

SBA Releases New PPP Loan Application Forms

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Ready or not... The SBA released on Friday January 8, 2021 two new Paycheck Protection Program Borrower Application Forms: [Form 2483 \(1/21\)](#) for first-time borrowers and [Form 2483-SD](#) for second draw borrowers. Two days prior, on January 6, 2021, the SBA issued two Interim Final Rules, one addressing [rules for first-time borrowers](#) and the second addressing [rules for second draw borrowers](#).

The SBA plans to start accepting loan applications this week, as early as Monday January 11th for first-time borrower applications submitted through community banks for borrowers with 10 or fewer employees or loans less than \$250,000 in designated low-income areas and approximately two days later from other first-time borrowers. Second draw borrower application submissions are expected to open up on January 13th for community banks and two days later for all lenders. Businesses that want to apply should reach out to their lenders to see when they will start accepting applications. Applications can be submitted through March 31, 2021, or until the funding runs out.

The application for first-time borrowers is nearly identical to the previous version of the form, with updates for the types of eligible and ineligible businesses in order to conform with the new and amended provisions of the *Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act* (Act). The second draw loan application is similar, with an added section for gross receipts information.

The Interim Final Rule on first draw loans (First Draw IFR) consolidates previous IFRs and other guidance previously issued, while incorporating the updates introduced by the Act and providing general rules relating to loan increases and forgiveness. The Interim Final Rule on second draw loans (Second Draw IFR) essentially reiterates what is in the Act and outlines key differences between first and second draw loans.

Documentation for Second Draw Loans

Second draw borrowers may base their loan on average monthly payroll costs for 2019, 2020 or for the rolling 12-months preceding the loan application date. There are tailored methodologies for seasonal employers, entities not in existence for a full 12 months preceding the application date, and farmers and ranchers.

The documentation required to substantiate payroll costs is generally the same as the documentation required for first draw loans. However, if a borrower chooses to use the same base as was used for their initial PPP loan – which will generally be the case – and they use the same lender they used for the first draw loan, no additional documentation will be required because the lender already has the relevant documentation. Documentation required from borrowers that use a payroll period that is different from their first draw loan will be required to submit 941 Forms, state unemployment forms or payroll provider reports to substantiate payroll as well as evidence of health insurance costs; or, in the case of self-employed individuals or partners, Schedule C or IRS Form 1065 K-1s.

For loans greater than \$150,000, the borrower will also be required to submit documentation to substantiate that they had a revenue reduction of 25% or more during any calendar quarter in 2020 as compared to the same quarter in 2019. This documentation can include the annual tax returns (if they have been filed), quarterly financial statements or bank statements. For loans with a principal amount of \$150,000 or less, such documentation is not required at the time the borrower submits its application for a loan, but must be submitted on or before the date the borrower applies for loan forgiveness.

Other Noteworthy Items for Second Draw Borrowers

Both the second draw loan application and Second Draw IFR define gross receipts for for-profit entities as “all revenue in whatever form received or accrued (in accordance with the entity’s accounting method) from whatever source, including from the sales of products or services, interest, dividends, rents, royalties, fees, or commissions, reduced by returns and allowances.” Gross receipts for for-profit entities excludes capital gains. This definition is consistent with the definition we provided in our recent article on the Act.

Gross receipts include reimbursements for subcontractor costs and for purchases a contractor makes at a customer’s request, as well as investment income (other than capital gains). However, gross receipts excludes proceeds from transactions with affiliates, including foreign affiliates. As specified in the Act, gross receipts for nonprofit organizations are those specified in §6033 of the Internal Revenue Code. This definition includes not only capital gains, but gross proceeds from the sales of securities.

The Second Draw IFR also includes rules for determining gross receipts from acquired entities and entities that have been sold or spun-off. The gross receipts of a borrower must be combined with the gross receipts of all its affiliates, so one member of an affiliated group cannot qualify for a second draw loan if the entire group doesn’t qualify. The amount of any first draw PPP loan, whether or not it has been forgiven, is excluded from gross receipts.

While not specified in the Act, the Second Draw IFR specifies that businesses that are part of a single corporate group cannot receive second draw loans aggregating more than \$4,000,000. This limit is the equivalent of the \$20,000,000 limit for first draw loans (two times the maximum loan amount of \$2,000,000).

Loan Increases

The First Draw IFR provides very limited guidance for partnerships that did not include the income of partners in their original loan request and for borrowers that did not accept the full amount of the PPP loan they were approved for, or that returned a portion of the loan funds. These requests must be submitted by the lender through the E-Tran system, but the process for applying will be clarified in forthcoming guidance.

Loans Under Review

If an applicant’s first draw loan is under review by the SBA based on information that the borrower may not have been eligible for the loan (an “unresolved borrower”), the SBA will notify the lender when the second draw loan application is submitted. A loan number will not be assigned (meaning the loan cannot be funded) and the SBA will work expeditiously to resolve any issues. The SBA will set aside available appropriations to fund Second Draw PPP Loans applied for by unresolved borrowers in the event they are approved.

Contact Us

For those looking for more information, please refer to our [recent article](#) covering the key provisions of the Act, reach out to your PKF O’Connor Davies client service representative or email us at LoanForgiveness@PKFOD.com.

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