

Paycheck Protection Program Update: SBA Issues New FAQs on PPP Loan Forgiveness

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In its continuing effort to provide guidance on the Paycheck Protection Program, the Small Business Administration (SBA) released new Frequently Asked Questions (FAQs) specifically targeted to the Loan Forgiveness process on August 4, 2020.

The FAQs address four areas, as follows:

Loan Forgiveness – General

- The FAQs discuss general procedures for businesses with no employees and clarify that interest on the loan accrues from the time the loan is disbursed, but payments are not due until the forgiveness amount is determined. The borrower is only responsible for paying accrued interest on the amount of the loan that is not forgiven.

Loan Forgiveness – Payroll Costs

- The FAQs clarify that payroll costs are eligible for forgiveness if they were either (1) incurred during the applicable 8-week or 24-week covered period but paid after the covered period and before the next regular payroll date; or (2) incurred before the applicable covered period but paid during the covered period.
- The FAQs provide guidance and examples for calculating payroll costs, including partial pay periods for employees who are paid twice a month.
- The FAQs clarify that gross amounts should be used for calculating cash compensation. Notably, forgiveness is not provided for employer contributions to group health care benefits or retirement benefits accelerated from periods outside the applicable covered period.

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- Examples are also provided for determining the amount of owner compensation that is eligible for forgiveness, covering corporations, partners and LLC owners.

Loan Forgiveness – Non-Payroll Costs

- Non-payroll costs are eligible for forgiveness if they were either (1) incurred during the covered period and paid on or before the next billing date, even if the billing date is after the covered period, or (2) incurred prior to the covered period and paid during the covered period.
- Payments on mortgages and leases that existed prior to, but were renewed or refinanced after, February 15, 2020 are eligible.
- Covered utility payments for electricity distribution and supply charges are eligible whether or not they are billed separately.

Loan Forgiveness – Reductions

- The FAQs specify the type of documents that are needed to show good faith efforts to rehire furloughed individuals in order to count these individuals in the forgiveness application. These documents include the written offer to rehire, written record of the offer's rejection and written record of efforts to hire a similarly qualified individual. Borrowers must also inform the applicable state unemployment insurance office of an employee's rejection of the rehire offer.
- The FAQs provide several examples for calculating reductions in the loan forgiveness amount arising from reductions in employee salary or hourly wages.

The SBA continues to provide guidance documents, and there is also the potential for further stimulus legislation that may modify the PPP program. We will continue to monitor and advise when any new guidance is provided. Please contact the author of this Alert, **Steven Firkser** sfirkser@greenbaumlaw.com | 732.476.2388 with questions. Mr. Firkser is a member of the firm's Real Estate and Redevelopment & Land Use Departments.