## **COVID-19 Update**

Presented by
The Franklin Partnership, LLC
Policy Resolution Group at Bracewell
January 15, 2021







## Your Team in Washington, D.C.



#### Lobbying Firm – The Franklin Partnership, LLC

- Bi-partisan Washington, D.C.-based government relations firm
- Representing manufacturing industry since 2002
- Clients include: manufacturing associations, defense contractors, hospitals, cities



#### Strategic Communications Firm – Policy Resolution Group at Bracewell

- Wash, D.C.-based public affairs & strategic communications consultants
- Promote NTMA and PMA in print, digital and other media
- Support Franklin Partnership government relations efforts by designing and implementing coordinated strategic communications strategy
- Representing metalworking industry since 2003

Nothing contained in here shall be deemed legal or financial advice.

## COVID Relief as a Priority

#### ONE VOICE ANNUAL SURVEY

One Voice members named the following as their top legislative priorities in 2021:



#### ONE VOICE ANNUAL SURVEY

65% of One Voice members
attended the **COVID-19 Friday Webinars** during 2020,
and 100% of attendees
reported that they found
the insights helpful.



## More Resources: www.onevoiceinfo.org



#### NTMA/PMA Podcast – Subscribe Now!

#### Available on:













#### Agenda

- New CDC Webpage & FAQ: Ventilation in Buildings
- Vaccination Tracker by State
- FFCRA Extended: FAQ Issued
- Extension of \$300 per week Unemployment
- Updated Employee Retention Tax Credit
- IRS Revokes Deduction of PPP Expenses Notices
- PPP1 Loans Reopen; Changes
- Second Draw PPP Loans Overview
- Next Steps on Regulatory and Legislative Actions

#### New CDC Webpage & FAQ: Ventilation in Buildings

#### Improve central air filtration:

- Inspect filter housing and racks to ensure appropriate filter fit and check for ways to minimize filter bypass.
- Check filters to ensure they are within their service life and appropriately installed.

Ensure restroom exhaust fans are functional and operating at full capacity when the building is occupied.

Inspect and maintain local exhaust ventilation in areas such as kitchens, cooking areas, etc. Operate these systems any time these spaces are occupied. Consider operating these systems, even when the specific space is not occupied, to increase overall ventilation within the occupied building.

December 21, 2020

## Washington Post Second Vaccination Tracker

January 13, 2021  Place ▼	People who completed vaccination per 100k	People who have received the first dose per 100k	Percent of pop. that has received the first dose ▼
U.S.	163	2,849	2.8%
Illinois	572	4,619	4.6%
Connecticut	0	4,128	4.1%
Tennessee	67	3,977	4%
Oklahoma	118	3,900	3.9%
Colorado	622	3,881	3.9%
New Mexico	0	3,661	3.7%
New Hampshire	0	3,637	3.6%
Indiana	467	3,502	3.5%
Utah  https://www.washino	30 gtonpost.com/graphics/2020	3,448	3.4%

#### Washington Post Second Vaccination Tracker

January 13, 2021	People who completed vaccination per	People who have received the first	Percent of pop. that has received the
Place ▼	100k ▼	dose per 100k ▼	first dose ▼
U.S.	163	2,849	2.8%
New York	0	3,113	3.1%
Florida	239	3,019	3%
Texas	340	2,976	3%
Kentucky	0	2,957	3%
Massachusetts	0	2,870	2.9%
Wisconsin	0	2,806	2.8%
Minnesota	0	2,788	2.8%
Ohio	0	2,750	2.7%

https://www.washingtonpost.com/graphics/2020/health/covid-vaccine-states-distribution-doses/

#### FFCRA Extended: FAQ Issued

104. I was eligible for leave under the FFCRA in 2020 but I did not use any leave Am I still entitled to take paid sick or expanded family and medical leave after December 31, 2020? (added 12/31/2020)

Your employer is not required to provide you with FFCRA leave after December 31, 2020, but your employer may voluntarily decide to provide you such leave. The obligation to provide FFCRA leave applies from the law's effective date of April 1, 2020, through December 31, 2020. Any change to extend the requirement to provide leave under the FFCRA would require an amendment to the statute by Congress. The Consolidated Appropriations Act, 2021, extended employer tax credits for paid sick leave and expanded family and medical leav voluntarily provided to employees until March 31, 2021. However, this Act did not extend an eligible employee's entitlement to FFCRA leave beyond December 31, 2020.

Employers with questions about claiming the refundable tax credits for qualified leave wages should consult with the IRS. Information can be found on the IRS website (<a href="http://www.irs.gov/coronavirus/new-employer-tax-credits">http://www.irs.gov/coronavirus/new-employer-tax-credits</a>).

105. I used 6 weeks of FFCRA leave between April 1, 2020, and December 31, 2020, because my childcare provider was unavailable due to COVID-19. My employer allowed me to take time off, but did not pay me for my last two weeks of FFCRA leave. Is my employer required to pay me for my last two weeks if the FFCRA has expired? (added 12/31/2020)

Yes. WHD will enforce the FFCRA for leave taken or requested during the effective period of April 1, 2020, through December 31, 2020, for complaints made within the statute of limitations. The statute of limitations for both the paid sick leave and expanded family and medical leave provisions of the FFCRA is two years from the date of the alleged violation (or three years in cases involving alleged willful violations). Therefore, if your employer failed to pay you as required by the FFCRA for your leave that occurred before December 31, 2020, you may contact the WHD about filing a complaint as long as you do so within two years of the last action you believe to be in violation of the FFCRA. You may also have a private right of action for alleged violations.

#### Extension of \$300 per week Unemployment

In addition to reauthorizing FPUC, the new law also modifies the program, which expired July 31, 2020. FPUC now provides \$300 per week to supplement benefits for weeks of unemployment beginning after Dec. 26, 2020, and ending on or before March 14, 2021. FPUC is not payable with respect to any week during the gap in applicability, that is, weeks of unemployment ending after July 31, 2020, through weeks of unemployment ending on or before Dec. 26, 2020.

Includes Return-to-Work reporting requirements from Rep. Kevin Brady's (R-TX) Back to Work Bonus bill. States must have a place for employers to report when someone turns down a job and must notify claimants of the requirement to accept suitable work.

Helpful Pennsylvania Unemployment Compensation FAQ:

https://www.uc.pa.gov/COVID-19/Pages/UC-COVID19-FAQs.aspx

## Updated Employee Retention Tax Credit

	CARES	Consolidated Appropriations Act, 2021
Max. Credit	50%	70%
Percentage		
Per employee cap	\$10k per employee per year	\$10k per employee per quarter (for the first two quarters
		of 2021)
Phase in of credit	No	No
Eligible Employers	Had to fully or partially suspend operations due to	Had to fully or partially suspend due to government order
	government order OR 50% revenue loss versus same	OR 20% revenue loss versus same quarter in 2019 (with
	quarter for 2019.	alternative ways to be eligible).
		Non-profits, credit unions, universities, and hospitals also
		eligible.
Employer Size	Large business equals over 100 employees.	Large business equals over 500 employees.
	Large businesses: "qualified wages" are wages paid to	Large businesses: "qualified wages" are wages paid to
	employees for not providing services.	employees for not providing services.
Start Period	March 12, 2020	Jan. 1, 2021
End Date	Dec. 31, 2020	June 30, 2021
PPP + ERTC	No (have to choose one or the other)	Yes, with guardrails to prevent double dipping

#### IRS Revokes Deduction of PPP Expenses Notices

This ruling obsoletes Notice 2020-32, 2020-21 I.R.B. 837 (May 18, 2020), and Rev. Rul. 2020-27, 2020-50 I.R.B. 1552 (Dec. 7, 2020), due to the enactment of § 276(a) of the COVID-related Tax Relief Act of 2020 (Act), enacted as Subtitle B of Title II of Division N of the Consolidated Appropriations Act, 2021, Public Law 116-260, 134 Stat.1182 (Dec. 27, 2020).

As a result of the amendment made by § 276(a) of the Act regarding the Federal income tax consequences of covered loan forgiveness, the conclusion stated in Notice 2020-32, and the holding stated in Rev. Rul. 2020-27, are no longer accurate statements of the law. Accordingly, Notice 2020-32 and Rev. Rul. 2020-27 are declared obsolete as of the effective date of the amendment made by § 276(a) of the Act.

December 21, 2020

#### First Draw PPP Loans Reopened January 11, 2021

SBA is reopening the Paycheck Protection Program (PPP) for First Draw Loans the week of January 11, 2021. First Draw PPP Loans can be used to help fund payroll costs, including benefits. Funds can also be used to pay for mortgage interest, rent, utilities, worker protection costs related to COVID-19, uninsured property damage costs caused by looting or vandalism during 2020, and certain supplier costs and expenses for operations.

First Draw PPP Loans made to eligible borrowers qualify for full loan forgiveness if during the 8- to 24-week covered period following loan disbursement:

- Employee and compensation levels are maintained;
- The loan proceeds are spent on payroll costs and other eligible expenses; and
- At least 60 percent of the proceeds are spent on payroll costs.

#### First Draw PPP Loans Reopened January 11, 2021

#### How and When to Apply

Borrowers can apply for a First Draw PPP Loan until March 31, 2021, through any existing SBA 7(a) lender or through any federally insured depository institution, federally insured credit union, eligible non-bank lender, or Farm Credit System institution that is participating in PPP. All new First Draw PPP Loans will have the same terms regardless of lender or borrower. A list of participating lenders as well as additional information and full terms can be found HERE.

#### **Reapplying and Loan Increases**

Existing PPP borrowers that did not receive loan forgiveness by December 27, 2020 may: (1) reapply for a First Draw PPP Loan if they previously returned some or all of their First Draw PPP Loan funds, or (2) under certain circumstances, request to modify their First Draw PPP Loan amount if they previously did not accept the full amount for which they are eligible.

#### First Draw PPP Loans Cover Supplier, PPE Costs



#### Paycheck Protection Program Borrower Application Form Revised January 8, 2021

OMB Control No.: 3245-0407

Expiration Date: 7/31/2021

□ Inc □ 50 □ 50	dependent Contractor 1(c)(3) nonprofit	nership C-Corp S-Corp LL Self-Employed Individual 501(c)(6) organization anization Housing cooperative ter	С	DBA or Trac applica	•	Ye	ear of Establishment (if applicable)
Business Legal Name			NAICS Code		Applicant (including affiliates if applicable) Meets Size Standard (check one):		
					(DIV. GOV)	(or 30 ☐SB.	more than 500 employees 0 employees, if applicable A industry size standards A alternative size standard
Business Address (Street, City, State, Zip Code - No P.O. Box addresses allowed)				Business TIN	(EIN, SSN)		<b>Business Phone</b>
		Primary Contact		Email Address			
Average Monthly Payroll:	\$	x 2.5 + EIDL (Do Not Include Any EIDL Advance) equals Loan Request Amount:	\$		Number of Employees:		
Purpose of the loan (select all that apply):	☐ Payroll Costs	☐ Rent / Mortgage Interest	:	☐ Utilities			Covered Operations penditures
	☐ Covered Prope Damage	erty Covered Supplier Costs		Covered Wo	)		Other (explain):

https://home.treasury.gov/system/files/136/PPP-Borrower-Application-Form.pdf

## Reminder: PPP Eligible Payroll Costs

What qualifies as "payroll costs?" 61

Payroll costs consist of compensation to employees (whose principal place of residence is the United States) in the form of salary, wages, commissions, or similar compensation; cash tips or the equivalent (based on employer records of past tips or, in the absence of such records, a reasonable, good-faith employer estimate of such tips); payment for vacation, parental, family, medical, or sick leave; allowance for separation or dismissal; payment for the provision of employee benefits consisting of group health care or group life, disability, vision, or dental insurance, 62 including insurance premiums, and retirement; payment of state and local taxes assessed on compensation of employees; and for an independent contractor or sole proprietor, wages, commissions, income, or net earnings from self-employment, or similar compensation.

https://home.treasury.gov/system/files/136/PPP-IFR-Paycheck-Protection-Program-as-Amended-by-Economic-Aid-Act.pdf

January 6, 2021

## Reminder: PPP Eligible Payroll Costs

Your "loan forgiveness covered period" is the period beginning on the date the lender disburses the PPP loan and ending on any date selected by the borrower that occurs during the period (i) beginning on the date that is 8 weeks after the date of disbursement and (ii) ending on the date that is 24 weeks after the date of disbursement. Your lender must notify you of remittance by SBA of the loan forgiveness amount (or notify you that SBA determined that no loan forgiveness is allowed) and the date your first payment is due. Interest continues to accrue during the deferment period.

If you do not submit to your lender a loan forgiveness application within 10 months after the end of your loan forgiveness covered period, you must begin paying principal and interest after that period. For example, if a borrower's PPP loan is disbursed on January

January 6, 2021

## New: Eligible Supplier Costs

covered supplier costs (expenditures made by a borrower to a supplier of goods for the supply of goods that—(A) are essential to the operations of the borrower at the time at which the expenditure is made; and (B) is made pursuant to a contract, order, or purchase order—(i) in effect at any time before the covered period with respect to the applicable covered loan; or (ii) with respect to perishable goods, in effect before or at any time during the covered period with respect to the Steel, aluminum contracts applicable covered loan); and

#### NEW: Eligible PPE Expenses

- i) the purchase, maintenance, or renovation of assets that create or expand
  - a. a drive-through window facility;
  - b. an indoor, outdoor, or combined air or air pressure ventilation or filtration system;
  - c. a physical barrier such as a sneeze guard;
  - d. an expansion of additional indoor, outdoor, or combined business space;
  - e. an onsite or offsite health screening capability; or
  - f. other assets relating to the compliance with the requirements or guidance
- ii) the purchase of
  - a. covered materials described in section 328.103(a) of title 44, Code of Federal Regulations, or any successor regulation;
  - b. particulate filtering facepiece respirators approved by the National Institute for Occupational Safety and Health, including those approved only for emergency use authorization; or
  - c. other kinds of personal protective equipment, as determined by the Administrator in consultation with the Secretary of Health and Human Services and the Secretary of Labor;
  - d. such expenditures do not include residential real property or intangible property.

## New Rules Apply to PPP1 Loans Not Forgiven

# Business Loan Program Temporary Changes; Paycheck Protection Program as Amended [Docket No. SBA-2021-0001]

forgiveness and the loan review process as well. This interim final rule is intended to govern new PPP loans made under the Economic Aid Act, as well as applications for loan forgiveness on existing PPP loans where the loan forgiveness payment has not been remitted, and should not be construed to alter or affect the requirements applicable to PPP loans closed prior to its enactment, unless the provisions apply retroactively consistent with specific applicability provisions of the Economic Aid Act as identified in this rule. In addition, in this interim final rule, Treasury exercises its authority under section 1109 of the CARES Act to allow borrowers of first draw PPP loans to use 2019 or 2020 to calculate their maximum loan amount.

January 6, 2021

## Can Increase PPP if Partner Pay Excluded

If a partnership received a PPP loan that did not include any compensation for its partners, can the loan amount be increased to include partner compensation?<sup>115</sup>

Yes. If a partnership received a PPP loan that only included amounts necessary for payroll costs of the partnership's employees and other eligible operating expenses, but did not include any amount for partner compensation, 116 the lender may electronically submit a request through SBA's E-Tran Servicing site to increase the PPP loan amount to include appropriate partner compensation, even if the loan has been fully disbursed and even if the lender's first SBA Form 1502 report to SBA on the PPP loan has already been submitted. In no event can the increased loan amount exceed the maximum loan amount

January 6, 2021

## Who May Reapply?

8. Which other PPP borrowers can reapply or request an increase in their PPP loan amount?<sup>118</sup>

The following borrowers can reapply or request an increase in their PPP loan amount:

- a. If a borrower returned all of a PPP loan, the borrower may reapply for a PPP loan in an amount the borrower is eligible for under current PPP rules.
- b. If a borrower returned part of a PPP loan, the borrower may reapply for an amount equal to the difference between the amount retained and the amount previously approved.
- c. If a borrower did not accept the full amount of a PPP loan for which it was approved, the borrower may request an increase in the amount of the PPP loan up to the amount previously approved.

## Second Draw Generally Subject to Same Terms

- The guarantee percentage is 100 percent.
- No collateral will be required.
- No personal guarantees will be required.
- The interest rate will be 100 basis points or one percent, calculated on a noncompounding, non-adjustable basis<sup>2</sup>.
- The maturity is five years.
- All loans will be processed by all lenders under delegated authority and lenders will be permitted to rely on certifications of the borrower to determine the borrower's eligibility and use of loan proceeds.

#### Second Draw PPP Loans Open Through March 31st

#### **Targeted Eligibility**

A borrower is generally eligible for a Second Draw PPP Loan if the borrower:

- Previously received a First Draw PPP Loan and will or has used the full amount only for authorized uses;
- Has no more than 300 employees; and
- Can demonstrate at least a 25% reduction in gross receipts between comparable quarters in 2019 and 2020.

#### **Maximum Loan Amount and**

#### **Increased Assistance for Accommodation and Food Services Businesses**

For most borrowers, the maximum loan amount of a Second Draw PPP Loan is 2.5x average monthly 2019 or 2020 payroll costs up to \$2 million. For borrowers in the Accommodation and Food Services sector (click <u>HERE</u> for NAICS 72 to confirm), the maximum loan amount for a Second Draw PPP Loan is 3.5x average monthly 2019 or 2020 payroll costs up to \$2 million.

#### How and When to Apply

Borrowers can apply for a Second Draw PPP Loan until March 31, 2021, through any existing SBA 7(a) lender or through any federally insured depository institution, federally insured credit union, eligible non-bank lender, or Farm Credit System institution that is participating in PPP. All Second Draw PPP Loans will have the same terms regardless of lender or borrower. A list of participating lenders as well as additional information and full terms can be found <u>HERE</u>.

#### Second Draw PPP Loans Have 25% Revenue Loss Test

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#### Paycheck Protection Program Second Draw Borrower Application Form

OMB Control No.: 3245-0417

Care V		Expiration Date: 7/31/2021			
Ind	ependent Contractor [	rshipC-CorpS-CorpLLC Self-Employed Individual	DBA or Tradename (if applicable)	Year of Establishment (if applicable)	
□ 501(c)(3) nonprofit □ 501(c)(6) organization     □ 501(c)(19) veterans organization □ Housing cooperative     □ Tribal Business □ Other					
	Business Legal !	Name	NAICS Code		
Business Address (S	treet, City, State, Zip allowed)	Code - No P.O. Box addresses	Business TIN (EIN, SSN)	Business Phone	
			Primary Contact	Email Address	
Average Monthly Payroll:	s	x 2.5 (or x 3.5 for NAICS 72 applicants) equals Loan Request Amount (may not exceed \$2,000,000):	Number of E (including aft applicable; n		
Purpose of the	Payroll Costs	Rent / Mortgage Interest	Utilities	Covered Operations Expenditures	
loan (select all that apply):	Covered Proper Damage	cty Covered Supplier Costs	Covered Worker Protection Expenditure	Other (explain):	
PPP First Draw SBA Loan Number:					
Reduction in Gross Receipts of at Least 2020 Quarter 25% (Applicants for loans of \$150,000 or (e.g., 2Q 2020):			Reference Qu (e.g., 2Q 2019	<b>1</b>	
less may leave blank but must provide upon or before seeking loan forgiveness or upon SRA request):		Gross Receipt	is s		

https://home.treasury.gov/system/files/136/PPP-Second-Draw-Borrower-Application-Form.pdf

## Gross Receipts: Calculating Quarlerly Loss Test

A borrower must calculate this revenue reduction by comparing the borrower's quarterly gross receipts for one quarter in 2020 with the borrower's gross receipts for the corresponding quarter of 2019. For example, a borrower with gross receipts of \$50,000 in the second quarter of 2019 and gross receipts of \$30,000 in the second quarter of 2020 has experienced a revenue reduction of 40 percent between the quarters, and is therefore eligible for a Second Draw PPP loan The IFR specifies that any forgiveness amount of a First Draw PPP Loan that a borrower received in calendar year 2020 is excluded from a borrower's gross receipts.

Such documentation may include relevant tax forms, including annual tax forms, or, if relevant tax forms are not available, quarterly financial statements or bank statements

January 6, 2021

## Definition of Gross Receipts (affiliation applies)

(2)(i) Gross receipts includes 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. Generally, receipts are considered "total income" (or in the case of a sole proprietorship, independent contractor, or self-employed individual "gross income") plus "cost of goods sold," and excludes net capital gains or losses as these terms are defined and reported on IRS tax return forms. Gross receipts do not include the following: taxes collected for and remitted to a taxing authority if included in gross or total income (such as sales or other taxes collected from customers and excluding taxes levied on the concern or its employees); proceeds from transactions between a concern and its domestic or foreign affiliates; and amounts collected See Page 23 January 6, 2021

https://home.treasury.gov/system/files/136/PPP-IFR-Second-Draw-Loans.pdf

## Second Draw Payroll Calc.: 2019 or 1-Year Prior

Aid Act adjusted the methodology for calculating a borrower's payroll costs. Unlike First Draw PPP Loans, the Economic Aid Act provides that the relevant time period for calculating a borrower's payroll costs for a Second Draw PPP Loan is either the twelve-month period prior to when the loan is made or calendar year 2019. The Act also provided tailored methodologies for certain categories of borrowers. These calculations are reflected in subsection (f) of this IFR.

#### PPP1, Second Draw and Forgiveness

- By now you should have filed for forgiveness as new law is in effect
  - REMINDER: supplier costs are PPP eligible including payments to you from customers who also can have a PPP loan forgiven
- The "Unresolved Borrower": if your loan has not been forgiven yet, likely slows down a Second Draw application, however, they will expedite review of PPP1 review
- As of now, both PPP1 and Second Draw deadlines are March 31
- Second Draw PPP capped at \$2 million or 2.5 months of average 2019 or 2020 payroll
- Second Draw PPP loan revenue test is 25% loss in comparable quarters in 2020, 2019
- No additional documentation to substantiate payroll costs will be required if the applicant used calendar year 2019 figures to determine its First Draw PPP Loan amount and used calendar year 2019 figures to determine its Second Draw PPP Loan amount

#### COVID Regulatory and Legislative next Steps

- Still will need more PPP guidance from Treasury and SBA
- Congress, stakeholders opposing PPP Necessity Questionnaire Form 3509
- IRS has not updated Employee Retention Tax Credit Guidance
- Democrats control Washington House, Senate, White House
  - o Biden wants a multi-trillion dollar stimulus plan
  - o Goal is to move a bipartisan stimulus bill through regular order
    - Democrats will challenge GOP to oppose support for COVID
  - o If fail to secure 60 Senate votes, using reconciliation is a possible option for COVID
  - o However, cannot use reconciliation for discretionary spending
- Biden has already begun drafting a stimulus bill
  - o Likely seek to move a bill in February, March
  - o March 26: Last day of House votes before Easter recess

#### Members in the Media

# THE WALL STREET JOURNAL.

**BUSINESS** 

# Low on Workers, Manufacturers Recruit Their Executives for the Factory Floor

Covid, child care and competition from e-commerce warehouses contribute to labor shortages at many factories

#### Donate to NTMA, PMA to Support Advocacy in DC

NTMA's Government Affairs Administrative Fund (GAAF) allows the association to undertake initiatives aimed at educating elected officials on tooling and machining and the industry's priority issues. It also permits us to support a variety of activities to inform and mobilize our members, as well as to protect and promote the industry with key lawmakers. You can use corporate OR personal funds to donate to the GAAF.

Donate Today!

https://ntma.org/programs/advocacy/

#### PMA ADVOCACY FUND

PMA's Advocacy Fund supports the association's day-to-day lobbying and public relations efforts in Washington, D.C., increasing the industry's visibility in Congress, the Administration and the public. You can use corporate OR personal funds to donate to the advocacy fund.

Donate Today!

https://www.pma.org/advocacy/donate-today.asp

## Questions?

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https://www.pma.org/advocacy/donate-today.asp

<u> https://ntma.org/programs/advocacy/</u>

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