

PPP Loan Forgiveness Update May 26, 2020

Last Friday evening, May 22, 2020, the SBA issued additional Interim Final Rules¹ regarding the Paycheck Protection Program loan forgiveness provisions. Below is a summary of the changes we think will impact your organization. In addition, we have highlighted: (i) How these new rules impact the guidance we provided in our May 22nd Webinar; and; (ii) Planning opportunities and concerns arising from these rule changes.

We hope you find this helpful and will keep you abreast of future changes.

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Rule Changes / Clarifications	How Interim Final Rules Impact May 22 nd Webinar	Planning Opportunities and Concerns
<p><u>Expanded Forgiveness of Non-Payroll Costs</u> Eligible Non-Payroll Costs can be forgiven if:</p> <ul style="list-style-type: none"> • Paid in the 8-week Covered Period; OR • Incurred during the CP <u>and</u> paid on or before the next regular billing date (even if this is after the Covered Period) 	<p>This is a more liberal interpretation than we discussed in the webinar.</p> <p>The CARES Act states the Payroll and Non-Payroll costs must be incurred <u>and</u> paid during the 8-week CP. The Interim Final Rule liberalizes this provision allowing forgiveness of non-payroll expenses incurred prior to the CP/APCP if paid during this period.</p>	<p><u>Planning Opportunity</u> Include non-payroll costs incurred prior to the Covered Period but paid in the Covered Period.</p> <p><u>EXAMPLE</u> A borrower’s covered period begins on June 1 and ends on July 26. The borrower pays its May and June electricity bill during the covered period and pays its July electricity bill on August 10, which is the next regular billing date. The borrower may seek loan forgiveness for its May and June electricity bills, because they were paid during the covered period. In addition, the borrower may seek loan forgiveness for the portion of its July electricity bill through July 26 (the end of the covered period), because it was incurred during the covered period and paid on the next regular billing date.</p>

¹ A copy of the Interim Final Rules can be downloaded at:
<https://www.sba.gov/document/support--ppp-interim-final-rule-requirements-loan-forgiveness>

Rule Changes / Clarifications	How Interim Final Rules Impact May 22 nd Webinar	Planning Opportunities and Concerns
<p><u>Employee Hazard Pay and Bonuses</u> Hazard pay and bonuses are allowed if the employee's compensation does not exceed \$100,000 on an <u>annualized basis</u>.</p>	<p>No Change. This matches our interpretation of the rule.</p>	<p><u>Planning Concern</u> Be careful when giving hazard pay or bonuses as you must annualize the payment to see if it exceeds the \$100,000 ceiling. The maximum forgivable weekly paycheck is \$1,923 (\$100,000/ 52 weeks) while the bi-weekly cap is \$3,846 (\$100,000 / 26 weeks)</p>
<p><u>Employee Refuses Rehire or Restoration of Hour Offer</u> Borrower must inform the Michigan Unemployment Insurance Agency within 30-days of the employee's rejection of reemployment offer.</p>	<p>This is a new requirement added by the Interim Final Rules. This requirement clearly applies to an employee's rejection of an offer of reemployment and appears to apply to an employee who requests a reduction in hours. Check on the SBA website for updates on when and how to submit this report.</p>	<p>The SBA will post on their website the procedure for reporting rehire refusals to the unemployment insurance agency. Click below to sign-up for SBA email updates.</p> 