



# GALLAGHER, FLYNN & COMPANY, LLP

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## ◆ Updated PPP Loan Forgiveness Applications and Revised Guidance ◆

June 19, 2020

On June 5, 2020, President Trump signed the Paycheck Protection Program Flexibility Act of 2020 (“the Flex Act”) ([here](#)) into law. In a previous legislative alert ([here](#)), we provided a summary of PPP loan forgiveness changes included in the Flex Act. **AN IMPORTANT UPDATE:** the Small Business Administration (SBA) and U.S. Treasury issued a joint statement on June 8, 2020 ([here](#)), to address confusion in the Flex Act which lowered the amount required to be used for payroll costs to 60% (down from 75%) and, as written, suggested none of the loan would be forgiven if the new threshold was not met. The joint statement notes that **even if a borrower does not meet the 60% threshold of the loan amount for payroll costs, they continue to qualify for partial forgiveness**, subject to at least 60% of the loan forgiveness amount having been used for payroll costs.

### **New PPP Loan Forgiveness Applications**

On Wednesday, June 17<sup>th</sup>, the SBA released updated PPP loan applications; these revised applications implement the changes to loan forgiveness contained in the Flex Act. While not formal guidance, the *Journal of Accountancy* has issued a detailed summary ([here](#)) of the new PPP loan forgiveness applications and other PPP-related guidance. In summary, two PPP loan forgiveness applications are now available:

1. The **revised, full PPP loan forgiveness application** is available [here](#).
2. A new **EZ version of the PPP loan forgiveness application** ([here](#)) has been created, which requires fewer calculations and less documentation than the full application. The EZ PPP application applies to borrowers who:
  - Are self-employed and have no employees; or
  - Did not reduce the salaries or wages of their employees by more than 25%, and did not reduce the number or hours of their employees; or
  - Experienced reductions in business activity as a result of health directives related to COVID-19 and did not reduce the salaries or wages of their employees by more than 25%.

## **Revised PPP Application Highlights**

Some highlights from the updated PPP loan forgiveness application and instructions include:

- Health insurance costs for S corporation owners cannot be included when calculating payroll costs; however, retirement costs for S corporation owners are eligible costs.
- Safe harbors for excluding salary and hourly wage reductions and reductions in the number of employees (full-time equivalents) from loan forgiveness reductions can be applied as of the date the loan forgiveness application is submitted. Borrowers do not have to wait until December 31 to apply for forgiveness to use the safe harbors.
- Borrowers that received loans before June 5<sup>th</sup> can choose between using the original 8-week covered period or the new 24-week covered period.

## **New Interim Final Rule**

On June 12<sup>th</sup>, the SBA issued the *PPP Interim Final Rule on Revisions to Additional Revisions to First Interim Final Rule* ([here](#)) (“the interim rule”) which provides guidance for determining payroll costs and owner compensation in calculating PPP loan forgiveness under the new 24-week period provided for in the Flex Act. The PPP allows loan forgiveness for payroll expenses (including salary, wages, and tips) for up to \$100,000 annualized per employee or \$15,385 per individual over the 8-week period. **The new interim rule states the 24-week maximum for full loan forgiveness is \$46,154 per individual.**

The employee compensation limit for the 24-week period under the interim rule is different than owner compensation replacement calculations. For businesses that file Schedule C *Profit or Loss From Business*, or Schedule F *Profit or Loss From Farming*, tax returns, the interim rule states that forgiveness for the owner compensation replacement is calculated for the 8-week period as  $8 \div 52 \times 2019$  net profit, up to a maximum of \$15,385. For the 24-week period, the forgiveness calculation is limited to 2.5 months’ worth ( $2.5 \div 12$ ) of 2019 net profit, up to \$20,833. As written the above owner compensation limitation is applicable to Schedule C and F only, but further clarification is needed to understand whether it is intended for all owner compensation or just Schedule C and F.

For full details and the most up-to-date PPP resources and guidance available from the SBA, please click [here](#). We will continue to keep you updated as new information becomes available. As always, please reach out to your GFC team with any questions.

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