
FAQ for the Paycheck Protection Program: Second Round

I. Who is Eligible:

Sec. 301. of the Bill states in relevant part: *“(I) means any business concern . . . that— “(aa) employs not more than 300 employees; and (bb)(AA) . . . had gross receipts during the first, second, third, or, only with respect to an application submitted on or after January 1, 2021, fourth quarter in 2020 that demonstrate not less than a 25 percent reduction from the gross receipts of the entity during the same quarter in 2019;”*

The key word in determining eligibility is “not more than 300 employees” and the word “or.” This means that an applicant needs to demonstrate that during one quarter in 2020 versus the same quarter in 2019, there was a reduction of 25% or more in gross receipts. To be clear, it is not a combination of first, second, and third quarter 2020 versus 2019. For example, if your business had gross receipts in Q2 2020 of \$500,000 versus gross receipts in Q2 2019 of \$1,000,000, the business would meet the “not less than a 25% reduction” requirement because the reduction was 50%.

Eligibility Formula = (not more than 300 employees) + (one quarter in 2020 versus 2019 with reduction of 25% or more in gross receipts).

II. What is the Maximum Loan Amount:

The Bill states in relevant part: *“MAXIMUM LOAN AMOUNT.— (i) IN GENERAL.—Except as otherwise provided in this subparagraph, the maximum amount of a covered loan made to an eligible entity is the lesser of— (I) the product obtained by multiplying— (aa) at the election of the eligible entity, the average total monthly payment for payroll costs incurred or paid by the eligible entity during— (AA) the 1-year period before the date on which the loan is made; or (BB) calendar year 2019; by 2.5; or “(II) \$2,000,000.”*

In other words, the loan is capped at \$2mill. and to determine the amount up to \$2mill., the business can elect to either determine the monthly average by using calendar year 2019 or the previous 12 months.

Maximum Loan Amount Formula = Lesser of \$2mill or [2.5 x (monthly average for 2019 or previous 12 months)]

III. What Expenses May I Use to Determine Forgiveness Amount:

The Bill states in relevant part:

“(iii) FORGIVENESS AMOUNT.—An eligible entity shall be eligible for forgiveness of indebtedness on a covered loan in an amount equal to the sum of the following costs incurred or expenditures made during the covered period:

(I) Payroll costs, excluding any payroll costs that are -- (aa) qualified wages, as defined in subsection (c)(3) of section 2301 of the CARES Act (18 U.S.C. 3111 note), taken into account in determining the credit allowed under such section; or (bb) qualified wages taken into account in determining the credit allowed under subsection (a) or (d) of section 303 of the Taxpayer Certainty and Disaster Relief Act of 2020.

(II) Any payment of interest on any covered mortgage obligation (which shall not include any prepayment of or payment of principal on a covered mortgage obligation).

(III) Any covered operations expenditure.

(IV) Any covered property damage cost.

(V) Any payment on any covered rent obligation.

(VI) Any covered utility payment.

(VII) Any covered supplier cost.

(VIII) Any covered worker protection expenditure.”

IV. What Is the Covered Period:

The Bill states in relevant part: *“the term ‘covered period’ means the period— (A) beginning on the date of the origination of a covered loan; and (B) ending on a date selected by the eligible recipient of the covered loan that occurs during the period—*

(i) beginning on the date that is 8 weeks after such date of origination; and

(ii) ending on the date that is 24 weeks after such date of origination;”

V. How Much of the Loan is Forgivable:

The Bill states in relevant part: *“forgiveness amount under this subparagraph shall be equal to the lesser of “(I) the amount described in clause (ii); and “(II) the amount equal to the quotient obtained by dividing— “(aa) the amount of the covered loan used for payroll costs during the covered period; and “(bb) 0.60.”*

The “amount described in clause (ii)” is the formula that was used to forgive loans in the CARES Act.