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SBA interim final rule concerning PPP loans, reflecting Rescue Act measures

The Small Business Administration (SBA) today released for publication in the Federal Register an interim final rule to implement changes related to loans under the Paycheck Protection Program (PPP)—changes made by legislation enacted March 11, 2021.

The [interim final rule](#) [PDF 318 KB] (seven pages as published in the Federal Register on March 22, 2021) reflects changes to the PPP rules as made by the *American Rescue Plan Act of 2021* (Pub. L. No. 117-2) (“Rescue Act” enacted March 11, 2021). These legislative provisions:

- Expand eligibility for first and second draw PPP loans
- Revise the exclusions from payroll costs for purposes of loan forgiveness
- Provide that a PPP borrower that receives a PPP loan after December 27, 2020, can be approved for a “Shuttered Venue Operators Grant” (SVOG) under certain conditions, but that if a PPP applicant is approved for an SVOG before SBA issues a loan number for the PPP loan, the applicant is ineligible for the PPP loan (and acceptance of any PPP loan proceeds will be considered an unauthorized use)

This interim final rule clarifies the eligibility for first draw PPP loans for applicants that are assigned a North American Industry Classification System (NAICS) code beginning with 72 and have more than one physical location. It also clarifies certain payroll cost exclusions included in December 2020 legislation.

Background

The PPP is a program providing financial support lending for small and large businesses pursuant to measures originally included in the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act) (Pub. L. No. 116-136). Additional measures concerning the program were enacted under the *Consolidated Appropriations Act, 2021* (Pub. L. No. 116-260) (the *Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act* is one of the titles of the legislation enacted December 27, 2020). That legislation effectively opened up the availability for a “second draw” for PPP loans.

The SBA in January 2021 published an interim final rule that incorporated the December 2020 amendments to the PPP and consolidated the interim final rules (and other guidance) that had been issued governing borrower eligibility, lender eligibility, and PPP application and origination requirements for PPP loans.

Eligibility for first and second draw PPP loans was expanded by the American Rescue Plan Act of 2021. That legislation also provided that a PPP borrower that receives a PPP loan after December 27, 2020, can be approved for a "Shuttered Venue Operators Grant" under certain conditions. Read [TaxNewsFlash](#)

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