



# Paycheck Protection Loan and COVID Relief Update

January 5, 2021

Nothing in this document should be construed as providing tax advice. Please consult with your own professional tax advisor. In addition, this document represents the information that we have up to the date the presentation was made and cannot be relied upon for additional updates beyond that date.



# Presenters

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# Current Status of Forgiveness Process and Changes with Consolidated Appropriations Act, 2021 (CAA2021)

# FORGIVENESS

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- Update on existing forgiveness applications
- 3508S, 3508EZ, 3508
- FTE's
- Necessity questionnaire



# WHICH FORM TO USE

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- Form 3508S – to be used by all businesses with loans under \$50,000
- Form 3508EZ – can be used by businesses of any size, all the way up to \$10M.  
You use this form if you expect full forgiveness without any reductions, including exceptions on next slide.
- Form 3508 (long form) should only be used if you have reductions.
- New form to be released.



# SIMPLIFIED FORGIVENESS APPLICATION FOR LOANS OF \$150,000 OR LESS

- SBA has 24 days to issue the new 1 page form that borrowers may use, attesting to the following:
  - The number of employees retained through the loan
  - Estimated amount spent on payroll costs
  - Total loan amount
- Supporting records need not be submitted with the form, but must be retained for 4 years for employment records and 3 years for other records.
- Available to all new borrowers and prior borrowers who have not already received forgiveness.



# ELIGIBLE PPP EXPENSES EXPANDED

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- The Act clarifies that other employer provided group insurance benefits includes benefits such as life, vision, dental and disability insurance premiums.
- For all loans not already forgiven – can include:
  - Supplier Costs - which were made pursuant to contract or order in effect before the covered period.
  - Worker Protection Expenditures – related to COVID measures, such as ventilation systems, physical barriers and drive through facilities.
  - Property Damage Costs – from public disturbances in 2020 not covered by insurance.
  - Operations Expenditures – including costs for processing payroll, sales/billing software.

# PPP 1<sup>ST</sup> DRAW LOANS REOPENED

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- PPP loans are open again to any small business concern, 501(c)3 nonprofits, 501(c)(19), veteran's organizations, tribal businesses, self-employed individuals, farmers, ranchers and independent contractors with 500 or few employees.
- Existing eligibility limitations and affiliation rules still generally apply.
  - Some businesses over respective employee limits, including franchises and NAICS 72 businesses (accommodation and Food Services) may still qualify.
  - Applicant must attest that loan is necessary to support ongoing operations.





# HOW MUCH CAN I BORROW?

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- For most First time PPP Borrowers, the calculation of maximum loan amount is unchanged:
- 2.5 times the average monthly payroll costs for the 12-month period prior to the loan application or for calendar year 2019.
- Maximum loan amount for first-time PPP borrowers remains at \$10 million.
- Aggregation limits apply for common parents.
- Prior PPP borrowers may be able to seek an increase in the original loan amount if it was not calculated correctly.



# SEASONAL BUSINESSES CLARIFIED

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- For seasonal businesses, average monthly payroll costs can be calculated using any 12-week period from February 15, 2019 through February 16, 2020.
- Also clarifies the definition of seasonal employers as an entity that does not operate for more than 7 months in any calendar year or had gross receipts in any 6-month period in the preceding calendar year that were not more than 1/3 of the gross receipts of the remaining 6 months.



# Round 2 PPP Loans

# SECOND DRAW LOANS FOR HARDEST HIT BORROWERS (PPP2)

- \$284.5B allocated
  - \$25B set aside for borrowers with 10 or fewer employees or loans less than \$250k in low-income areas
- SBA has 10 days from passage to implement procedures
  - We will provide updates on any new guidance or regulations as soon as they are issued
- Timing for lending institutions could be longer
- Application period runs through 3/31/21 or until funds run out



# QUALIFICATIONS

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- 300 or fewer employees (headcount not FTE)
  - Multiple locations, no more than 300 per location
  - Affiliation rules apply
  - Companies with foreign affiliates excluded
- 25% gross receipts decline in any qtr. compared to same qtr. in 2019
  - If no calendar 2019 - multiple rules related to which quarters in each year applicant had gross receipts
  - Areas we are waiting on guidance
    - Calendar quarter only? Current assumption is yes; (not any 3 month period or fiscal qtr)
    - Gross receipts – GAAP, accrual, cash, tax??



# QUALIFICATIONS - CONTINUED

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- Gross receipts does NOT include forgiven PPP or EIDL grants
- Must have fully spent PPP1, but do not have to have forgiveness application submitted
- PPP1 changes allowing nonprofits, churches, 501(c)(6), etc. also applies (cannot exceed 15% lobbying)
- Borrowers in bankruptcy are eligible (treated as administrative claims)
- Not eligible
  - Lending institutions
  - Passive developers/landlords
  - Foreign locations
  - Political/lobbying business
  - Ties to China or Hong Kong



# QUALIFICATIONS - CONTINUED

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- Certification of need
  - Be aware that qualifying under the gross receipts test may not be the only determining factor
  - It is expected that all borrowers will still be required to certify that *"current economic uncertainty makes the loan request necessary to support the ongoing operations of the recipient"*
    - We are hoping for more guidance on this
    - For now, only guidance is to review SBA 3509 questionnaire liquidity questions



# LOAN SPECIFICS

- Loan Amount
  - Maximum loan amount \$2M (previously \$10M)
  - Calculate at 2.5 times average monthly payroll costs (no change to PPP1)
    - + New for PPP2:
      - Restaurants, hotels, etc. can use 3.5 times average monthly payroll (NAICS code 72)
      - Can use 2019 payroll or 12 months prior to application
      - Can calculate by taking total payroll divided by number of months \* 2.5
    - + Seasonal employers – average total monthly payroll costs for any 12-week period between 2/15/19 and 2/15/20
    - + Do entities that did not exist during the 1 year preceding 2/15/20 qualify? Need more guidance
- Covered Period to use proceeds
  - Can now choose any period between 8 and 24 weeks
  - Maximum based on \$100k of income remains ( $\$100k * 52 * \#$  weeks chosen)
- Types of covered expenditures – includes all additional expenses allowed that were covered previously under PPP1 changes



# FINAL PPP2 THOUGHTS

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- SBA procedures expected this week, so may go live as soon as next week
  - Traditional lenders – financial institutions
  - Online lenders (Intuit, Paypal, Biz2Credit, etc.)
- Limited funds are available, so if plan to apply:
  - Prepare financial information showing 25% year over year quarter drop in receipts
  - Gather/prepare needed payroll information
  - Reach out to previous lender to ensure they are participating, and let them know of plans to apply
    - If not, or issues with PPP1 lender, reach out to other lenders



# Updates to FFCRA

# FFCRA CREDITS EXTENDED UNDER CAA2021

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- Paid sick and paid family leave mandates NOT extended.
- Credits for employer-provided paid sick and paid family leave available through March 31, 2021.
- Credits subject to limits in original FFCRA
  - 80 hours Paid Sick Leave
  - 10 weeks Paid Family Leave



# Updates to Economic Injury Disaster Loans (EIDL), Employee Retention Tax Credit and Employee Social Security Tax Deferral

# ECONOMIC INJURY DISASTER LOANS

- EIDL Advance up to \$10,000 – now will not reduce PPP loan forgiveness.
  - Expect repayments to be coming for loans already forgiven and were reduced for this.
  - PPP loans yet to be forgiven will not be reduced by the EIDL advance.
- The EIDL advance will no longer be considered a taxable grant.
- Targeted EIDL advance grants eligibility:
  - Businesses with fewer than 300 employees
  - Located in a low-income community
  - Has suffered an economic loss of at least 30%
  - Not an agricultural enterprise (with some exceptions)
- If you have not already received \$10,000 can apply to get either the \$10,000 or an increase up to the \$10,000.



# EMPLOYEE RETENTION TAX CREDIT

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- Changes effective for 2021:
- Employee Retention Credit extended through June 30, 2021
- Amount of credit increased from 50% to 70%
- Wage cap increased from \$10,000 in the aggregate for all quarters to \$10,000 per calendar quarter for 2021.
- Large employer for purposes of the credit has increased from 100 employees to 500 employees.
- Expanded eligibility by decreasing required decline in gross receipts from 50% to 20% for 2021
- Expanded eligibility to public instrumentalities



# EMPLOYEE RETENTION TAX CREDIT- CONTINUED

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- Retroactive changes:
  - Clarification that group health plan expense may be considered even when no other wages are paid.
  - PPP Borrowers may be eligible for the credit to the extent qualifying wages are not paid using forgiven PPP loan proceeds.
  - Clarified gross receipts for certain tax-exempt organizations.



# Employee Social Security Tax Deferral



# EMPLOYEE SOCIAL SECURITY TAX DEFERRAL

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- There was a Presidential Memorandum signed on August 8, 2020 allowing the deferral of the employee portion of social security taxes for wages paid September 1 – December 31, 2020.
- Previously employers were required to withhold the deferred taxes between January 1 – April 30, 2021.
- The repayment has been extended under CAA2021 through December 31, 2021.
- Employers remain liable to collect and pay full amounts of the social security tax that was deferred.
- Penalties and interest begin to accrue on January 1, 2022



# Tax Provisions/Changes

# DEDUCTIBILITY OF EXPENSES

- Expenses used to obtain loan forgiveness are fully deductible as was Congressional intent in the CARES Act – Overrides previous IRS guidance.
- Statutory Language
  - *No amount shall be included in the gross income of the eligible recipient by reason of forgiveness of indebtedness*
  - *No deduction shall be denied, no tax attribute shall be reduced, and no basis increase shall be denied, by reason of the exclusion from gross income*
- Effective for taxable years ending after the date of the enactment of the CARES Act.
- Forgiveness amount excluded is treated as tax exempt income for basis purposes.
- If in a loss situation in 2020, watch for possible basis issues due to timing of expense deduction and recording of forgiveness income.



# RECOVER REBATES/DIRECT STIMULUS

- Generally structured as previous direct payments
  - Advanced credit for 2020 taxes
  - Payments have already begun showing up in accounts
- \$600 per individual, including children
- Phased out beginning at \$75k for single and \$150k for joint filers based on 2019 return
  - If 2019 was above these thresholds but income dropped in 2020 below, the credit will be reported on the 2020 tax return



# NON-PAYROLL RELATED BUSINESS PROVISIONS

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- 100% business meal deductibility in 2021 and 2022
- Tax Extenders (not all inclusive)
  - Permanent
    - Sec. 179D - deduction for energy efficient commercial buildings
  - Five Year Extension
    - Sec. 45D - new markets credit
    - Sec. 45S - employer credit for paid family and medical leave
    - Sec. 51 – work opportunity credit
  - One Year
    - Sec. 45L energy efficient homes credit for contractors



# INDIVIDUAL PROVISIONS

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- Extension of (\$300-S, \$600-J) charitable contribution deduction for non-itemizers through 2021
- Cost of PPE and other related supplies qualify for educator expense deduction - retroactive to 3/12/20.
- Repeals tuition expense deduction but increases limits on lifetime learning credits.
- Lower of minimum distribution age for certain working construction and trade workers from 59½ to 55.
- Flexible spending account changes
  - Temporary rules allowing rollover of health and dependent care flex spending accounts from 2020 to 2021 and 2021 to 2022.
  - Allows for prospective 2021 midyear changes



# INDIVIDUAL PROVISIONS - CONTINUED

- Tax Extenders (not all inclusive)
  - Permanent
    - Reduction in medical expense floor to 7.5% instead of 10%
  - Five Year
    - Exclusion of discharge of indebtedness income on principal residence
    - Exclusion for certain employer payments of student loans
    - Residential energy efficient property credit
    - Energy investment credit for solar and energy efficient property
  - One Year
    - Health coverage tax credit
    - Treatment of qualified mortgage insurance premiums as qualified mortgage interest

# HAVE ADDITIONAL QUESTIONS?

## CONTACT US!



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Thank You  
for your time!



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