

# PPP 2<sup>ND</sup> DRAW AND THE ERC Questions Answered

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**TITLE**

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# OVERVIEW

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- > **Second Draw Paycheck Protection Program Loan (PPP2)**
  - What are the criteria for businesses to qualify?
  - Do profits matter or just the gross receipts?
  - How can I interpret terms like “uncertainty” and “necessary?”
  
- > **Employee Retention Credit (ERC)**
  - Making sense of confusing and changing information
  - Who qualifies?
  - Nuts of bolts of how it works?
  - How do we coordinate this credit in parallel with PPP funds?

## WHAT ARE THE CRITERIA FOR SECOND DRAW PPP LOANS?

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- 1.** 2020 gross receipts (not profit) for any calendar quarter were reduced by 25% against comparable 2019 quarter.
- 2.** Business must make good faith certification that *“[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.”*
- 3.** Borrower must have maximum of 300 full time equivalent employees (including affiliates).
- 4.** Applicant must have received a First Draw PPP Loan and used the full loan amount for authorized purposes.

# WHAT ARE GROSS RECEIPTS?

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- 1. Gross receipts include all revenue received by the borrower.**
  - a) Calculate on a cash basis if using cash accounting.
  - b) Accrued revenues apply if using accrual accounting.
- 2. Exclude (a) sales taxes or other taxes collected from customers, (b) revenue from affiliates, (c) capital contributions and capital gains, and (d) PPP loans and EIDL advances.**
- 3. Amounts collected by a freight forwarder or customs broker on behalf of another party are not included in gross receipts.**

## HOW TO CALCULATE A 25% REDUCTION:

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- 1. A borrower may compare any fiscal quarter in 2020 with a comparable quarter in 2019 (e.g. q2 2020 against q2 2019).**
- 2. If a borrower was not in business until q3 or later in 2019, any quarter in 2020 may be compared against q3 or q4 of 2019, or against q1 of 2020 if not in business for entire 2019.**
- 3. May demonstrate reduction in revenue with quarterly financial statements or bank statements.**

# IS A PPP LOAN NECESSARY?

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- > Borrower ultimately makes certification that the loan is necessary in “good faith” at time of application.
- > SBA provided factors (on May 13, 2020) to evaluate this certification:
  - **Current business activity** (at time of application)
  - **Ability to access other sources of liquidity** sufficient to support ongoing operations in a manner that is not significantly detrimental to the business
- > The above are factors to consider and not a “legal test” for eligibility.

# EMPLOYEE RETENTION CREDIT

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- > **What is it? ERC is credit against payroll taxes, available to businesses with reduced revenues or suspended operations due to COVID-19.**
  
- > **Key Questions for eligibility:**
  - **What year is the credit? The 2020 ERC is different in many ways from the 2021 ERC.**
  
  - **How many employees during 2019? The amount of credit and eligible wages differs for “large employers” (100 employees for 2020 and 500 employees for 2021).**

# IS MY BUSINESS ELIGIBLE?

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- > Eligibility is determined for a calendar quarter if, during the quarter:
  - Business operations were fully or partially suspended due to orders from governmental authorities related to COVID-19; or
  - Revenues were less than 50% from comparable quarter in 2019 (2020 credit) or less than 80% (2021 credit).
- > PPP borrowers are now eligible for ERC.



## HOW MUCH IS THE CREDIT?

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- > **2020 Credit – 50% credit on up to \$10,000 of wages per employee for the year (i.e. \$5,000 per employee during 2020).**
- > **2021 Credit – 70% credit on up to \$10,000 of wages per employee for each quarter (i.e. \$7,000 per employee for each quarter).**
- > **Credit taken against “qualified wages” include overall compensation, Medicare withholdings and health insurance contributions (if excluded from employee gross income).**

## WHAT WAGES MAY BE INCLUDED?

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- > For small employers (< 100 employees for 2020 credit or < 500 employees for 2021 credit):
  - May include all qualified wages for quarter in which employer qualifies (i.e. revenue reduction or suspended operations)
- > For large employers (> 100 employees for 2020 credit or > 500 employees for 2021 credit):
  - May include only wages for period in which employee is not providing services (i.e. paid to stay home)
- > Number of employees: count each employee working an average of 30 hours per week or 130 total hours for any calendar month of 2019, aggregated for employers in the same control group.

# HOW TO CLAIM THE CREDIT?

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- 1.** The credit may be claimed by reducing withholdings and reporting the credit claimed on quarterly payroll form 941.
- 2.** If eligible for prior periods, employer may file a form 941-X to amend the previously filed 941.
- 3.** The credit may be paid as an advance – apply with form 7200.

# THANK YOU.

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## QUESTIONS?

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