

Paycheck Protection Program: Update

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PPP Loan: Hot Topics - Forgiveness

Two large bank lobbying organizations asked Congress to automatically forgive PPP Loans of less than \$150,000

- Treasury Secretary Mnuchin expressed support of this proposal during his testimony before Congress
- Mnuchin also suggested fraud protection
- Support is building from key government players

This is not yet law, but is very likely to become law.

PPP Loan: Hot Topics - Data Release

On July 6, 2020, the SBA released a database of all PPP loans issued to date

- For loans above \$150,000, the company name, addresses, NAICS code, demographic information, date loan was issued, number of employees, and congressional district was released
- For loans under \$150,000, just the NAICS code, demographic information, date loan was issued, number of employees, and congressional district was released.

PPP Loan: Program Effectiveness

The Statistics:

- 5,500 lenders made 4.9 million loans
- Average loan size of \$106,000
- Total of \$521 billion in loans have been made
- 51 million jobs preserved

New Stimulus Package: House's HEROES Act

Democrats have proposed the Health Recovery Omnibus Emergency Solutions (HEROES) Act:

- Another round of stimulus checks to individuals up to \$1,200 per family member up to \$6,000 per family
- Weekly unemployment of \$600 would be extended through January 2021
- \$75 billion for increase in coronavirus testing
- \$175 billion in rent and mortgage assistance
- Funding for COVID-19 testing and vaccines
- Ban on loans to individuals with a conflict of interest

New Stimulus Package: Senate HEALS Act

Senate Republicans have proposed the Health, Economic Assistance, Liability and Schools Act (HEALS Act)

- Not a single bill but a series of proposals
- Different committee chairs drafted these proposals and introduced them

New Stimulus Package: Senate HEALS Act

HEALS Act terms:

- One time \$1,200 stimulus check under same eligibility rules as the CARES Act
- Unemployment benefit cut from \$600 per week to 70% wage replacement
- Liability protection for businesses for 5 years, retroactive to 2019
- Increased meal deductions from 50% to 100%
- \$105 billion to open schools
- \$25 billion for coronavirus testing

Continuing Small Business Recovery and Paycheck Protection Program Act

Senate Republicans have introduced the Continuing Small Business Recovery and Paycheck Protection Program Act

- Introduced by Senators Marco Rubio and Susan Collins
- Focuses almost exclusively on PPP revisions

Continuing Small Business Recovery and Paycheck Protection Program Act

The **proposed** Act contains the following terms:

Expands covered expenses to include:

- Software, cloud computing, human resources, payroll, billing and accounting;
- Costs related to property damage and vandalism or looting due to public disturbances that occurred during 2020 and were not covered by insurance;
- Supplier costs; and
- Worker protection related to social distancing, sanitation, or other safety requirements.

Continuing Small Business Recovery and Paycheck Protection Program Act

The **proposed** Act contains the following terms:

Changes to the certification provisions:

- Lenders can rely on loan certification or documentation submitted by borrowers
- No enforcement action will be taken against a lender who relies on the borrower's documentation in good faith

Continuing Small Business Recovery and Paycheck Protection Program Act

The **proposed** Act contains the following terms:

Changes to the covered period:

- Permits borrower to elect a covered period during the period beginning eight weeks after origination and ending on December 31, 2020

Continuing Small Business Recovery and Paycheck Protection Program Act

The **proposed** Act contains the following terms:

Provides second PPP loans for businesses:

- Businesses with 300 or fewer employees;
- Demonstrate at least a 50% reduction in gross receipts in Q1 or Q2 of 2020 in comparison to the same quarter of 2019; AND
- Meet applicable SBA size standards

Continuing Small Business Recovery and Paycheck Protection Program Act

The **proposed** Act contains the following terms:

Certain businesses cannot receive a second PPP loan:

- Publicly traded companies
- Businesses that are ineligible under 13 CFR 120.111
- Businesses in financial services which have already received a PPP loan
- Entities affiliated with entities in the People's Republic of China

Continuing Small Business Recovery and Paycheck Protection Program Act

The **proposed** Act contains the following terms:

Other new terms:

- \$25 billion would be set aside for companies employing 10 or fewer employees
- Reduction in maximum loan funding amount from \$10 million to \$2 million
- Permit borrowers eligible for covered loan increases to increase their loan amount even if the loan has been fully disbursed
- Expansion to cover 501(c)(6) organizations like business leagues, chambers of commerce, etc.

Continuing Small Business Recovery and Paycheck Protection Program Act

The **proposed** Act contains the following terms:

Other new terms:

- PPP funds cannot be used for lobbying
- President, Vice President, head of an Executive department, or a member of Congress and their respective spouses, children, sons, and daughters in law must make disclosures of loan applications.

PPP FAQ

When can a business apply for forgiveness?

- 8 week covered period was extended to 24 weeks
- A borrower may submit a loan forgiveness application any time on or before the maturity date of the loan
- This includes before the end of the covered period—if the borrower has used all of the loan proceeds for which the borrower is requesting forgiveness.
- There is one exception: If borrower reduced salaries/wages of employees by more than the 25% allowed, the borrower must apply that reduction for the entire duration of the loan period, either eight weeks or 24 weeks, and not as of the date they apply for forgiveness.

PPP FAQ

How long can a business wait to apply for forgiveness?

- Borrowers have ten months from after the covered period ends to apply for forgiveness

PPP FAQ

What happens after I submit my PPP loan forgiveness application?

- Once Form 3508 or 3508EZ is submitted, the Lender has 60 days to perform a good faith review of the application, request additional information, and approve forgiveness
- Lender will look at payroll reports and records of payment for expenses
- The Lender then submits the application and documentation to the SBA for review
- The SBA has 90 days to review: SBA may forgive in whole, request more information, or approve forgiveness in part.

PPP FAQ

Will my PPP loan be audited?

- Loans under \$2 million are considered to be made in good faith due to economic uncertainty, making audit less likely
- Loans over \$2 million will be subject to the credit elsewhere test

PPP FAQ

Will current PPP borrowers become eligible for additional funds?

- The current answer that borrowers cannot have more than one loan per EIN, and increased loan principal has only been permitted in very limited scenarios
- See the earlier discussed Senate proposal for second loans and increased amounts
- As additional stimulus packages are passed, it is likely that new forms of business aid will be created.

PPP FAQ

Will other changes be made to the PPP?

- Unclear
- Congressional negotiations are ongoing and constantly changing
- Speaker's prediction: Change to the IRS position in Notice 2020-32 that expenses paid with PPP funds are not deductible

PPP Forgiveness

Forgiveness updates:

- Many large banks have not yet opened their forgiveness portals
- Some Lenders are selling PPP portfolios

Questions?

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