

Treasury Issues Application for SBA PPP Loan Forgiveness

May 19, 2020

The Treasury Department has issued a form application to be used for SBA Payroll Protection Program (PPP) borrowers to seek loan forgiveness, along with instructions for completing the form and an accompanying worksheet. The application form, instructions and worksheet may be located by clicking on this link:

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

The instructions and application provide detailed guidance and set forth important certifications the borrower applicant must make, including acknowledgement of the risk of penalties for fraudulent applications or intentional misuse of loan proceeds.

Key Provisions

- The 8-week forgiveness period commences on the date when the borrower received the loan proceeds from the lender.
 - For payroll costs, the borrower may choose an alternative 8-week period commencing on the first day of the first period after the loan proceeds are disbursed to the borrower.
- Costs “paid or incurred” during the 8-week period may be forgiven.
- If payroll costs are incurred during the 8-week period, but are not scheduled to be paid until after the 8-weeks, they are forgivable if they are paid on or before the first regularly scheduled payday after the 8-week period.
- The application and accompanying worksheet provide a formula for determining any reduction in forgivable payroll costs due to uncorrected decreases in salaries or employee headcount reduction.
- The instructions and worksheet provide a methodology for determining the maximum forgivable loan amount, taking into account allowable costs, salary/hourly wage reductions and reduced full time employee headcount; and the requirement that payroll costs equal at least 75% of total forgiven costs.

Certifications

The application also includes certifications from the borrower requiring:

- Certification that the proceeds were used as described in the application;
- Certification as to the accuracy of documents and information submitted;
- Acknowledgement that if the funds were knowingly used for unauthorized purposes, the federal government may pursue recovery of loan amounts and/or civil or criminal fraud charges; and
- Acknowledgement that knowingly making a false statement to obtain forgiveness of an SBA-guaranteed loan is punishable under the law, including 18 USC 1001 and 3571 by imprisonment of not more than five years and/or a fine of up to \$250,000; under 15 USC 645 by imprisonment of not more than two years and/or a fine of not more than \$5,000; and, if submitted to a Federally insured institution, under 18 USC 1014 by imprisonment of not more than thirty years and/or a fine of not more than \$1,000,000.

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



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