

# PPP2 & FFCRA OVERVIEW

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# TODAY'S PRESENTERS



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# AGENDA

1. PPP2 Overview
2. Certifications
3. Eligibility
4. PPP2 Loan Calculations
5. Covered Expenses and Forgiveness
6. PPP Tax Deductibility
7. Employee Retention Credit
8. FFCRA
9. Next Steps



# PPP2 OVERVIEW

- ▶ *Title III – Continuing the Paycheck Protection Program and Other Small Business Support* (Section 301-348) of the Relief Act passed on December 21, 2020 – “Economic Aid Act”
- ▶ ~ \$285 billion available +
- ▶ Check with lender on timing of application availability (already open – be prepared!)
- ▶ Planned to close March 31, 2021
- ▶ Interim Final Rule (IFR) -Business Loan Program Temporary Changes; Paycheck Protection Program as Amended by Economic Aid Act.
- ▶ IFR – Business Loan Program Temporary Changes; Paycheck Protection Program Second Draw Loans
- ▶ Form 2483 – Paycheck Protection Program Borrower Application Form
- ▶ Form 2483-SD – PPP Second Draw Borrower Application Form.
- ▶ These forms are all available at [www.sba.gov](https://www.sba.gov)

# CERTIFICATIONS

- ▶ New PPP Applications (2483/2483-SD) still require numerous certifications (similar to PPP1) to be made **at the time of the application (today)**, including the following:
  - (Both)Current economic uncertainty makes this loan request **necessary** to support the ongoing operations of the Applicant. (This provision was given limited safe-harbor for loans under \$2.0mm in FAQ 46 from May 2020)
  - (2483-SD)The Applicant has realized a reduction in gross receipts in excess of 25% relative to the relevant comparison time period. For loans greater than \$150,000, Applicant has provided documentation to the lender substantiating the decline in gross receipts. For loans of \$150,000 or less, Applicant will provide documentation substantiating the decline in gross receipts upon or before seeking loan forgiveness for the Second Draw Paycheck Protection Program Loan or upon SBA request.
  - (Both)**The funds will be used to retain workers and maintain payroll; or make payments for mortgage interest, rent, utilities, covered operations expenditures, covered property damage costs, covered supplier costs, and covered worker protection expenditures** as specified under the Paycheck Protection Program Rules; I understand that if the funds are knowingly used for unauthorized purposes, the federal government may hold me legally liable, such as for charges of fraud.



# CERTIFICATIONS - CONSIDERATIONS

- ▶ Careful consideration should be given - similar to Round 1 – document and analyze based on current (today) business situation. From previous FAQ's
  - “Specifically, before submitting a PPP application, all borrowers should review carefully the required certification that “[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.” Borrowers must make this certification in good faith, taking into account **their current business activity and their ability to access other sources of liquidity sufficient to support their ongoing operations** in a manner that is not significantly detrimental to the business.”
  - A limited safe harbor for this certification only for loans less than \$2.0mm was established via FAQ 46
- ▶ Review Forms 3509/3510 – Loan Necessity Questionnaire
  - Business Activity Assessment- revenue info, new capital expenditures, etc.
  - Liquidity Assessment – cash balance(at prior quarter end), dividend or capital distributions, repayment of debt early, employee comp, etc.
- ▶ We expect updated FAQ's from SBA to help clarify some of the open questions:
  - What if cumulative amount exceeds \$2m, would borrower be subject to forms 3509/10?
  - Covered period for PPP2 will extend 8 or 24 weeks into 2021 from the date of disbursement – what has changed with the business/outlook since round 1?

# ELIGIBILITY - PPP2 – FIRST TIME BORROWERS

## ▶ Apply using *SBA Form 2483*

- Businesses with 500 or fewer employees.
- Sole proprietors, independent contractors, self-employed.
- Businesses with NAICS code starting with 72 (food and hotel services, etc.) that have 500 or fewer employees per location.
- Non-profits, including churches.
- Includes some newly eligible entities, including 501(c)(6) and destination marketing organizations, certain news organizations, and housing cooperatives. These may be subject to certain limitations, so check specific guidance for your entity type.
- Remember certifications are done as of the application date.

# ELIGIBILITY -PPP2 – SECOND DRAW LOANS

- ▶ Apply using *SBA Form 2483 – SD*
- ▶ In addition to the other eligibility (PPP Round 1) and certification requirements, in order to get a second draw loan, you must meet the following criteria:
  - ✓ Business in operation as of February 15, 2020
  - ✓ 300 or fewer employees
    - ✓ Headcount, similar to prior SBA guidance and not FTEs
    - ✓ Affiliation rules still in place and require looking across all affiliates for the 300-employee test, unless multi-location business (restaurant, gym ,hotel, etc.) where is it based on location – similar to PPP1
  - ✓ Have used or will use the full amount of the first PPP loan on or before the expected date of PPP2 being disbursed, and in accordance with original provisions of PPP
    - ✓ Borrowers **are eligible** for second loans even if they have NOT yet received forgiveness on their first loan, however, if your loan is “under review or being challenged” by SBA you are not eligible until it is resolved with SBA. The SBA will notify the lender and not assign a new loan number if this is the case.



# ELIGIBILITY - PPP2 – SECOND DRAW LOANS – CONT.

- ▶ The IFR states, "the borrower must have experienced a revenue reduction of 25% or greater in 2020 relative to 2019."
- ▶ Further explains this can be demonstrated by a 25% gross receipts decline in any 2020 (**calendar?**) quarter compared to the same quarter in 2019, **or** if in operation for all of 2019, can show a reduction in annual gross receipts of 25% or greater when compared to 2020 (tax returns).
- ▶ **SBA definition** – gross receipts means all revenue in whatever form received or accrued from whatever source, including from the sales of products or services, interest, dividends, rents, royalties, fees, or commissions, reduced by returns and allowances.
- ▶ **Eligible nonprofit organizations** - gross receipts means gross receipts within the meaning of section 6033 of the Internal Revenue Code of 1986.
  - Forgiven EIDL grants and PPP loan are NOT included in gross receipts
- ▶ Certifications and eligibility requirements appear to be separate but equally important, from what we have seen and read being eligible **does not necessarily** mean you can make certifications **both are needed**, prepare support now when preparing application.

# INELIGIBLE BUSINESSES

- ▶ Lobbying organizations and think tanks
- ▶ Publicly-traded companies
- ▶ Companies owned by or created under laws or board member from China or Hong Kong
- ▶ Organizations that received Shuttered Venue Operator Grants
- ▶ Includes some others as well entire list is in IFR

# PPP2 LOAN CALCULATIONS

- ▶ Very similar to first round – likely to be able to use same info and support
  - 2.5 times average monthly payroll costs
  - Can use 12 months prior to application OR 2019 payroll
  - Seasonal employers – can use any 12-week period 2/15/19 through 2/15/2020
- ▶ Maximum loan amount is \$2 mm (was \$10 mm in round 1)
- ▶ Businesses with NAICS code starting with 72 can borrow 3.5 times average monthly payroll costs (restaurants, hotels, etc.)
- ▶ Schedule F farmers and ranchers can use gross income instead of net income to calculate owner compensation replacement

# COVERED EXPENSES IN NEW COVERED PERIOD

## ▶ No change from PPP1

- Gross payroll (excludes wages paid under FFCRA and wages in excess of \$100,000 annualized)
- Employer portion of health insurance and retirement
- State and local unemployment taxes (SUTA)
- Rent and mortgage interest on real and personal property
- Utilities

## ▶ Additional costs now eligible

- Group life and disability insurance
- Worker protection – PPE and costs to comply with COVID-19 health and safety guidelines
- Supplier costs – essential expenses to the borrower's current operations (COGS)
- Property damage costs – costs related to 2020 public disturbances not covered by insurance or other compensation

# FORGIVENESS ELIGIBILITY ROUND 2

- ▶ Expect a new forgiveness form to be issued after March 31, 2021
- ▶ 60% payroll costs (minimum) incurred or paid during the “new” covered period.
- ▶ 40% other covered costs(maximum) incurred or paid during the “new” covered period.
- ▶ Covered Period is now the period ending between 8 weeks and 24 weeks after disbursement of the loan.
- ▶ The “alternative” covered period was eliminated in this legislation.
- ▶ We expect more FAQs to clarify the forgiveness process for the Round 2 loans.
- ▶ General terms of the unforgiven portion appear consistent with Round 1.

# SIMPLIFIED FORGIVENESS

- ▶ Loans under \$150,000 (previously capped at \$50,000)
  - One-page form
  - Attestations that borrower complied with requirements
  - Loan amount
  - Number of employees retained
  - Estimate of loan spent on payroll
  - May need to provide documentation to substantiate loss of revenue at time of forgiveness for PPP 2

# PPP DEDUCTIBILITY

## ► Tax deductibility of expenses

- Tax deductions **are allowed** for otherwise deductible expenses paid with proceeds of a PPP loan that is forgiven
- Gross income does **NOT** include any amount that would otherwise arise from the forgiveness of a PPP loan
- This is effective for all borrowers. This was original intent of Congress, but took a long time to clarify and correct



# EMPLOYER RETENTION CREDIT

- ▶ For calendar year 2020 eligibility generally did not change
  - Eligible employer has to have either:
    - Operations that were fully or partially suspended during any quarter in 2020 to a government order or
    - Experienced a 50% or greater decline in gross receipts during a calendar quarter in 2020 as compared to same quarter in 2019.
- ▶ Credit equals 50% of the first \$10,000 of qualified wages paid to eligible employees, leading a maximum credit of \$5,000 per employee.
- ▶ For the first two quarters of 2021, the 50% receipts decline is reduced to a 20% decline for eligibility, and the actual credit has been increased to 70% of up to the first \$10,000 of qualified wages per quarter in 2021.

# EMPLOYER RETENTION CREDIT

- ▶ Originally scheduled to end December 31, 2020 but now extended through June 30, 2021, with modifications
- ▶ Retroactive to the effective date of the CARES Act – provides that employers who received PPP loans may still qualify for the ERC **with respect to wages not paid by PPP proceeds**
  - Potential for a strategic decision as to what to submit for PPP forgiveness expenses. Payroll only for PPP vs. payroll at 60% + other expenses; while taking advantage of ERC for other eligible wages.
  - Keep in mind, this is opportunity only exists if you meet prior testing thresholds.
  - Still waiting on clarification on what will be needed or required support if claiming retroactive payroll tax credit.

# FFCRA

## Families First Coronavirus Response Act

- ▶ Originally scheduled to end December 31, 2020, now extended through March 31, 2021.
- ▶ For employers and self-employed individuals that are required to provide such leave in 2021, the 100% credit will remain in effect.
- ▶ Per employee daily and maximum amounts of required leave remain the same, so employees may have already exhausted these hours if used previously.
- ▶ No longer a requirement to offer FFCRA leave, and this is voluntary.
- ▶ For those that voluntarily offer this leave, the payroll tax credits remain the same and will be reimbursed through March 31, 2021.

# FFCRA

Wages paid under FFCRA are NOT eligible for inclusion in PPP forgiveness calculation. Wages need to be broken out separately and should be included in these lines on your 941. You may need to work with payroll provider.

	Column 1		Column 2
5a Taxable social security wages . . .	<input type="text"/>	$\times 0.124 =$	<input type="text"/>
5a (i) Qualified sick leave wages . . .	<input type="text"/>	$\times 0.062 =$	<input type="text"/>
5a (ii) Qualified family leave wages . . .	<input type="text"/>	$\times 0.062 =$	<input type="text"/>
5b Taxable social security tips . . .	<input type="text"/>	$\times 0.124 =$	<input type="text"/>
5c Taxable Medicare wages & tips . . .	<input type="text"/>	$\times 0.029 =$	<input type="text"/>
5d Taxable wages & tips subject to Additional Medicare Tax withholding	<input type="text"/>	$\times 0.009 =$	<input type="text"/>

11b Nonrefundable portion of credit for qualified sick and family leave wages from Worksheet 1 11b

## Worksheet 1. Credit for Qualified Sick and Family Leave Wages and the Employee Retention Credit

Keep for Your Records



### Determine how you will complete this worksheet

If you paid both qualified sick and family leave wages and qualified wages for purposes of the employee retention credit this quarter, complete Step 1, Step 2, and Step 3. If you paid qualified sick and family leave wages this quarter but you didn't pay any qualified wages for purposes of the employee retention credit this quarter, complete Step 1 and Step 2. If you paid qualified wages for purposes of the employee retention credit this quarter but you didn't pay any qualified sick and family leave wages this quarter, complete Step 1 and Step 3.

# NEXT STEPS

- ▶ Applications will start being accepted broadly very soon (maybe this week!). If you meet eligibility and certification requirements be prepared and contact your lender, reminder forms are available at [www.sba.gov](http://www.sba.gov).
- ▶ Questions do remain, so we expect some additional Interim Final Rules and FAQs will be issued by SBA and Treasury, however the timeline is relatively short to apply (March 31<sup>st</sup>) so some judgement call may need to be made.
- ▶ Don't forget to get your prior PPP loan forgiveness application completed and submitted.

# CLIENT BRIEFING WEBINAR 2021 TAX UPDATE



KATE N. LEICHTY, CPA



STEPHEN VARNER, CPA

**Wednesday, January 27, 2021  
11:00 A.M. - 12:00 P.M.**

**Register Online at:  
[www.klcpas.com/events](http://www.klcpas.com/events)**





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THANK YOU!