

# Small Business Notes

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## **President Biden Orders Supply Chain Review**

On February 24, 2021, the President issued an executive order for the review of U.S. supply chains for critical goods. The executive order cites pandemics and other biological threats, cyber-attacks, terrorism, and geopolitical and economic competition as real or potential threats to U.S. supply chains and it directs the heads of the Department of Commerce, the Department of Energy, the Department of Defense, and the Department of Health and Human Services to conduct a 100 day risk assessment of supply chains in four critical areas:

- Semiconductor manufacturing and advanced packaging
- Large capacity batteries
- Strategic and critical minerals
- Pharmaceuticals and pharmaceutical ingredients

and to recommend near term actions to remedy risks and vulnerabilities.

The executive order also requires a year long assessment of broader sectors of supply chains with emphasis on six areas:

- Defense Industrial Base
- Public Health and Biological Preparedness Industrial Base
- Information and Communications Technology Industrial Base
- Energy Sector Industrial Base
- Transportation Industrial Base
- Agricultural and Food Production Base

In addition to assessing supply chain risks and vulnerabilities, that assessment will also address the capacity of manufacturing supply chains, in both industry and agriculture, to include locations of key production and manufacturing assets, alternative sources for critical goods, substitutes for current critical goods, current workforce skills and gaps, and the role of transportation in current supply chains.

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The agencies conducting the reviews, both the 100 day review and the longer review, are encouraged in the executive order to consult with stakeholders in industry in making policy recommendations. The mechanisms for doing that have yet to be determined but businesses who participate in supply chains as vendors or consumers should follow the conduct of the reviews.

## **As PPP Loan Program Approaches End-Date, Small Business Administration Publishes New Rule Expanding Eligibility**

On March 3<sup>rd</sup> the U.S. Small Business Administration published a new Interim Final Rule expanding eligibility for loans of the Payroll Protection Program (PPP) due to expire on March 31, 2021.

The rule makes three substantive changes:

- It permits businesses which file Form 1040 Schedule C to calculate the amount of maximum loan using gross income rather than net income. The rule's comments indicate that the intention is make the loans available to businesses which were previously ineligible due to low net profits, specifically to women-owned and minority-owned businesses.
- It removes the ineligibility provision for individuals who have a non-fraud felony conviction in the last year.
- It removes the ineligibility provision for individuals who are delinquent on federal student loans.

The new rule is effective immediately. Businesses interested in the obtaining a PPP loan should immediately contact their lender. Some lenders have announced they will stop taking new PPP applications around March 15 to allow them to process the backlog of applications. Likewise, businesses should immediately prepare the new calculations contained in the rule. Those calculations and their explanation take up twenty five of the rule's twenty nine pages.

The earlier (February) rule change providing a two week period for receipt and processing of loan applications exclusively from minority owned businesses expired on March 9<sup>th</sup>.

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## Employee Retention Credit Extended and Expanded by American Rescue Plan Act

On March 11 the President signed the American Rescue Plan Act providing \$1.9 trillion in financial aid, stimulus, and credits to remediate the economic damage caused by the COVID-19 pandemic. Of particular note for small business employers are provision of the Act that extend and expand the employee retention credit for employers.

- The credit is extended through December 31, 2021.
- The credit is applied going forward to Medicare contributions rather than Social Security contributions.
- Any excess credit over the amounts applied to Medicare is refundable.
- The credit also applies going forward to businesses that started after February 15, 2020 (called “recovery startup businesses” in the Act) that had annual gross revenue of not more than \$1 million.
- A “recovery startup business” is eligible for the credit even if it does not meet the basic eligibility requirements (e.g., suspension of business because of government order). In these circumstances the credit is limited to \$50,000 per quarter.
- A “severely financially distressed business” (defined as a business that had a reduction in gross receipts of more than ninety percent over 2019) may treat all wages paid to employees as qualifying for the credit regardless of the size of the employer or the number of employees.

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Past issues of Small Business Notes are available on the Department of Employment and Economic Development website at [Small Business Notes](#)

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**Department of Employment and Economic Development**

1<sup>st</sup> National Bank Building, 332 Minnesota, Suite E200, Saint Paul, MN 55101-1351  
651-259-7114 | Toll Free: 800-657-3858 | Fax: 651-296-5287 | TTY/TDD: 651-282-5909 | [MN DEED](#)

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