

June 26, 2020

Dear Friends and Colleagues,

Over the last several days, the Small Business Administration released a new, simplified loan forgiveness application for the Paycheck Protection Program - SBA Form 3508EZ. They also offered several rule clarifications and laid out the forgiveness process.

Be aware, many lenders have delayed accepting PPP loan forgiveness applications until they've had the chance to fully process these changes...and the additional changes that are likely to follow.

Some things to be aware of:

SBA Form 3508EZ

Borrowers can apply for PPP loan forgiveness using the simplified application if **one** of these three statements applies:

- The borrower is a self-employed individual, independent contractor, or sole proprietor who had no employees at the time of the PPP loan application and did not include any employee salaries in the computation of average monthly payroll in the original PPP loan application;
- The borrower did not reduce the annual salary or hourly wages of any employee by more than 25 percent during the Covered Period; and the borrower did not reduce the number of employees or the average paid hours of employees between January 1, 2020 and the end of the Covered Period. (Reductions can be ignored if employees refused to come to work, were terminated for good cause, left voluntarily, or cut their hours voluntarily;
- The borrower did not reduce annual salary or hourly wages of any employee by more than 25 percent during the Covered Period; and the borrower was unable to operate during the Covered Period at the same level of business activity as before February 15, 2020, due to compliance with safety or governmental requirements (such as the closing of a non-essential business, or reduction in services because social distancing requirements).

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Covered Period

Can be either the 24-week (168-day) period beginning when the funds were received, or, if the funds were received prior to June 5, 2020, the original 8-week (56-day) period. The Covered Period may not extend beyond December 31, 2020.

Compensation Limits

For non-owner employees, compensation may not exceed an annual salary of \$100,000, as prorated for the Covered Period. For an 8-week Covered Period, that total is \$15,385. For a 24-week Covered Period, that total is \$46,154.

For owners (owner-employees, a self-employed individual, or general partners), compensation for an 8-week Covered Period is capped at 8/52 of 2019 compensation (up to a maximum of \$15,385). For a 24-week Covered Period, this amount is capped at \$20,833 (the 2.5-month equivalent of \$100,000 per year).

Benefits

Employer contributions for employee health insurance, but excluding any pre-tax or after-tax contributions by employees. Employer health insurance contributions made on behalf of a self-employed individual, general partners, or owner-employees of an S-corporation may not be included. (This is new).

Employer contributions to employee retirement plans, excluding any pre-tax or after-tax contributions by employees. Employer retirement contributions made on behalf of a self-employed individual or general partners may not be included. However, retirement contributions on behalf of owner-employees can be included, but are capped at 2.5 months' worth of the 2019 contribution amount.

Non-Payroll Costs

Payments of mortgage interest on any business mortgage obligation on real or personal property incurred before February 15, 2020. This includes not just business acquisition loans, but also equipment loans.

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Business rent or lease payments pursuant to lease agreements for real or personal property in force before February 15, 2020. This includes equipment leases as well.

Payments for utilities such as electricity, gas, water, telephone, transportation, or internet access for which service began before February 15, 2020.

Payroll Documentation you will be required to submit

1. Documentation verifying the eligible compensation from the Covered Period consisting of:
 - a. Bank account statements or third-party payroll service provider reports documenting the amount of compensation paid to employees;
 - b. Tax documents (Form 941) for the periods that overlap with the Covered Period;
 - c. Payment receipts, cancelled checks, or account statements documenting the amount of any employer contributions to employee health insurance and retirement plans that the borrower included in the forgiveness amount;
 - d. Average number of full-time equivalent employees on payroll employed by the Borrower on January 1, 2020 and at the end of the Covered Period.

Non-Payroll Documentation you will be required to submit

1. Documentation verifying existence of the obligations/services prior to February 15, 2020;
2. Business mortgage interest payments: Copy of lender amortization schedule and cancelled checks verifying eligible payments from the Covered Period; or lender account statements from February 2020 and the months of the Covered Period through one month after the end of the Covered Period verifying interest amounts and eligible payments;
3. Business rent or lease payments: Copy of current lease agreement and cancelled checks verifying eligible payments from the Covered Period; or lessor account statements from February 2020 and from the Covered Period through one month after the end of the Covered Period verifying eligible payments;
4. Business utility payments: Copy of invoices from February 2020 and those paid during the Covered Period and cancelled checks or account statements verifying those eligible payments.

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Documents that must be on hand but not submitted

1. Documentation supporting the certification that annual salaries or hourly wages were not reduced by more than 25 percent during the Covered Period relative to the period between January 1, 2020 and March 31, 2020. This must include payroll records that separately list each employee and show the amounts paid to each employee during the period between January 1, 2020 and March 31, 2020, and the amounts paid to each employee during the Covered Period;
2. Documentation regarding any employee job offers and refusals, firings for cause, voluntary resignations, written requests by any employee for reductions in work schedule, and any inability to hire similarly qualified employees for unfilled positions on or before December 31, 2020;
3. Documentation supporting the certification that the Borrower did not reduce the number of employees or the average paid hours of employees between January 1, 2020 and the end of the Covered Period. This documentation must include payroll records that separately list each employee and show the amounts paid to each employee between January 1, 2020 and the end of the Covered Period.

The Process

Once the application is submitted, the lender will have 60 days to approve the loan forgiveness in its entirety or in part. Once done, the lender will submit the application and documentation to the SBA for its own review. The SBA will then have 90 days to complete this process. It can either agree with the lender's recommendation, ask for additional documentation, or approve only partial forgiveness. If it is the latter, then the borrower will have five years to repay the balance at an annual interest rate of 1%.

Should you have any questions about the above, please feel free to contact our office at any time.

Sincerely,



Tom A. McFerson, CPA, ABV
Gatto McFerson, CPAs