Twitter Thread by Chris Wittich



Chris Wittich
@RavenousTiger

Reading the IFR about PPP second draw and it's got me thinking about who qualifies for second draw. Might be so many thoughts I need like several tweets in a row or a thread if you will. Warning I don't get to the real point of this until like a dozen tweets in #taxtwitter



Need 300 or less emp and a 25% decline in revenue 2020 vs 2019. There are rules about what's an employee and what's gross receipts so I don't really have any questions or deep thoughts about that part. I think we all understand how you document gross receipts went down.

Nice of them to define the gross receipts in a footnote of page 8 and on page 23. PPP loans would not be included so that's helpful and logical. These rules are not always helpful and logical so nice to see that.

Another requirement is that PPP first draw was received and has used the full amount of the PPP first draw on "eligible expenses" on or before PPP second draw is disbursed. That's interesting to me. It doesn't say that the PPP first draw will be entirely forgiven.

Eligible exp for PPP first draw are referenced back to the other new IFR on PPP first draw and it's the whole list of payroll, rent, PPE, supplier costs etc. Certainly to achieve 100% forgiveness you needed to spend 60% on payroll and spend all of it

in the CP.

If a business got $100k and spent like $65k during the CP and get the $65k forgiven they still have a requirement to spend the leftover $35k on payroll, rent, etc. So to qualify for PPP second draw that leftover $35k needs to be spent before getting that second draw.

It's not about having 100% forgiven from PPP first draw, it's about having spent 100% on eligible exp regardless of if it was during the CP or afterwards. Eligible expenses would include virtually all the payroll from PPP 1 disbursement date + everything else through now.

It would be an unlikely scenario where you got a PPP first draw and still had money left over considering all the eligible exp and the extra time beyond 24 weeks that count. I'm sure there is one, but that borrower is barely in business if they couldn't spend it all by now.

Even if you somehow had not managed to spend it all, you could just spend it now on payroll / rent / supplier costs / PPE and then apply for the PPP Second draw. Ok so onto the certifications.

PPP second draw certifies all the same items as PPP first draw that they were in business, funds used on eligible expenses, economic uncertainty makes the loan request necessary. Plus new certifications about the 25% decline in gross receipts and some unimportant tweaks.

"Current economic uncertainty makes this loan request necessary to support the ongoing operations of the applicant." People glossed past it in April when uncertainty was crazy high for every business. Not quite the case anymore.

Uncertainty easy for a restaurant that's closed, then they open at 50%, then they close again, then they open outdoor only, etc. Uncertainty seems easy if you are operating at like 50% right now, but some have made it back to 100% open depending on which state they are in.

So what about a business that did like 50% revenue Q2 of 2020, 75% in Q3, 100% in Q4 and expects to do 100% in Q1 of 2021? They spent all the money the first go around and meet that 25% test, so back to the other certifications, the uncertainty/necessity one.

The IFR refers to the FAQ 46 that has a safe harbor for the necessity test. Going back to that old thing it says that if you received PPP loans with original principal of less than $2M you are deemed to have made the certification in good faith. Hmmmm, very very interesting.

So you got a PPP first draw of $800k, the way it's written I think that safe harbor would apply to your second draw of $800k as well because your PPP loans still have original principle of less than $2M. I've finally arrived at the point.



If you got PPP first draw $1.5M it seems like you cannot rely on the safe harbor for the second draw as well based on how that was written. The PPP second draw doesn't mention the safe harbor one way or the other, but it refers to those original certifications with some changes.

I see no reason why that safe harbor would not also apply to the second draw if the total PPP for the business is under the $2M level. Not sure this is what the SBA intends, but it'll help more people get the PPP second draw, even ones that maybe should not.

Q2 down 40%. Q3/Q4 revenues back up, biz was more profitable in 2020 than 2019. Original PPP was $600k, they meet the 25% decline, the size rules and all the rest. Seems that safe harbor is their ticket to PPP second draw, but giving $600k more to that biz seems kinda dumb.

Am I wrong #taxtwitter? I think that safe harbor could end up qualifying some biz that don't really seem like the intended target of PPP second draw.

