

## **“Where are we Now” Webinar Q&A**

Q: Without revenue loss (2020 vs 2019) there may be no access to new round of PPP, correct? A. Even if the company was approved for first round of PPP in April 2020?

A: A borrower may apply for a "First Draw loan" without having to show a loss of 25% or more during this new round if they otherwise meet the eligibility requirements. For a "Second Draw" loan, they must be able to demonstrate at least a 25% reduction in revenue.

Q: What if a business had a 40% drop in q2 but made it up in Q3?

A: A borrower is eligible for a Second Draw if they can demonstrate that they had a reduction in revenue of at least 25% in any quarter of 2020 as compared to the corresponding quarter in 2019 (assuming all other eligibility criteria are met). The new Interim Final Rules provide that a borrower who was in operation for ALL four quarters of 2019 is deemed to have experienced the required revenue reduction if it experienced a reduction in annual receipts of 25% or greater in 2020 compared to 2019 and the borrower submits copies of its annual tax forms substantiating the revenue decline. There are special rules for borrowers that were not in business for all of 2019.

Q: Is the FSA change regardless of when your plan renewed in 2020?

A: There was the opportunity for employers to allow a mid-year enrollment to prospectively update FSA contribution amounts 2020, and now available for 2021 (also prospectively)

Q: For PPP round 2, do you need to retain a steady employment through the quarter?

A: The rules for round one are applicable to round 2 unless otherwise specified. The rules FTEs and the same and there are available safe harbors to restore FTEs.

Q: Are these new expense categories usable on a PPP1 loan?

A: So long as the borrower's lender has not received the forgiveness payment, you may take advantage of the expanded uses for round one forgiveness.

Q: So you can only claim the credit if you are paying an employee that is not rendering any services to get an employee retention credit correct?

A: You may claim both the Employee Retention Credit and the PPP, but not for the same payroll expenses. Depending on the number of employees (i.e., more than 100 for 2020 or more than 500 for 2021), the employees must be paid to not provide services. These employee thresholds are based on full-time equivalency (FTE).

Q: Is there a cap on an individual employee's salary that is eligible for forgiveness?

A: Yes, there is a cap of \$100,000 annualized.

Q: Hello, thank you for the program. if PPP was received in 2020 and deductions in 2020. However forgiveness in 2021. Is this deductible in 2020? Thank you!

A: Yes, the deduction is available in 2020 when it was paid.

Q: Thank you. IS PPP expenses deducted in 2020 an NYS add back in 2020? Thank you!

A: New York generally follows federal. They have not advised if this will be a modification as yet, so the answer is pending guidance.

Q: Can the new \$150,000 forgiveness form be used for PPP 1?

A: Yes, it can.

Q: Please just briefly mention about if these new PPP loans are for 1099's. And if so, do the 1099's from 2019 have to show a surplus(+) after deducting expenses. Thank you.

A: Sole proprietors, self-employed and independent contractors (gig workers count) qualify for the second round of PPP if otherwise eligible. For the Second draw, they need to demonstrate at least a 25% reduction of revenue.

Q: Why did some clients receive the stimulus in the mail if the return was filed with direct deposit?

A: The IRS and Treasury elected to send the payment in various ways, and the method in the 2nd round may be different than it was in the first round.

Q: Will the increase of basis take place in 2020 or 2021, I know there have been mixed views on this

A: The guidance has yet to address this definitively.

Q: Also, how is the Basis allocated to Partners, ownership percentage?

A: In the same manner that the partnership would allocate any tax-exempt income. Generally, based upon the operating agreement provisions.

Q: Can Ed clarify how the quarter over quarter decline will be presented for PPP2?

A: Form 2483 (dated 1/21 as revised) or 2483-SD requests gross receipts for the corresponding quarters in 2020 and 2019 that you are relying on to qualify.

Q: Does each round stand on its own? so if you were under 150 maybe with both you may be over 150?

A: First draw loans and Second draw PPP loans stand on their own in terms of \$150,000 loan thresholds.

Q: Are these calendar quarters or fiscal quarters for the non-calendar corporation?

A: These are for calendar quarters. There are special rules for seasonal employers of those that were not in business for all of year 2019.

Q: Starting when? Are any banks taking applications yet?

A: Applications are available on the SBA site. The portal is opened as of 1/11 - However, the first two days are only available for women-owned and minority businesses taking a First Draw loan.

Q: What relief provisions are available to residential rental business owners? can they now apply for PPP Loan?

A: For purposes of the PPP, residential rental businesses are not considered qualifying trades or businesses.

Q: So the meal deduction of 100% won't apply to the tax year 2020?

A: That is correct, 100% Meals deduction is for qualifying expenses paid in 2021 and 2022.

Q: If you applied for 8 weeks during the 1st period and only borrowed what would be forgiven can you ask for more so as to cover the 24 week period this in regards to self-employed?

A: No, but you may qualify for a Second Draw.

Q: Also, is it on a cash basis or accrual basis for revenue calc? will they base it on the method used for tax purposes? what if we have an accrual basis for books but a cash basis for taxes?

A: The borrow will determine revenue for purposes of substantiating that they incurred at least a 25% reduction in revenue based on their gross receipts, as defined under Subsection (c)(2) of the new IFR, in whatever form received or accrued in accordance with the entity's accounting method.

Q: Under \$150k or less do the FTE reductions matter anymore? Or can that be ignored, and you get full forgiveness as long as you spent the money correctly?

A: Pending SBA guidance for forgiveness form due within 24 days of the Act.

Q: Please define more explicitly whether the second round of loans are needs-based and how that should be approached.

A: In order to qualify for a PPP loan, the borrower must certify that "current economic uncertainty makes this loan request necessary to support the ongoing operations of the applicant" (in addition to the other qualifications).

Q: If your debt forgiveness application on a CARES Act PPP Loan has not been finalized by the SBA at the date when you submit a 2nd Tranche Application, will your bank hold up approving the new application?

A: No, but you must have spent all of the monies from round one on allowable expenses.

Q: Will the guidance for the new PPP program be issued by the US Treasury or the SBA? And when will the guidance and Q&As be available for review?

A: Guidance is now available.

Q: Has NJ passed legislation to allow PPP expenses to be deducted?

A: There is pending legislation, it is not yet passed.

Q: Must an application for PPP2 use the same NAIC code as PPP1? Our NAIC code was chosen years ago (vacation rental management, code 531310) but our operation is more like a hotel that qualifies for a higher PPP2 amount. Can I use that code for my PPP2 application?

A: We recommend reviewing longstanding SBA regulations regarding eligible entities and consulting with your legal counsel/tax advisor on this.

Q: Can the employee-owner of an S-Corporation include the shareholder's wages as eligible for Employer Retention Credit?

A: Provision does not prevent an S corporation owner from taking the ERC on their own wages, provided that the S corporation otherwise meets one of these requirements: 1) A government order fully or partially suspended your operations during a calendar quarter due to COVID-19, or 2) Your calendar-quarter gross receipts for 2020 are less than 50% of gross receipts from the same quarter in the prior year. Note: there are rules precluding family members of 50% or more shareholders.