

## **PPP GUIDANCE FOR IRS FORM 1065 FILERS**

(as of January 25, 2021)

**NOTE: This guidance is meant for partnerships, limited liability companies, and other businesses that file their federal business income tax returns on IRS Form 1065.**

Paycheck Protection Program (“PPP”) loans are intended to provide forgivable loans to help you during the on-going economic uncertainty caused by COVID-19. There have been several updates to the program. Please see below for our current guidance.

If you have not yet received a PPP loan and you meet eligibility requirements, you may apply for a PPP loan (also called a **1<sup>st</sup> Draw PPP loan**). If you already received a 1<sup>st</sup> Draw PPP loan and you meet additional eligibility requirements, you may apply for a **2<sup>nd</sup> Draw PPP loan**.

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### **Am I eligible for a PPP loan (also called a 1<sup>st</sup> Draw PPP loan)?**

In general, you are eligible for a PPP loan if all of the following statements are true:

- You were operating on February 15, 2020. (If you operate a seasonal business, you are considered to have been operating on February 15, 2020 if you were operating for any 12-week period between February 15, 2019 and February 15, 2020).
- Current economic uncertainty makes a PPP loan necessary to support your operations.
- You have not already received a PPP loan.
- You have not received a Shuttered Venue Grant.
- You have not permanently closed. (If you have temporarily closed due to the impact of COVID-19, and intend to reopen, you have not permanently closed.)
- You are able to make all of the certifications on SBA Form 2383 (PPP First Draw Loan Application).

### **What is my loan amount for a 1<sup>st</sup> Draw PPP loan?**

Your 1<sup>st</sup> Draw PPP loan will be equal to 2½ months of your average monthly payroll costs in 2019 or in 2020. In most cases, 2019 will result in a higher loan amount, since most businesses had higher payroll costs in 2019.

For you as owner, SBA considers your Form 1065, Schedule K-1 to determine your annual payroll costs. For each owner, you'll start with Box 14a (self-employment earnings) and multiply this amount by 0.9235. Then subtract box 12 (section 179 deductions), and subtract the amount (if any) for (i) unreimbursed partnership expenses claimed and (ii) depletion claimed on oil & gas properties. Divide your result by 12 to determine your average monthly owner payroll costs, then multiply by 2.5. This is the amount of your owner payroll costs.

For your employees, you can include their gross wages for the year (up to \$100,000 per employee). If in addition to your employee's gross wages, you paid additional amounts for employee benefits or retirement, or State and local taxes, then you may include those amounts as well. (If you work with a 3<sup>rd</sup>-party payroll processor service, they may be able to provide you with a report of your employee Payroll Costs.) Divide your eligible annual employee payroll costs by 12 to determine your average monthly employee payroll costs, then multiply by 2.5. This is the amount of your employee payroll costs.

Finally, add your owner payroll costs to your employee payroll costs – this is your PPP loan amount.

### **Am I eligible for a second PPP loan (also called a 2<sup>nd</sup> Draw PPP loan)?**

In general, you are eligible for a 2<sup>nd</sup> Draw PPP loan if you were eligible for and received a 1<sup>st</sup> Draw PPP loan, you are still facing economic uncertainty due to the impact of COVID-19, and you meet all of the following additional requirements:

- You experienced at least a 25% reduction in "gross receipts" in calendar year 2020, as compared to calendar year 2019.
- You have used the full amount of your first PPP loan for eligible purposes.
- You have not already received a 2<sup>nd</sup> Draw PPP loan.

### **What is my loan amount for a 2<sup>nd</sup> Draw PPP loan?**

For most borrowers, your 2<sup>nd</sup> Draw PPP loan will be equal to 2½ months of your average monthly payroll costs in 2019 or in 2020. In most cases, 2019 will result in a higher loan amount, since most businesses had higher payroll costs in 2019.

For you as owner, SBA considers your Form 1065, Schedule K-1 to determine your annual payroll costs. For each owner, you'll start with Box 14a (self-employment earnings) and multiply this amount by 0.9235. Then subtract box 12 (section 179 deductions), and subtract the amount (if any) for (i) unreimbursed partnership expenses claimed and (ii) depletion claimed on oil & gas properties. Divide your result by 12 to determine your average monthly owner payroll costs, then multiply by 2.5. This is the amount of your owner payroll costs.

For your employees, you can include their gross wages for the year (up to \$100,000 per employee). If in addition to your employee's gross wages, you paid additional amounts for employee benefits or retirement, or State and local taxes, then you may include those amounts as well. (If you work with a 3<sup>rd</sup>-party payroll processor service, they may be able to provide you with a report of your employee Payroll Costs.) Divide your eligible annual employee payroll costs by 12 to determine your average monthly employee payroll costs, then multiply by 2.5. This is the amount of your employee payroll costs.

Finally, add your owner payroll costs to your employee payroll costs – this is your PPP loan amount.

For borrowers who use NAICS code 72 (accommodation or food service), your 2<sup>nd</sup> Draw PPP loan will be equal to 3½ months of your average monthly payroll costs, so you will multiply your average monthly payroll cost by 3.5 to calculate your 2<sup>nd</sup> Draw PPP loan amount.

NAICS codes are used by the federal government to classify your primary business activity. Your NAICS code is the “business activity code” you entered on line C of your most recent filed Form 1065. If your primary business activity is accommodation or food service (e.g., restaurant, caterer, food truck, bar), but you inadvertently left the business activity code blank on your most recent tax return, then alternative documentation, such as permits or licenses unique to these types of businesses and other information, are required.

### **What Documentation do I need to provide to apply for a PPP loan?**

To apply for a first PPP loan or a 2<sup>nd</sup> Draw PPP loan, you will need to provide:

- A valid, government-issued Photo ID (e.g., State-issued driver's license, U.S. Passport, Green Card) for the owner who will sign your PPP Note
- Documentation you were in business on or around February 15, 2020
- A filed copy of your 2019 Form 1065 Schedule K-1, for each owner; a copy of your Form 1040 Schedule SE would be helpful as well
- If you choose to base your loan amount on 2020, a filed or draft copy of your 2020 Form 1065, Schedule K-1, for each owner; a copy of your Form 1040 Schedule SE would be helpful as well (if you provide a draft Schedule, you will need to sign and date it, and initial each page)
- Copies for all four quarters of 2019 (or 2020 if you are basing your loan amount on 2020) of:
  - IRS Form 941, and
  - State wage & unemployment insurance tax filings for all four quarters of 2019 (or 2020 if you are basing your loan amount on 2020)
  - If you work with a 3<sup>rd</sup>-party payroll processor, we may be able to accept their report instead, if it includes equivalent information as the information contained on your 941s and State wage & unemployment insurance tax filings

SBA may require additional documentation when you apply for forgiveness of your PPP loan or 2<sup>nd</sup> Draw PPP loan. For instance, if you provide a draft tax filing, you will be required to provide the filed copy when you apply for forgiveness.

### **How can I use my PPP loan?**

SBA has expanded the ways you can use your PPP loan proceeds. Whether you have a 1<sup>st</sup> Draw PPP loan or a 2<sup>nd</sup> Draw PPP loan, you can use your loan for the following purposes:

- Payroll Costs: to be fully forgiven, you must use at least 60% of your PPP loan on eligible payroll costs. There are no exceptions to this rule.
- Non-Payroll Costs: if you do not use all of your PPP loan for payroll, you can use up to 40% of it for other business expenses. Please see our PPP FAQ in the Tools & Resources section of our [website](#) for more information on eligible Non-Payroll Costs.

### **What are the forgiveness requirements for my PPP loan?**

In general, if you follow the guidance above on use of your PPP loan, you should be eligible for full forgiveness. If your PPP loan (or 2<sup>nd</sup> Draw PPP loan) amount is \$50,000 or less, you are exempt from FTE and wage maintenance requirements. When you apply for forgiveness, you must provide us with a copies of your filed 2019 Form 1065, Schedule K-1 and your filed 2020 Form 1065, Schedule K-1, for each owner.

### **How to document 25% reduction in gross receipts for a 2<sup>nd</sup> Draw PPP loan**

#### If your loan is over \$150,000:

You will provide documentation of your reduction when you apply for your 2<sup>nd</sup> Draw PPP loan. Please see our PPP FAQ and SBA Guidance – How to Calculate 2<sup>nd</sup> Draw PPP Loans in the Tools & Resources section of our [website](#) for more information.

#### If your 2<sup>nd</sup> Draw PPP loan is \$150,000 or less:

SBA is not requiring you to submit document of your reduction in “gross receipts” when you apply for your 2<sup>nd</sup> Draw PPP. You will be required to provide us with documentation when you are ready to seek forgiveness of your loan, or upon SBA request. SBA randomly reviews PPP loans from every lender and may conduct a review at any time, before or after the forgiveness process, for up to 4 years. SBA will not forgive your PPP loan if you cannot provide documentation of the required reduction at forgiveness. In that case, you would have to pay off the full amount of your 2<sup>nd</sup> Draw PPP loan over a 5-year period.

Before you apply, you should review your financial statements and get comfortable that you have experienced at least a 25% reduction and will be able to document that when it is time to apply for forgiveness. Here are some tips on how to do that:

- If you were in business for all of 2019: You will be able to verify your 25% drop in gross receipts using either annual or quarterly data.
  - If you are demonstrating your 25% reduction on an annual basis, you will need to compare your filed 2019 IRS Form 1040 Schedule C with the information that will go into your 2020 IRS Form 1040 Schedule C. You can use a more informal method, but you'll want to feel confident that your 2020 Schedule C, when filed, will demonstrate a 25% or greater reduction. At forgiveness, we'll need to collect a copy of your final filed 2020 Schedule C to verify the reduction.
    - You'll calculate your “gross receipts” for both 2019 and 2020 based on your Form 1065:
      - Add line 8 (total income) plus line 2 (cost of goods sold)
      - Here's an example of the calculation you need to make:

- If your 2019 gross receipts were \$50,000, and your 2020 gross receipts were \$30,000, then:
- $\$30,000/\$50,000 = 0.6$
- $1 - 0.6 = 0.4$
- Thus, you experienced a 40% revenue reduction for the year – and would easily meet the SBA 25% revenue reduction test.

NOTE: Your prior PPP loan is not considered “income” for purposes of determining your 2020 gross receipts. (PPP loans are not considered income for tax purposes.)

- If you are instead certifying your 25% reduction on a quarterly basis, you will want to do several things:
  - You will want to ensure you'll have evidence at forgiveness that you experienced the 25% drop in any one 2020 quarter as compared to the 2019 quarter to which you're comparing your 2020 results. For instance, if you choose to use Q2, you need to show that your gross receipts in Q2 2020 were at least 25% lower than they were in Q2 2019.
  - You basically follow the same process as we have outlined above for an annual reduction: Compare the gross receipts for those quarters and conclude whether you have a reduction of at least 25%.
  - While you don't need to give it to us now, you will need to have financial records from the 2019 and 2020 quarters ready for forgiveness. Please see our PPP FAQ and SBA Guidance – How to Calculate 2<sup>nd</sup> Draw PPP Loans in the Tools & Resources section of our [website](#) for more information.
- If you were not yet in business in Q1 2019: At forgiveness, you will need to provide documentation that you experienced at least a 25% drop in gross receipts during any one quarter of 2020 as compared to your results in either Q2, Q3 or Q4 2019.
- If you were not yet in business in Q1 and/or Q2 2019: At forgiveness, you will need to provide documentation that you experienced at least a 25% drop in gross receipts during any one quarter of 2020 as compared to your results in either Q3 or Q4 2019.
- If you were not yet in business during Q1 through Q3 2019: At forgiveness, you will need to provide documentation that you experienced a drop in gross receipts of at least 25% during any one quarter of 2020 as compared to your results in Q4 2019.

**If you are applying for a 2<sup>nd</sup> Draw PPP loan,** here are a few other key points for you to consider:

- If we relied on a draft 2019 Form 1065, Schedule K-1 for your first loan, we need to review your final, filed 2019 Schedule K-1 – so send it in with your application.
- Any business that uses a NAICS Code starting in “72” (mostly restaurants, food service businesses and hotels or accommodations businesses) can get a loan based on 3.5 times the eligible payroll amount rather than the standard 2.5 times. If your business fits this criterion, our system should calculate your loan amount at the 3.5 times multiple.

- Because SBA rules for PPP loans have continued to change since we worked with you on your first PPP loan, we may need to take a more in-depth look at your information before we can approve you for a 2<sup>nd</sup> Draw PPP loan.