



COVID-19 Relief – Consolidated Appropriations Act, 2021

January 2021



Agenda

- Speakers
- Disclaimer
- Consolidated Appropriations Act, 2021
- PPP in 2021: Eligibility, Applications, Spending
- Additional Payroll and Other Costs
- Changes to First Draws
- Loans < \$150,000
- PPP Forgiveness Applications
- EIDL Advances
- Employer Credits & Deferrals
- Individual Provisions
- Next Steps
- Q&A
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Speakers



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Disclaimer

All information shared today is subject to change. While the new law was enacted on December 27, 2020, we are awaiting administrative guidance from SBA for amended PPP First Draws and need time to review revised forgiveness applications.

MORE DEVELOPMENTS TO COME!



Consolidated Appropriations Act, 2021

AKA Economic Aid Act

\$2.3T spending bill including \$900B in stimulus relief

- \$284B for PPP
- \$20B EIDL Targeted Advances
- \$15B “Save Our Stages”
- \$3B HHS Provider Relief Fund
- 100% write off for business meals for 2021 & 2022
- Extend certain employer credits and deferrals
- Extend employer-paid student loan repayment benefits



PPP Eligibility in 2021

First Draws

- 500 or fewer employees
- Avg mthly PR x 2.5
- Max loan = \$10M
- Necessary?
- Apply using Form 2483

Second Draws

- 300 or fewer employees
- Avg mthly PR x 2.5
 - 3.5 for certain sectors
- Max loan = \$2M
- Necessary?
 - Has used all of First Draw
 - **Show at least 25% drop in gross receipts**
- Apply using Form 2483-SD

Must be an operating, non-publicly traded business as of 2/15/20



PPP Applications in 2021

Tiered Approach

First Draws

SBA will initially only accept applications from Community Financial Institutions starting 1/11/21

- \$15B for eligible borrowers with 10 or fewer EEs or for loans under \$250K in low- or moderate-income areas

Second Draws

SBA will initially only accept applications from CFIs starting 1/13/21

- \$25B for eligible borrowers with 10 or fewer EEs or for loans under \$250K in low- or moderate-income areas

SBA TO ACCEPT FROM ALL BANKS ON 1/19/21

AUTHORIZED UNTIL 3/31/21 OR WHEN FUNDS ARE GONE



Spending PPP in 2021

Maximizing Forgiveness

- Borrowers pick a Covered Period which begins on loan origination date and ends between 8 and 24 weeks later
- During the Covered Period, maintain FTE and compensation levels – what about safe harbor?
- Spend at least 60% on Payroll Costs
- Spend no more than 40% on Other Costs



Additional Payroll Expenses

Payroll costs now include employer-provided group insurance benefits:

- life
- vision
- dental
- disability

Changes apply retroactively to First Draws that have not already been forgiven



Additional Other Costs

Covered Supplier Costs

Payments to suppliers that are:

- essential to business operations of the entity when the expenditure is made AND
- made pursuant to a contract or order in effect **at any time before the loan covered period** OR
- with respect to perishable goods, in effect **before or at any time during the loan covered period**



Additional Other Costs

Covered Operations Expenditures

Payments for any business software or cloud computing service that facilitates:

- business operations
- product or service delivery
- processing, payment, or tracking of PR expenses, HR, sales/billing functions, or accounting or tracking of supplies, inventory, records and expenses



Additional Other Costs

Covered Property Damage Costs

Costs related to property damage due to public disturbances in 2020 that were not covered by insurance or other compensation



Additional Other Costs

Covered Worker Protection Expenditure

Operating or capital expenditures to comply with health and safety mandates:

- Worker personal protective equipment
- Modifications to facilities
 - drive-through window
 - air ventilation or filtration system
 - physical barrier such as a sneeze guard
 - expansion of additional indoor/outdoor space
- Does **not** include residential real property or intangible property



Changes to First Draws

Who can get an increase?

Only applies if you have **not** received forgiveness

- Partnerships: If partner compensation was missing
 - Submit via SBA E-Tran site
- Seasonal ERs: If PPP loan was received before 12/20/27, and ER is eligible for a higher loan based on SBA guidance
 - Submit via SBA E-Tran site
- Borrowers who returned all/some of a First Draw, or who did not accept the full amount of their approved First Draw
 - Process TBD



PPP Forgiveness & Taxes

Good News!

- Simplified forgiveness form for loans < \$150K
- EIDL advances no longer reduce PPP forgiveness
 - Lender must notify Borrowers who were negatively impacted by this on prior forgiveness application
- PPP-funded expenses are now deductible
 - PPP forgiven loans were always non-taxable income
 - EIDL advances are also non-taxable income now
 - **Note that MA DOR is still following original IRS guidance on non-deductibility of expenses paid with forgiven PPP loans**



Loans < \$150,000

SBA to publish one-page forgiveness form that only requires:

- number of employees the Borrower was able to retain
- estimated amount of payroll costs during the covered period
- total loan value

Borrower must:

- attest they complied with all requirements (proof of revenue loss is needed on or before applying for forgiveness)
- maintain employment & other records for 4 & 3 years, respectively, following the loan

SBA may review and audit any loans and modify loan amounts or loan forgiveness amounts



PPP Forgiveness Applications

What Forgiveness Form Should I Use?

1. Use 3508S for loans < \$150,000 (**REVISED 1/19/21**)
2. Use 3508EZ if you meet any of these criteria: loan > \$150K **AND**
 1. Did not reduce pay by > 25% during Covered Period/CP compared to most recent full quarter before CP **AND** did not reduce # of employees or average paid hours between 1/1/20 and end of CP **OR**
 2. Did not reduce pay by > 25% during CP compared to most recent full quarter before CP **AND** could not operate at same level of business as before 2/15/20, due to complying with health & safety mandates
3. Use 3508 if you do not meet criteria for 3508S or 3508EZ



EIDL Advances

SBA will reach out to those who qualify:

- Advance funds of up to \$10K for applicants in low-income areas who previously received an EIDL Advance for < \$10K, or those who applied but received no funds due to lack of available program funding
- SBA will first reach out to EIDL applications that already received a partial EIDL Advance (i.e. between \$1,000 - \$9,000)
- Applicants will be contacted directly by SBA via email in the coming weeks with instructions to determine eligibility and submit docs

AUTHORIZED UNTIL 12/31/21 OR WHEN FUNDS ARE GONE



Employer Credits & Deferrals



FFCRA Credits

Families First Coronavirus Response Act (March 2020)

- Provided paid sick leave or expanded family/medical leave thru 12/31/20
- Eligible employers could get tax credits equal to 100% of the qualified leave wages paid (and the employer share of Medicare tax plus any qualified health plan expenses allocable to those wages)
 - Credits claimed on Form 941
 - Benefit more quickly by reducing deposits
 - If credits > taxes, get advance payment of credits using Form 7200

CAA, 2021 changes:

- DID NOT extend the leave mandates for employees
- DID make the credits available to employers thru 3/31/21, subject to original limits



Employee Retention Tax Credits

CARES Act (March 2020)

- Eligible employers to get a credit against employment taxes equal to 50% of qualified wages (up to \$10K total) for each employee (\$5K max per employee) paid 3/13-12/31/20
 - Employers with 100 or fewer employees: all wages qualify
 - Employers with 100+ employees: credit for wages paid to employees not providing services during shutdown
 - Credits claimed on Form 941
 - If credits > employer share of SS tax, excess is refundable → use Form 7200 to get advance
- Borrowers who got a PPP loan could not claim ERTC



Employee Retention Tax Credits

CAA, 2021 changes:

- Increase from 50% to 70% of qualifying wages paid until 6/30/21
- Wage cap increased from \$10K total to \$10K/calendar quarter
 - \$7K max per quarter per employee
- Large employer now is one with more than 500 employees
- Decreased required decline in gross receipts from 50% to 20% for 2021
- Group health plan expense can be considered even if no other wages are paid
- Borrowers who got a PPP loan can qualify to claim ERTC, but only for wages not forgiven



Work Opportunity Tax Credits

The WOTC is a Federal tax credit available for hiring individuals from certain targeted groups who have consistently faced significant barriers to employment

- ER obtains certification that employee is member of a targeted group
- Credit is limited to the amount of business income tax liability or SS tax owed
- A business that pays income taxes gets WOTC as a corporate tax reduction
- A “pass-thru” business gets WOTC on the owner’s personal return

CAA, 2021 changes:

- Extended WOTC to 12/31/25 for employees hired after 12/31/20



Employer Student Loan Repayment

CARES Act (March 2020)

Added repayment, directly or indirectly, of a student loan by an employer as an excludable benefit provided:

- Amount was limited to \$5250/year for all Section 127 expenses (tuition, fees, books, student loans)
- Student loan portion was set to expire 12/31/20

CAA, 2021 changes:

- Extended student loan addition to 12/31/25



Employer Payroll Tax Deferral

CARES Act (March 2020)

- All employers can defer the deposit and payment of the **employer share of SS tax** for the period 3/27-12/31/20
- The deferred taxes are due in two installments
 - half on 12/31/21
 - half on 12/31/22



Employee Payroll Tax Deferral

Presidential Memorandum (August 2020)

- Employers had the option to defer withholding and payment of **employee share of SS tax** for any employee whose wages < \$4K biweekly for wages paid 9/1-12/31/20
- Originally, employers were required to withhold the total taxes deferred ratably for the 4-month period from 1/1-4/30/21
- Employers were liable to collect and pay full amount of SS taxes deferred, even if the employee left the company

CAA, 2021 changes:

- Repayment period is extended thru 12/31/21
- Penalties and interest begin to accrue on 1/1/22



Intersecting Provisions

	PPP	FFCRA Credits	Employee Retention Tax Credit (ERTC)	Employer PR Tax Deferral	EIDL
PPP		Can take FFCRA Credits, but cannot include leave wages in amounts for PPP loan or loan forgiveness purposes	May claim both, but cannot claim wages paid w/ forgiven PPP funds	Can elect to defer even if PPP loan is forgiven	Can get both but cannot use funds for same exp for same periods
FFCRA Credits	Can take FFCRA Credits, but cannot include leave wages in amounts for PPP loan or loan forgiveness purposes		Cannot use same wages for both credits	Can elect to defer and take FFCRA credits	Can take FFCRA credits & apply for grant/loan
ERTC	May claim both, but cannot claim wages paid w/ forgiven PPP funds	Cannot use same wages for both credits		Can elect to defer and take ERTC	Can take ERTC and apply for grant/loan
Employer PR Tax Deferral	Can elect to defer even if PPP loan is forgiven	Can elect to defer and take FFCRA credits	Can elect to defer and take ERTC		Can elect to defer and apply for grant/loan
EIDL	Can get both but cannot use funds for same exp for same periods	Can take FFCRA credits & apply for grant/loan	Can take ERTC and apply for grant/loan	Can elect to defer and apply for grant/loan	



Individual Provisions

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CAA, 2021 and Individuals

Notable Impacts of New Law on Individuals

- Health Care & Dependent Care FSA relief: Use It or Lose It eliminated, carry remaining balances for 2020 & 2021 into following years
- Child Tax Credit & Earned Income Tax Credit: use either 2019 or 2020 income to determine credit eligibility
- \$300 (\$600 MFJ) charitable deduction for non-itemizers
- Medical Expenses Itemized Deduction Floor is permanently set to 7.5% of AGI
- \$600/taxpayer stimulus checks + \$600/qualifying child (AGI < \$75K Single, \$150K MFJ)
- \$300/week in federal unemployment until 3/14/21 or max of 24 weeks



Next Steps

- If not yet forgiven, are you eligible to increase your First Draw?
- Determine if you are eligible for Second Draw and apply
 - Complete or estimate your 2020 financials for proof of revenue reduction
 - Also determine if wages were higher in 2020 or 2019 so you know which would provide larger Second Draw



Next Steps

- Continue to maximize forgiveness by spending on allowable items, with at least 60% on Payroll, and maintaining wages and FTE headcount during Covered Period compared to pre-COVID levels
- Don't forget about applying for forgiveness within 10 months of Covered Period ending
- If you get Second Draw, consider timing of Covered Period and how that interacts with other potential employer tax credits

S&G LLP STANDS BY READY TO ASSIST!

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Q&A



Thank You!



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Please reach out to us if you have any open questions. We will do our best to keep everyone up to date with information pertaining to your businesses.



Appendix



Original PPP & PPPFA

Comment	PPP in Mar	PPPFA in Jun
Longer repayment	2 years	5 years
More time to spend	8 weeks	8 or 24 weeks
More spending flexibility	75/25 Payroll/Other	60/40 Payroll/Other
More time to rehire*	6/30/20 deadline	12/31/21 deadline
Extend deferral period	Not more than 1 year	Until date when forgiveness is determined

* And more exceptions if you cannot rehire



PPP Payroll Limits

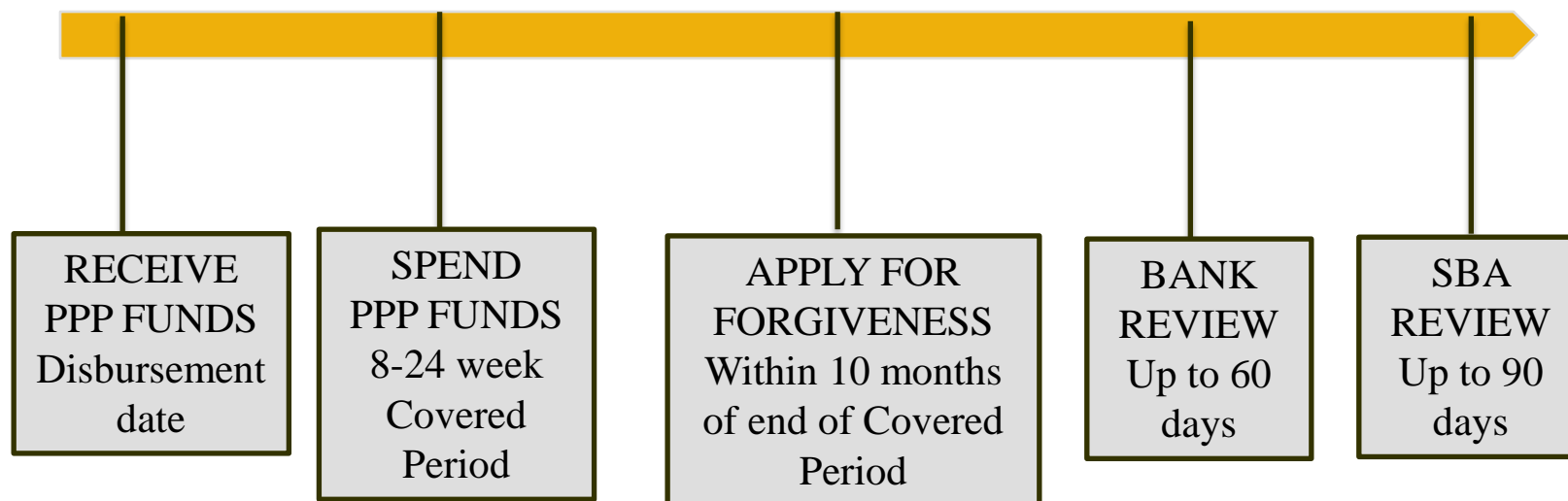
If someone earns > \$100,000:

	8 weeks	24 weeks
Non-owner	Cap = $100K / 52 \times 8 = \$15,385$	Cap = $100K / 52 \times 24 = \$46,154$
Owner	Cap = $100K / 52 \times 8 = \$15,385$	Cap = $100K / 12 \times 2.5 = \$20,833$

Owner Compensation is limited to \$100,000 **OR their 2019 compensation, WHICHEVER IS LOWER**, pro-rated to 8 weeks or 2.5 months as shown above

- If an Owner earned < \$100,000 in 2019, then he/she cannot use PPP funds to give themselves a raise to the 100K level during the Covered Period; he/she must use their 2019 compensation and pro-rate to between 8 and 24 weeks

Loan Timeline



- Apply for forgiveness at the bank that gave you the loan
- All loans > \$2M will be subject to SBA audit
 - Economic Need questionnaires (for-profit & NFP)
- SBA can audit any loan at their discretion (6-year window)



Required Documentation

Regardless of Forgiveness Form used, you must submit:

Payroll Backup	Other Backup
Bank account statements or third-party payroll service reports documenting the compensation paid during the Covered Period	Mortgage Interest: copies of statements or checks during Covered Period; also proof that obligation existed at 2/15/20
Payroll tax forms that coincide with Covered Period (Form 941, state wage or unemployment filings)	Rent: copies of statements or checks during Covered Period; also proof that obligation existed at 2/15/20
Payment receipts, cancelled checks or account statements showing employer payments for health insurance or retirement benefits	Utilities: copies of statements or checks during Covered Period; also proof that obligation existed at 2/15/20

We assume the expanded Payroll and Other Costs will require similar backup