

Eye on Washington Regulatory Update



Paycheck Protection Program (PPP) Forgiveness Applications on Hold Until at Least August 10

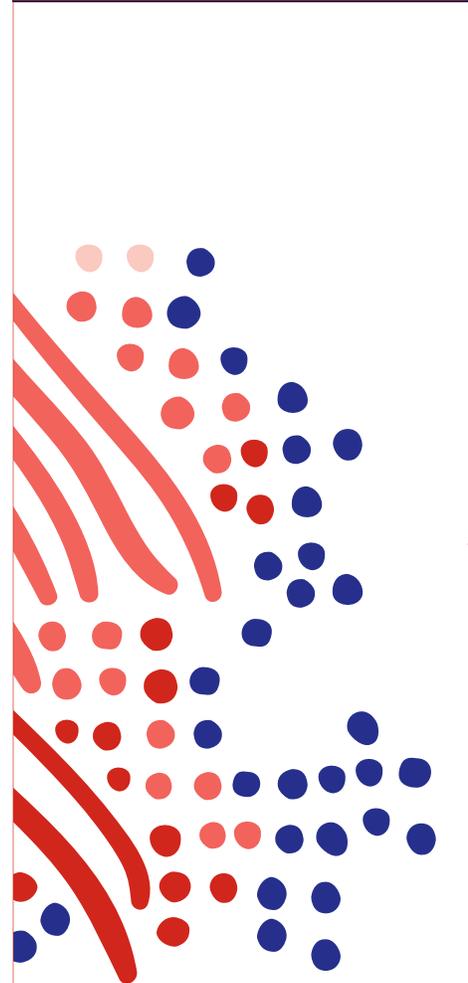
The Small Business Administration (SBA) advised lenders on July 23rd that the PPP Forgiveness Platform will not begin accepting Forgiveness Applications until August 10, 2020, and this date will be subject to extension if any new legislative amendments to the forgiveness process necessitate changes to the system. Further, final Treasury guidance concerning PPP Forgiveness Applications, which was expected in early July, is now not expected until after related federal legislation is resolved. Banks, accountants and others are being advised not to process PPP Forgiveness Applications until this legislation is enacted and related Treasury and SBA guidance is finalized.

Many borrowers who received PPP loans under the Coronavirus Aid, Relief, and Economic Security Act (P.L. 116-136) have already completed their specified "covered period" and spent the PPP loan proceeds and wish to submit the related forgiveness applications (SBA Form 3508 or 3508EZ) as soon as possible. While related records should be assembled in preparation for submission, lenders will not accept applications at this time.

Pending Legislation May Modify Requirements; Final Guidance to Follow Enactment

Details released by the U.S. Senate on July 23rd indicate that pending legislation intended to offer further support and economic stimulus to address the COVID-19 pandemic will likely include several changes to PPP loan forgiveness measures, including simplified procedures for loans under \$150,000 and under \$1 Million.

ADP® has prepared PPP Forgiveness Reports designed to demonstrate compliance with the required PPP loan forgiveness measures, such as demonstrating whether wage and staff levels have been maintained or restored compared to the base period. For example, employers must demonstrate that they did not reduce salaries or wages by more than 25 percent during the loan covered period (excluding employees that earned over \$100,000 on an annualized basis in any pay period in 2019) and did not reduce the number of employees during the covered period. However, it appears likely that pending legislation may change these measures for meeting PPP targets for forgiveness.



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Paycheck Protection Program Flexibility Act (PPPFA) Facilitates Forgiveness Measures

As a reminder, under the PPPFA (P.L. 116-142, enacted June 5, 2020) loan repayments for any amounts not forgiven are not required until ten months after the expiration of a borrower's covered period. PPP loan repayment terms were also extended from two years to five years.

The PPPFA facilitated PPP loan forgiveness by providing that loan forgiveness will not be reduced based on an inability to rehire employees if the employer can document (1) written offers to rehire individuals who were employees of the organization on February 15, 2020; or (2) an inability to hire similarly qualified employees for unfilled positions by December 31, 2020.

Additionally, forgiveness will not be reduced for failure to maintain employment levels if the borrower can document an inability to return to the same level of business activity as existed prior to February 15, 2020, due to compliance with COVID-19-related guidance for sanitation, social distancing, or worker

or customer safety requirements from the Health and Human Services (HHS), the Centers for Disease Control and Prevention (CDC) or the Occupational Safety and Health Administration (OSHA) between March 1 and December 31, 2020.

Further, employers have 24 weeks to use their PPP loan, including borrowers who received their loans before June 5, 2020. These organizations may choose eight or 24 weeks for their covered period, which can help in achieving 100 percent forgiveness of the loan.

While waiting for final program guidance, borrowers should continue to gather documentation demonstrating how PPP loan proceeds were used, including mortgage interest, rent payments and utilities. ADP will continue to closely monitor federal legislation and guidance affecting PPP loans.

ADP Compliance Resources

ADP maintains a staff of dedicated professionals who carefully monitor federal and state legislative and regulatory measures affecting employment-related human resource, payroll, tax and benefits administration, and help ensure that ADP systems are updated as relevant laws evolve. For the latest on how federal and state tax law changes may impact your business, visit the ADP Eye on Washington Web page located at www.adp.com/regulatorynews.

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