

New PPP Guidance and Loan Application Forms Available

By Ted R. Batson, Jr., Partner and Tax Counsel

The \$900 billion in COVID-19-related stimulus in the [Consolidated Appropriations Act of 2021](#) (the “Act” or “CAA”) includes an extension of the Paycheck Protection Program (PPP) loan program, with an additional \$284.5 billion and different eligibility requirements. President Trump signed the CAA into law on December 27, 2020. (You can [read our summary of the key provisions here.](#))

The Small Business Administration (SBA) and U.S. Treasury have issued new guidance and application forms. Here are the latest developments for nonprofit organizations, including churches, schools, and private higher education institutions, to be aware of.

PPP Application Timing and Forms

The PPP reopened on January 11, 2021 for select lenders and borrowers. [In a news release](#), the SBA said that “to promote access to capital,” initially only community financial institutions will be able to make first-time PPP loans (PPP First Draw loans) on January 11 and second PPP loans (PPP Second Draw loans) on January 13. The SBA said that the “PPP will open to all participating lenders shortly thereafter.”

The SBA and Treasury also released borrower loan application forms for the reopened PPP:

- [Form 2483 – Paycheck Protection Program Borrower Application Form](#) – Updated from previous versions used with the first PPP program
- [Form 2483-SD – PPP Second Draw Borrower Application Form](#) – A new form for qualified borrowers seeking a PPP Second Draw loan

The forms include instructions. Applications will be accepted through March 31, 2021.

New Guidance Issued

On January 6, the SBA and Treasury issued PPP guidance on the new PPP through two interim final rules:

- [Business Loan Program Temporary Changes; Paycheck Protection Program as Amended by Economic Aid Act Interim Final Rule](#) – Consolidates the previous rules for forgivable PPP loans for first-time borrowers and includes changes resulting from the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (the “Economic Aid Act”)
- [Business Loan Program Temporary Changes; Paycheck Protection Program Second Draw Loans Interim Final Rule](#) – Sets guidelines for PPP loans to organizations that previously received a PPP loan

PPP First Draw Loans

Borrowers can receive up to \$10 million in a PPP First Draw loan, which is unchanged from the original PPP. Under the Economic Aid Act, borrowers who were in operation on February 15, 2020 and fall into one of the following categories are eligible to apply for a PPP First Draw loan:

- Businesses with 500 or fewer employees that are eligible for other SBA 7(a) loans.
- Nonprofit organizations (including churches).
- Independent contractors, sole proprietors, and eligible self-employed individuals.
- Accommodation and food services operations (those with NAICS codes beginning with 72) with fewer than 500 employees per physical location.
- News organizations that are majority-owned or controlled by a North American Industry Classification System (NAICS) code 511110 or 5151 business or a

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nonprofit public broadcasting entity with a trade or business under NAICS 511110 or 5151, that employ no more than 500 employees per location.

- Sec. 501(c)(6) business leagues (e.g., chambers of commerce and visitors' bureaus) and "destination marketing organizations" with no more than 300 employees and that do not receive more than 15% of receipts from lobbying. Lobbying activities must make up no more than 15% of the organization's total activities and not have cost more than \$1 million during the most recent tax year that ended before February 15, 2020.

The interim final rule states that applicants must submit documentation "sufficient to establish eligibility and to demonstrate the qualifying payroll amount, which may include, as applicable, payroll records, payroll tax filings, Form 1099-MISC, Schedule C or F, income and expenses from a sole proprietorship, or bank records."

PPP Second Draw Loans

As we previously reported, borrowers who received a PPP loan during the first round may apply for a PPP Second Draw loan of up to \$2 million if they meet the following criteria, to which the interim final rule added guidance:

- Employ no more than 300 employees;
- Used or will use the full amount of their first PPP loan on or before the expected date the second PPP loan will be disbursed. The interim final rule specifies that the full amount of the first PPP loan must have been spent on eligible expenses;
- Have experienced a year-over-year reduction in gross receipts of not less than 25% when comparing any selected 2020 quarter to the equivalent 2019 quarter. Or, in a provision added in the interim final rule, a borrower in operation for all four quarters of 2019 can submit copies of its annual tax return forms to substantiate a reduction of 25% or more in gross receipts in 2020 compared to 2019;
- Not be otherwise excluded from receiving a Small Business Administration (SBA) loan under other federal law (Chapter 13, section 120.110 of the Code of Federal Regulations (CFR));
- Not be engaged primarily in political or lobbying activities (which includes think tanks);
- Not be owned by an entity formed in the People's Republic of China or Hong Kong and which owns not less than 20% of the economic interest of the otherwise eligible borrower;

- Not have as a member of its board of directors a person who is a resident of the People's Republic of China; and
- Not be a publicly traded company.

The new interim final rule generally defines gross receipts "to include 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." This does not include forgiven PPP First Draw loans.

Maximum PPP Loan Amounts

Generally, the maximum for both a PPP First Draw and Second Draw loan is computed as 2.5 times the average total monthly payment for payroll costs during 2019 or the one-year period before the loan is made, with a cap per employee of \$100,000 annualized.

Applicants must provide:

- Form 941, *Employer's Quarterly Federal Tax Return*, or other tax forms containing similar information
- State quarterly wage unemployment insurance tax reporting forms from each quarter in 2019 or 2020 (whichever was used to calculate the loan amount), as applicable, or equivalent payroll processor records
- Evidence of any retirement and employee group health, life, disability, vision, and dental insurance contributions

Qualifying Expenses

To be eligible for full PPP loan forgiveness, both First Draw and Second Draw PPP borrowers must spend at least 60% of the PPP funds on payroll over a covered period between eight or 24 weeks. [See our previous article](#) for details on the Covered Period and changes to qualifying expenses.

Additional Details for Minority, Underserved, Veteran and Women-Owned Businesses

On January 6, the SBA also issued [Guidance on Accessing Capital for Minority, Underserved, Veteran and Women-Owned Business Concerns](#), which details funds set aside for "new and smaller borrowers, for borrowers in low- and moderate-income communities, and for community and smaller lenders." This includes a commitment to limit PPP applications to loans from community financial institutions for at least the first two days the program is reopened, as discussed above.

As noted in the guidance, the set-asides include:

- \$15 billion across First and Second Draw PPP loans for lending by community financial institutions;
- \$15 billion across First and Second Draw PPP loans for lending by insured depository institutions, credit unions, and farm credit system institutions with consolidated assets of less than \$10 billion;
- \$35 billion for new First Draw PPP borrowers; and
- \$15 billion and \$25 billion for First and Second Draw PPP loans, respectively, for borrowers with a maximum of 10 employees or for loans less than \$250,000 to borrowers in low-or moderate-income neighborhoods. The SBA has determined that at least 25% of each of those set-asides will go to each one of the groups: loans to borrowers with a maximum of 10 employees and loans less than \$250,000 to borrowers in low-or moderate-income neighborhoods.

The additional steps the SBA will take to ensure increased access to PPP loans for these borrowers are outlined [in the guidance](#).

Details Still to Come

As we explained in our previous article, borrowers who receive a PPP loan of \$150,000 or less will be able to obtain forgiveness through a simplified forgiveness process. The SBA must create the simplified application form by January 20, 2021.

We will continue to provide information as it becomes available. Please [contact us online](#) or email us at info@capincrouse.com with any questions.

We also offer a PPP Loan Forgiveness Application Service to assist you with the forgiveness process. [See how you could benefit.](#)

About the Author

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As a certified public accountant and tax counsel, Ted advises exempt organizations of all sizes on a wide range of issues. This includes consulting on tax and employee benefit related matters, representation before state and federal tax authorities, and assistance with firm audit or advisory engagements to formulate advice and counsel on important operating and tax issues. In addition to tax advisory services, Ted leads the firm's tax preparation practice, including IRS Forms 990 and 990-T and related state forms. He also serves as an Advisor-at-Large for Church Law & Tax and as a member of the Missio Nexus Mission Finance and Administration Planning Committee.

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