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PPP SELF-EMPLOYED BORROWERS CAN USE GROSS INCOME, SBA RULES

From the Journal of Accountancy by Jeff Drew

The U.S. Small Business Administration (SBA) issued new Paycheck Protection Program (PPP) rules that allow self-employed individuals who file Form 1040, Schedule C, *Profit or Loss From Business*, to calculate their maximum loan amount using gross income instead of net profit.

The change opens the door for larger loans to self-employed individuals, many of whom don't record much, if any, net profit on their Schedule C.

The calculation change is detailed in a 32-page interim final rule published late Wednesday afternoon, March 3, by the SBA, which administers the PPP in partnership with Treasury. The SBA also released an updated set of frequently asked questions and six updated or new application forms, as follows.

- Updated PPP borrower first-draw (Form 2483) and second-draw (Form 2483-SD) application forms.
- New PPP first-draw (Form 2483-C) and second-draw (Form 2483-SD-C) borrower application forms for Schedule C filers using gross income.
- A revised lender application form for PPP loan guaranty (Form 2484)
- A revised PPP second-draw lender application form (2484-SD)

The new IFR

The interim final rule, titled "Business Loan Program Temporary Changes; Paycheck Protection Program — Revisions to Loan Amount Calculation and Eligibility," revises the maximum loan calculations for sole proprietors who file Schedule C returns, but the change is not retroactive. The SBA and Treasury have ruled that borrowers whose PPP loans already have been approved cannot increase their loan amount based on the new methodology.

The new IFR allows a Schedule C filer who has yet to be approved for a PPP first- or second-draw loan in the current, $284.5 billion phase of the program to elect to calculate the owner compensation share of its payroll costs based on either net profit (as reported on line 31 of Schedule C) or gross income (as reported on line 7 of Schedule C).

If a Schedule C filer has employees, the borrower may elect to calculate the owner compensation share of its payroll costs based on either net profit or gross income minus expenses reported on lines 14 (employee benefit programs), 19 (pension and profit-sharing plans), and 26 (wages (less employment credits)) of Schedule C. If a Schedule C filer has no employees, the borrower may simply choose to calculate its loan amount based on either net profit or gross income.

The IFR provides different sets of maximum loan calculation instructions for Schedule C filers with no employees (see pages 10–11 of the PDF) and with employees (see pages 11–13). These borrowers may use their PPP proceeds to cover the following:

- Owner compensation (if net profit is used) or proprietor expenses (business expenses plus owner compensation if gross income used).
- Employee payroll costs.
- Mortgage interest payments.
- Business rent payments.
- Business utility payments (for borrowers entitled to claim a deduction for such expenses on their 2019 or 2020 Schedule C, depending on which one was used to calculate the loan amount).
- Interest payments on any other debt incurred before Feb. 15, 2020 (these are not eligible for PPP loan forgiveness).
- Covered operations expenditures, as defined in Section 7A(a) of the Small Business Act, to the extent they are deductible on Schedule C.
- Covered property damage costs, as defined in Section 7A(a) of the Small Business Act, to the extent they are deductible on Schedule C.
- Covered supplier costs, as defined in Section 7A(a) of the Small Business Act, to the extent they are deductible on Schedule C.
- Covered worker protection expenditures, as defined in Section 7A(a) of the Small Business Act, to the extent they are deductible on Schedule C.

To mitigate the risk of fraud, a Schedule C filer that reports more than $150,000 gross income to calculate its first-draw PPP loan will not be able to claim the safe harbor provided for borrowers that, together with their affiliates, received PPP loans of less than $2 million. The SBA said it is eliminating the loan necessity safe harbor for these borrowers because they may be more likely to have other available sources of liquidity to support their business's operations than Schedule C filers with lower levels of gross income.

The SBA will review a sample of the population of first draw PPP loans made to Schedule C filers using the gross income calculation if the gross income on the Schedule C used to calculated the borrower's loan amount exceeds the $150,000 threshold. The review will assess whether these borrowers complied with the PPP eligibility criteria, including the good faith loan necessity certification.

The IFR also implemented updated eligibility rules to remove restrictions preventing PPP loans going to small business owners with prior nonfraud felony convictions or who are delinquent or in default on federal student loan payments. These changes are reflected on the updated PPP borrower forms for first and second draws.

The SBA guidance and forms release came a day after the American Institute of Certified Public Accountants (AICPA) called on Congress to extend the PPP application period by at least 60 days due to ongoing process delays and the need for time to implement the promised loan calculation guidance.