

Treasury Issues New PPP Interim Final Rule, and Revised Long Form and New Short Form EZ Forgiveness Application and Instructions

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To implement the changes to the PPP program contained in the recently enacted PPP Flexibility Act, Treasury has issued a new Interim Final Rule (IFR). It has also issued a revised forgiveness application form, worksheet and instructions, and a new expedited (EZ) forgiveness application form and instructions that can be used by certain borrowers. Links to those documents can be found below.

IFR

The IFR deals with changes contained in the PPP Flexibility Act:

- The period in which funds may be utilized is now until December 31. But note that the period for which use of funds can be forgiven is only extended from 8 weeks to 24 weeks.
- Minimum loan maturity for loans originated after the enactment of the PPP Flexibility Act is 5 years.
- The percentage of loan proceeds that must be used for payroll costs (both generally and for forgiveness) is reduced to 60% from 75%.

Revised Long Form and EZ Form Forgiveness Application and Instructions

The revised forgiveness application, worksheet and instructions, and the new EZ forms, incorporate the above changes.

The EZ form forgiveness application can be used only by borrowers who meet at least one of these three requirements:

1. The borrower is self-employed, an independent contractor, or sole proprietor with 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 Borrower Application Form;

Or

2. The borrower did not
 - a. reduce salary or wages of employees who had annual compensation of \$100,000 or less by more than 25% during the Covered Period or the Alternative Payroll Covered Period compared to the period between January 1, 2020 and March 31, 2020 (“employees” means only those employees that did not receive, during any single period during 2019, wages or salary at an annualized rate of pay in an amount more than \$100,000); and
 - b. did not reduce employee headcount or paid hours between January 1, 2020 and the end of the Covered Period;

Or

3. The borrower:
 - a. did not reduce salary or wages of employees by more than 25% (“employees” means only those employees that did not receive, during any single period during 2019, wages or salary at an annualized rate of pay in an amount more than \$100,000); and
 - b. was unable to operate during the Covered Period at the same level of business activity as before February 15, 2020, due to compliance with requirements established or guidance issued between March 1, 2020 and December 31, 2020 by the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention, or the Occupational Safety and Health Administration, related to the maintenance of standards of sanitation, social distancing, or any other work or customer safety requirement related to COVID-19.

Borrowers using the EZ form do not have to submit documentation regarding Full Time Employees (FTEs), unless the borrower only fits into requirement no. 2 above (i.e., the borrower did not reduce salary or wages of employees by more than 25%, and did not reduce employee headcount or paid hours). If the borrower meets requirement no. 2, the borrower must submit documents evidencing “the 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.” Borrowers submitting the Long Form must submit similar documentation. Borrowers using either form must submit Documentation verifying the eligible cash compensation and non-cash benefit payments from the Covered Period or the Alternative Payroll Covered Period, and documentation verifying existence of non-payroll obligations/services prior to February 15, 2020 and eligible payments from the Covered Period.

Links to these documents may be found here:

New IFR: <https://home.treasury.gov/system/files/136/PPP-IFR--Revisions-to-the-Third-and-Sixth-Interim-Final-Rules.pdf>

Long Form Forgiveness Application and Worksheet: <https://home.treasury.gov/system/files/136/3245-0407-SBA-Form-3508-PPP-Forgiveness-Application.pdf>

Long Form Forgiveness Application Instructions: https://home.treasury.gov/system/files/136/PPP-Loan-Forgiveness-Application-Instructions_1_0.pdf

EZ Form Forgiveness Application: <https://home.treasury.gov/system/files/136/PPP-Forgiveness-Application-3508EZ.pdf>

EZ Form Application Instructions: <https://home.treasury.gov/system/files/136/PPP-Loan-Forgiveness-Application-Form-EZ-Instructions.pdf>

Buchalter's team of SBA PPP experts can help you understand these ever-changing program requirements.



Michael C. Flynn
Mortgage Banking Practice
Co-Chair
(213) 891-5262 or
mflynn@buchalter.com



Robert S. Gillison
Shareholder
(213) 891-5014 or
rgillison@buchalter.com



Todd A. Mitchell
Shareholder
(503) 226-8435 or
tmitchell@buchalter.com



Mark Goshgarian
Attorney
(213) 891-5072 or
mgoshgarian@buchalter.com



Alison M. Pear
Senior Counsel
(503) 226-8636 or
apear@buchalter.com



L. David Connell
Shareholder
(503) 226-8605 or
dconnell@buchalter.com

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