

SBA and Treasury Release Additional Guidance on Implementation of PPP Interim Final Rules

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On June 26, 2020, the Small Business Administration (“SBA”) and U.S. Department of Treasury (“Treasury”) released additional revisions to Paycheck Protection Program’s (“PPP”) Interim Final Rules.

Notably, the SBA has expanded eligibility for individuals with felony convictions. A business is ineligible due to an owner’s criminal history only if an owner of 20% or more of the equity is: (1) presently incarcerated or, for any felony, is presently subject to an indictment, criminal information, arraignment, or other formal criminal charges in any jurisdiction; or (2) has been convicted of, pleaded guilty or nolo contendere to, or commenced parole or probation for, a felony involving fraud, bribery, embezzlement, or a false statement in a loan application or a federal financial assistance application within the last five years, or any other felony within the last year.

The SBA has also clarified that the amount of forgiveness of a PPP loan depends on the borrower’s payroll costs over an eight-week or twenty-four-week period. The eight-week or twenty-four-week period starts on the date your lender makes a disbursement of the PPP loan to the borrower. The lender must disburse the loan no later than ten days from the date of loan approval.

Next, the interim final rule addresses the First Loan Forgiveness Rule and First Loan Review Loan. A borrower may submit a loan forgiveness application any time on or before the maturity date of the loan, including before the end of the covered period, if the borrower has used all loan proceeds for which the borrower is requesting forgiveness. If the SBA determines that the loan is not eligible for forgiveness, or if the borrower does not apply for loan forgiveness within ten months after the last day of the covered period, the deferral of interest ends, and the borrower must begin paying principal and interest.

Additionally, the interim final rule sets limitations on the amount of forgiveness available for owner-employees and self-employed individuals. It also sets forth reductions in loan forgiveness and extends the exemption from forgiveness reduction arising from compliance requirements established or issued by the CDC, HHS, or OSHA, to state or local government shutdown orders.

For Carr Maloney’s prior coverage of the PPP, please see:

<https://www.carrmaloney.com/wp-content/uploads/2020/06/SBA-and-Treasury-Issue-Changes-to-PPP-First-Interim-Final-Rule.pdf>

For more information on the SBA, Treasury, and Revisions to the PPP, please visit:

<https://www.govinfo.gov/content/pkg/FR-2020-06-26/pdf/2020-13942.pdf>

<https://home.treasury.gov/system/files/136/PPP--IFR--Revisions-to-Loan-Forgiveness-Interim-Final-Rule-and-SBA-Loan-Review-Procedures-Interim-Final-Rule.pdf>