

Client Alert: SBA Issues Revised PPP Loan Forgiveness Applications

By RIW on June 18, 2020



On Tuesday, June 16, 2020, the Small Business Administration (the “SBA”) quietly released the revised Paycheck Protection Program Loan Forgiveness Application (the “Long Form Application”) and the new Paycheck Protection Program PPP Loan Forgiveness Application Form 3508EZ (the “EZ Application”). The instructions included as part of the Applications provide borrowers with much needed guidance on how to calculate and apply for loan forgiveness following the enactment of the Paycheck Protection Program Flexibility Act (the “PPFPA”).

The Long Form Application effectively replaces the previous application with minor revisions to reflect the new 24-week Covered Period for loan forgiveness purposes and the 60% payroll costs requirement, among other changes.

Compared to the Long Form Application, the EZ Application streamlines the loan forgiveness application process and should greatly simplify the process for qualifying borrowers. In particular, the EZ Application differs from the Long Form Application in the following ways:

Eligibility

- Borrower is self-employed, independent contractor, or sole proprietor with no employees at time of the loan application AND did not include any employee salaries in borrower application form’s computation of average monthly payroll; OR
- Borrower did not reduce annual salary/wages of any employee by more than 25% during the Covered Period or Alternative Payroll Covered Period compared to Q1 2020 AND did not reduce the number of employees or average paid hours of employees between January 1, 2020, and the end of the Covered Period; OR
- Borrower did not reduce annual salary/wages of any employee by more than 25% during the Covered Period or Alternative Payroll Covered Period compared to Q1 2020 AND was unable to operate during the Covered Period at the same level of business compared to pre-February 15, 2020, as a result of complying with guidelines for COVID-19 related work and customer safety requirements issued between March 1, 2020, and December 31, 2020, by the United States Department of Health and Human Services, the Center for Disease Control and Prevention, and the Occupational Safety and Health Administration.

Application Details

- The EZ Application is composed of a loan forgiveness calculation form, with related certifications, and the optional Borrower Demographics Information Form – a significant reduction from the Long Form Application’s Loan Forgiveness Calculation Form, related

certifications, Schedule A, Schedule A Worksheet, and Borrower Demographics Information Form.

- The EZ Application requires the borrower to certify that it qualifies for the applicable safe harbors (i.e., no reduction in salary/wages, no or permitted reduction in staff, inability to operate at the same level of business) and provide documentation evidencing same, instead of having the borrower prepare multiple sets of tables and run complicated calculations.
- The EZ Application provides clearer guidance on how self-employed individuals, independent contractors, and sole proprietors should calculate loan forgiveness.
- The EZ Application provides clearer guidance on calculating permitted/maximum compensation for owner-employees, self-employed individuals, and general partners.
- The EZ Application continues to provide borrowers with the option of electing to utilize an Alternative Payroll Covered Period.

Supporting Documents

- Payroll records separately listing each employee and amounts paid to each employee during Q1 2020 and during the borrower's selected Covered Period or Alternative Payroll Covered Period evidencing no reduction of each employee's salaries/wages in excess of 25%.
- Payroll records separately listing each employee and amounts paid to each employee from January 1, 2020, through end of the borrower's selected Covered Period or Alternative Payroll Covered Period to evidence no reduction in employees or average paid hours for employees.
- If applicable, copies of applicable requirements for each of borrower's locations and relevant borrower financial records evidencing borrower's inability to operate during the Covered Period at the same level of business activity as pre-February 15, 2020, as a result of applicable guidance and regulations issued between March 1, 2020, and December 31, 2020.
- If applicable, documentation evidencing job offers and refusals, refusal to accept restoration of reduced hours, firings for cause, voluntary resignations, written employee requests for reduction in hours, and inability to hire similarly qualified employees for unfilled positions prior to December 31, 2020.

The Long Form Application and its instructions can be accessed [here](#) and [here](#), respectively.

The EZ Application and its instructions can be accessed [here](#) and [here](#), respectively.

If you have any questions relating to the PPP Loan Forgiveness Application, please feel free to contact our office. As with all COVID-19 related legal developments, RIW will continue to provide updates and guidance relative to the CARES Act.

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