

# NEW PPP FORGIVENESS APPLICATIONS AND RULES AVAILABLE

## LEGAL ALERT

### New PPP Forgiveness Applications and Rules Available

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On June 16, 2020, the U.S. Small Business Administration (“SBA”) released:

- an updated Loan Forgiveness Application, and
- an Alternative Loan Forgiveness Application for certain borrowers to implement the PPP Flexibility Act (“PPP Flex”), and
- a revised interim final rule (the “IFR”) on June 17, 2020 implementing changes from the PPP Flex.

The updated Loan Forgiveness Application covers the following changes:

- **Alternative Payroll Covered Period** applies to the 24-week (168-day) covered period; provided the Alternative Payroll Covered Period does not extend beyond December 31, 2020. Note: if a Borrower received its PPP loan before June 5, 2020, the Borrower may elect to use an eight-week (56-day) covered period.

- **Clarifies one of the Full Time Employee (FTEs)** reduction exceptions: A position will not be included in the calculation if the Borrower made a good-faith, written offer to rehire an employee who was employee on February 15, 2020 AND the Borrower was unable to hire similarly qualified employees for unfilled positions on or before December 31, 2020.
- **Changes the documentation required for FTEs** from the average number of FTEs per month to the average number of FTEs per week.
- **Employer health insurance and retirement contributions for business owners:** employer health insurance and employer retirement contributions on behalf of a self-employed individual, general partners, or owner-employees of an S-corporation should not be included in the health insurance expenditures calculation or retirement expenditures calculation, respectively.

A copy of the updated application is **here** and the instructions are **here**.

**A shortened version of the forgiveness application is available for the following borrowers:**

- Self-employed, independent contractors, or sole proprietors with no employees;
- Borrowers who did not reduce salaries by more than 25% during the covered period and did not reduce the number of employees or the average paid hours of employees from January 1, 2020 to the end of the Covered Period (ignoring reductions from the safe harbor related to an inability to hire qualified employees, and reductions due to an employee refusing to accept a restoration of hours); and
- Borrowers who did not reduce salaries by more than 25% during the covered period and were unable to operate during the covered period at the same level of business activity due to COVID-19 related safety requirements promulgated by the CDC, HHS, or OSHA.

The Alternative Loan Forgiveness Application is **here** and the instructions are **here**.

The SBA also released a revised interim final rule (the “IFR”) on June 17, 2020 implementing changes from the PPP Flex. The IFR provides the following:

**Increases the cap on individual employees’ salaries** from \$15,385 during the 8-week covered period to \$46,154 during the 24-week covered period.

**Increases the cap on owner compensation** from \$15,835 during the 8-week covered period, to \$20,833 for a 24-week covered period.

**For sole proprietors:** business mortgage payments, business rent payments, and business utility payments, as listed on Form 1040 Schedule C, are now included as amounts eligible for forgiveness.

**Loan forgiveness amount cap:** the amount of loan forgiveness is capped by the full principal amount of the loan plus accrued interest.

A copy of the IFR can be found **here**.

Our experienced team of attorneys are available to further assist you with any more questions or concerns you may have regarding PPP Forgiveness and PPP Flex.



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