



Economic Aid to Hard-Hit Small Businesses, Nonprofits and Venues Act (Economic Aid Act)

Enacted December 27, 2020



Updates applicable to parishes and religious institutions

Paycheck Protection Program Loans (New PPP)

Employee Retention Credit (ERC)

New PPP



\$284.5 billion in forgivable loans (\$15 billion set aside for community financial institutions lending)

- **Loan applications may be filed through March 31, 2021, subject to availability of funds**
- **Available as either:**
 - **First Draw Loans**
 - **Second Draw Loans**



New PPP *(continued)*

First Draw Loans (up to \$35 billion in total lending)

- Available to borrowers who did not or were unable to borrow before the 2020 program ended in August 2020
- Borrower must be in operation as of February 15, 2020
- No more than 500 employees
- Maximum amount per borrower: \$10,000,000

Second Draw Loans

- Available to qualified borrowers organizations only
Maximum amount: \$2,000,000



New PPP *(continued)*

Loan Terms

- **Interest rate – 1% calculated on a non-compounding, non-adjustable basis**
- **Maturity date – Five years**
- **Forgiveness rules remain the same**



New PPP *(continued)*

Proceeds of PPP loan are to be used for

- Payroll costs as defined in the CARES ACT, Economic Aid Act and related interim final rules
- Costs related to the continuation of group health care, **life, disability, vision, or dental** during the periods of paid sick, medical, or family leave, and group health care, life, disability, vision, or dental insurance premiums
- Mortgage interest payments but not mortgage prepayments or principal payments



New PPP *(continued)*

Proceeds of PPP loan are to be used for *(continued)*

- **Rent payments**
- **Utility payments**
- **Interest payments on any other debt obligations that were incurred before February 15, 2020**
- **Refinancing an SBA, EIDL loan made between January 31, 2020 and April 3, 2020**



New PPP *(continued)*

Proceeds of PPP loan are to be used for *(continued)*

- **Various covered expenditures for (see SBA guidelines for detailed list):**
 - **Operations –Business software or cloud computing services**
 - **Property damage costs**
 - **Supplier costs for essential perishable goods**
 - **Worker protection expenditures**
- **No more than 40% of the forgiven amount can be used for non-payroll costs**



New PPP *(continued)*

Basis of Loan Amounts – First or Second Draw Loans

Generally, payroll costs during the reference period, which can either be the calendar year 2019 or 2020

Payroll costs include:

- **Gross wages and tips up to \$100,000/year paid to employees (If using Form 941 amount for taxable wages and tips, add any pre-tax employee contributions for health insurance and other fringe benefits that were excluded from the Form 941 taxable wages and tips)**



New PPP *(continued)*

Basis of Loan Amounts – First or Second Draw Loans *(continued)*

Payroll costs include *(continued)*:

- Employer group health, life, disability, vision, and dental insurance contributions
- Employer retirement contributions
- Employer state and local taxes assessed on employee compensation, primarily state unemployment insurance tax



New PPP – First Draw Loans

Calculation of Loan Amount

- Average monthly payroll costs (sum of payroll costs for reference period divide by 12) times 2.5
- Add any outstanding EIDL loan to be refinanced (loans made between January 31, 2020 and April 3, 2020; any advance made under an EIDL loan should be excluded because it does not have to be repaid)



New PPP – Second Draw Loans

Eligibility

- Borrower used or will use the full amount of First Draw PPP loan on or before the expected date the Second Draw PPP loan is disbursed to the borrower
- Borrower has 300 or fewer employees (affiliation rules do not apply to faith-based organizations)
- Borrower experienced a revenue (gross receipts) decline of 25% or more in all or part (a quarter) of 2020 compared with all or part (a quarter) of 2019



New PPP – Second Draw Loans

(continued)

What are gross receipts for a nonprofit 501(c)(3) organization?

- **Gross receipts mean the gross amount received by the organization during its annual accounting period from all sources without reduction for any costs or expenses including, for example, cost of goods or assets, cost of operations, or expenses of earning, raising, or collecting such amounts**



New PPP – Second Draw Loans

(continued)

What are gross receipts for a nonprofit 501(c)(3) organization?

(continued)

- **Gross receipts include but are not limited to:**
 - **The gross amount received as contributions, gifts, grants, and similar amounts without reduction for the expenses of raising and collecting such amounts**
 - **The gross amount received as dues or assessments from members or affiliated organizations without reduction for expenses attributable to the receipt of such amounts**



New PPP – Second Draw Loans

(continued)

What are gross receipts for a nonprofit 501(c)(3) organization?

(continued)

- **Gross receipts include but are not limited to:**
 - **Gross sales or receipts from business activities (including activities unrelated to the purpose for which the organization qualifies for exemption, the income or loss from which may be required to be reported on Form 990-T)**
 - **The gross amount received as investment income, such as interest, dividends, rents, and royalties**



New PPP – Second Draw Loans

(continued)

Excluded from gross receipts

- Forgiven First Draw PPP Loan
- EIDL advance



New PPP – Second Draw Loans

(continued)

Reference period for demonstrating at least a 25% gross receipts reduction: it depends on how long the applicant has been in business

- **For applicants in business during all of 2019 - A gross receipts reduction in any calendar quarter in 2020 of at least 25% compared to the same quarter in 2019**
- **Special rates for entities not in business in 2019**



New PPP – Example

	2020 Gross Receipts	2019 Gross Receipts	Percent Change
Quarter 1	\$110	\$100	10%
Quarter 2	\$90	\$100	(10)%
Quarter 3	\$80	\$125	(36)%
Quarter 4	<u>\$150</u>	<u>\$175</u>	<u>(14)%</u>
Total	\$430	\$500	(14)%



New PPP – Second Draw Loans

(continued)

Second Draw Loans Documentation Requirements

Payroll cost documentation

- If the borrower will use the same lender and same payroll timeframe as it used for its First Draw Loan, no additional payroll documentation is required to be submitted with its Second Draw Loan application
- Otherwise the payroll documentation requirements for First Draw Loans must be submitted



New PPP – Second Draw Loans

(continued)

Second Draw Loans Documentation Requirements

(continued)

Certification of 25% gross receipts reduction, together with any of the following sets of documentation at the filing of the application:

- **Quarterly financial statements – If unaudited, the Applicant must sign and date the first page of the financial statements and initial all other pages, attesting to their accuracy. If the financial statements do not specifically identify the line item(s) that constitute gross receipts, the Applicant must annotate which line item(s) constitute gross receipts**



New PPP – Second Draw Loans

(continued)

Second Draw Loans Documentation Requirements *(continued)*

Certification of 25% gross receipts reduction, together with any of the following sets of documentation at the filing of the application

(continued):

- **Quarterly or monthly bank statements showing deposits from the relevant quarters. The Applicant must annotate, if it is not clear, which deposits listed on the bank statement constitute gross receipts (e.g., payments for purchases of goods and services) and which do not (e.g., capital infusions)**



New PPP – Second Draw Loans

(continued)

When to submit documentation of 25% gross receipts reduction

Second Draw Loans of more than \$150,000 – at time of loan application

Second Draw Loans of \$150,000 or less – before or at the time the borrower seeks loan forgiveness, or upon SBA request

New PPP *(continued)*

New Forgiveness Application for Loans that Do Not Exceed \$150,000



Simplified but not automatic

- **Certification**

- **Number of employees retained because of the PPP loan**
- **Amount of the PPP loan spent on payroll costs**
- **Total PPP loan value**

- **Attestation**

- **Spent the PPP loan on eligible expenses**
- **Retains records that prove compliance with PPP requirements**
 - o **Employment records retained for 4 years following submission of the form**
 - o **Other records retained 3 years following submission of the form**

No additional documentation can be required as part of the application

Borrower remains subject to audit which might require the documentation and result in modifications



Employee Retention Credit (ERC)

ERC is a tax credit for businesses that continued to pay employees despite closures or decreased revenue due to the COVID-19 pandemic. The tax credit is applied against the employer share of social security taxes. The ERC is fully refundable if the credit exceeds the social security taxes due

Calculation of ERC under the CARES Act

50% of Qualified Wages (as defined) paid by an eligible employer to some or all of employees after March 12, 2020 and before January 1, 2021, up to a maximum of \$5,000 per employee



ERC *(continued)*

Eligible Employer Defined

Private sector businesses and tax-exempt organizations that carry on trade or business during calendar year 2020 and either:

Have operations that were fully or partially suspended during any calendar quarter in 2020 due to orders from an appropriate governmental authority limiting commerce, travel, group meetings (for commercial, social, religious, or other purposes) due to COVID-19; or

Experienced a significant decline (50%) in gross receipts during the calendar quarter

ERC *(continued)*



Prior Rule (before enactment of Economic Aid Act)

Any business that took a PPP loan, as well as any business with more than 50% common ownership with a business that received a PPP loan, was ineligible for the ERC

ERC *(continued)*



New Rules under the Economic Aid Act

- **Eligibility** - Businesses that borrowed money through the PPP may now claim the ERC. All wages paid during the applicable period, minus amounts forgiven under the PPP loan (so as to avoid double dipping) are eligible for credit
- **Taking the credit** - Businesses that did not take the credit due to earlier restrictions may file amended employment tax returns to take the credit
- **Period of credit availability** – Qualified wages paid from March 12, 2020 to July 1, 2021 (instead of January 1, 2021)

ERC *(continued)*



New Rules under the Economic Aid Act *(continued):*

- Reduction in quarterly gross receipts was reduced from 50% to 20%
- Credit amount:
 - For Qualified Wages paid in 2020, at 50% of Qualified Wages, limited to \$5,000 ERC per employee
 - For Qualified Wages paid during the first two quarters of 2021, at 70% of Qualified Wages, limited to \$7,000 ERC per employee

The Treasury Department needs to issue updated guidance