



Advisory



Small businesses



Relief bill

# New COVID-19 relief bill

January 12, 2021

On December 27, 2020, President Donald Trump signed into law a \$900 billion COVID-19 relief bill that provides more than \$300 billion in aid for small businesses.

The following modifications were implemented to the Loan Forgiveness and Loan Review Procedures Interim Final Rules:

The Consolidated Appropriations Act of 2021 legislation, ensures federal tax deductibility for business expenses paid with forgiven Paycheck Protection Program (PPP) loans, provides PPP funding, makes Sec. 501(c)(6) not-for-profit organizations eligible for loans for the first time, and offers businesses the opportunity to apply for a second loan.

The new round of PPP loans will initially open to community financial institutions on January 11, 2021, to apply for first draw PPP loans, and on January 13, 2020, to apply second draw PPP loans. The PPP will open to all participating lenders shortly afterwards.

## The new legislation includes, among others:

- more than \$284 billion to the SBA for PPP forgivable small business loans
- \$20 billion allocated to provide Economic Injury Disaster Loan (EIDL) grants to businesses
- live venues, independent movie theaters, and cultural institutions will have access to \$15 billion in dedicated funding
- \$12 billion will be set aside to help business in low-income and minority communities
- extends the employee retention tax credit and several expiring tax provisions

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Collaborated in the preparation of this article.

## PPP eligibility

The new PPP round will be available to first-time qualified borrowers (referred to as first draw PPP loans) and to businesses that previously received a PPP loan. First-time PPP borrowers will be subject to the program's original eligibility rules. The original PPP was generally available to businesses with up to 500 employees, and there was no requirement to demonstrate a revenue loss.

The previous PPP (referred to as first draw PPP loans) recipients may apply for another loan (referred to a second draw PPP loan) of up to \$2 million if they meet the following three requirements:

- have 300 or fewer employees;
- have used or will use the full amount of their first PPP loan; and  
can demonstrate a 25% gross revenue decline in any 2020 quarter compared with the same quarter in 2019

The bill allows borrowers that returned all or part of a previous PPP loan to reapply for a second-round loan.

### **How much can a business obtain from the new PPP loans?**

The maximum eligible loan amounts for second draw PPP loans will be \$2 million. Borrowers will generally be eligible to calculate their loan amount as 2½ times their average monthly payroll costs in the prior year. Applicants in the accommodation and food services industries are eligible for loans that amount to 3½ times their average monthly payroll.

### **PPP loan terms**

Costs eligible for loan forgiveness consist of the ones originally included in the first PPP program: payroll, rent, covered mortgage interest, and utilities; and:

1. covered operations expenditures
2. covered facility modification costs to comply with safety guidelines
3. covered supplier cost
4. covered worker protection

Borrowers who have not yet applied for forgiveness, for their original PPP loan, may now also include these types of expenses in their forgiveness application. Borrowers are still required to spend at least 60% of the funds on payroll to receive full forgiveness. The other 40% may be used on eligible costs.

### **Streamlined forgiveness for borrowers under \$150,000**

Borrowers for loans under \$150,000 will only be required to submit a one-page online or paper form and will only be subject to audit if they commit fraud or use the proceeds for improper purposes.

### **Tax matters and changes in the bill**

- deductibility of expenses paid with forgiven PPP funds
  - expenses paid with PPP funds are now deductible for federal income tax purposes. This was already permitted for Puerto Rico income tax purposes under local Act 57-2020.
- employee payroll tax deferral
  - the bill extends the deferral of an employee's share of social security tax on wages paid from September 1, 2020 through the end of the year from April 30, 2021 until December 31, 2021.
- families First Coronavirus Response Act (FFCRA) Credits
  - extends the tax credit provisions of FFCRA from December 31, 2020 through March 31, 2021.
- extension of the Employee Retention Tax Credit
  - extends the tax credit through June 30, 2021.

- o businesses may now claim both the Employee Retention Credit and the PPP Loan. But wages upon which the ERC is calculated is not eligible for forgiveness under the PPP program.

**Resources:**

- [Bill - The Consolidated Appropriations Act of 2021](#)
- [Forbes - Stimulus Payments, Paycheck Protection Program Expense Deductibility Headline Tax Changes In Latest Covid Relief Package](#)
- [Journal of Accountancy - COVID-19 relief bill addresses key PPP issues](#)
- [Wallstreet Journal - PPP Loans: Everything We Know About Latest Small Business Protection](#)

We are committed to keep you updated of all developments that may affect the way you do business in Puerto Rico. Please contact us for assistance in relation to this or any other matter, we will be glad to assist you.



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