forgiveness Application for loans over \$150,000 where: <ul style="list-style-type: none"> Borrower maintained salary and wages during covered period of at least 75% of immediately preceding quarter, AND Borrower maintained same number of FTEs from Jan. 1, 2020 through end of covered period, OR was unable to operate at the same level of business during covered period due to COVID restrictions. Forgiveness Application for all other PPP loans SBA’s Interim Final Rule on the Amendments to PPP via the Act SBA’s Interim Final Rule on Second Draw PPP SBA’s Interim Final Rule on Loan Forgiveness and Review Procedures SBA’s Guidance on Accessing Capital for Minority, Underserved, Veteran, and Women-Owned Businesses

PPP Round 2 Application Checklist:

1. Run a comparative income statement with quarterly comparative results. Businesses demonstrating a 25% or more reduction in gross receipts in any comparable quarter from 2019 to 2020 are eligible to apply.
2. Gather head count numbers for 2019 and 2020 from your payroll provider. Hotel businesses with 500 or fewer employees per each location are eligible to apply.
3. Gather 2019 and 2020 payroll reports from your payroll provider.
4. Gather 2019 and 2020 forms 941, 940 and State Unemployment tax returns.
5. Gather 2020 health benefit bills (health insurance, group life and disability, and vision and dental) from 2019 and 2020.
6. Gather 2019 and 2020 employer retirement plan contributions.
7. Watch for emails from your lender regarding specific application processes and links to bank portals.

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