

What You Need to Know About Second Draw PPP Loans

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- 1/8/2021

Key insights

- Many entities that were eligible to participate in the first round of the PPP, received a PPP loan, and have fully used those proceeds are eligible to apply for a second draw PPP loan.
- Second draw PPP loans include a new revenue reduction requirement affecting eligibility.
- Requesting a re-sizing of your initial PPP loan may result in delays in the receipt of a PPP second draw loan.
- Borrowers whose initial PPP loan forgiveness is under review by the SBA may experience delays in the processing of a PPP second draw application.

On December 27, 2020 the President signed into law the *Economic Aid for Hard-Hit Small Businesses, Nonprofits, and Venues Act (Economic Aid Act)* as part of the *Consolidated Appropriations Act, 2021*. Then, on January 6, 2021, the Small Business Administration (SBA) issued an interim final rule entitled “Paycheck Protection Program Second Draw Loans.”

Who is eligible to apply for the second draw?

Generally, entities that were eligible to participate in the first round of the PPP, received a PPP loan, and have fully used those proceeds (on eligible expenses) are eligible to apply for a second draw loan.

However, certain new eligibility requirements were implemented by the *Economic Aid Act* related to foreign ownership, lobbying activities, and publicly-held business. Therefore, verify your continued eligibility before considering participation in the second draw program.

What are the eligibility requirements?

Eligibility is generally limited to entities which employ 300 or fewer (note: restaurants, hospitality businesses, and news broadcast businesses with multiple locations may be eligible to apply the limit for each physical location) and have experienced a revenue reduction of 25% or more in 2020 in relation to the comparable 2019 quarter. Borrowers

must have been an operating business on February 15, 2020 and must not be a publicly traded company.

Special considerations for PPP loans up to \$150,000

For loan requests up to \$150,000, an eligible entity may submit a simplified certification attesting that the entity meets this requirement.

How is revenue reduction calculated?

The 25% reduction in revenue is calculated as follows, based on whether the entity was in business for all or part of 2019:

- **If in business during all of 2019:** gross receipts during the first, second, third, or fourth quarter in 2020 that demonstrate not less than a 25% reduction from the gross receipts of the entity during the same quarter in 2019.
- **If not in business during the first or second quarter of 2019:** gross receipts during the first, second, third, or fourth quarter in 2020 that demonstrate not less than a 25% reduction from the gross receipts of the entity during the third or fourth quarter of 2019.
- **If not in business during the first, second, or third quarter of 2019:** gross receipts during the first, second, third, or fourth quarter in 2020 that demonstrate not less than a 25% reduction from the gross receipts of the entity during the fourth quarter of 2019.
- **If not in business during 2019, but in operation as of February 15, 2020:** gross receipts during the second, third, or fourth quarter in 2020 that demonstrate not less than a 25% reduction from the gross receipts of the entity during the first quarter of 2020.

If you were in operation for all four quarters of 2019 and meet the 25% reduction in 2020 compared to 2019 using the entire calendar year, adequate documentation could be substantiated using your annual tax forms. This could be useful if you do not have quarterly information available.

If you use this gross receipts and simplified certification of revenue test, you are required to provide adequate documentation on or before the date you submit your forgiveness application showing that your entity met the revenue loss standard.

How are the loans sized?

For most entities, loan size will be determined by the average monthly payroll for either 2019 or 2020, multiplied by 2.5, with a maximum loan size of \$2 million. Organizations with a NAICS 72 code (restaurants and hospitality businesses) will be eligible for 3.5 times their average monthly payroll, subject to the same maximum loan size of \$2 million.

The new PPP provisions also prospectively expand the eligible loan amount for many farmers and ranchers operating as sole proprietorships, independent contractors, or self-

employed individuals. Under the revised rules, the maximum loan amount will be equal to 2019 gross income (rather than net income) up to \$100,000 divided by 12 and multiplied by 2.5, subject to a maximum loan size of \$2 million.

Borrowers be aware ...

The rules published by the SBA include the following important considerations:

- The requirement to have spent the full amount of the first PPP loan includes the amount of any increase on the initial PPP loan a borrower may request as a result of provisions in the *Economic Aid Act*. Therefore, requesting a re-sizing of your initial PPP loan may result in delays in the receipt of a PPP second draw loan.
- Borrowers whose initial PPP loan forgiveness is under review by the SBA may experience delays in the processing of a PPP second draw application.