

Latest Highlights for PPP Loan Forgiveness – 24-Week Covered Period, EZ Application, Owner-Employee Details, & More

The Small Business Administration (SBA) and Treasury Department have issued a new interim final rule, as well as a revised [Paycheck Protection Program \(PPP\) loan forgiveness application](#) and [instructions](#), and an “EZ” loan [forgiveness application](#) (details on that below). The new guidance documents and standard loan forgiveness application predominantly contain clerical updates to reflect the new [24-week loan forgiveness covered period](#). But there are some important clarifications of open issues that have drawn the attention of many.

Latest Highlights of PPP Loan Forgiveness New Interim Final Rule

- Borrowers utilizing a 24-week loan forgiveness covered period likewise may, for payroll purposes, use the Alternative Payroll Covered Period (APCP), which is the 24-week period beginning on the first day of the first pay period after the loan disbursement date. The APCP may not extend past December 31, 2020.
- For borrowers who utilize the 24-week loan forgiveness covered period/APCP:
 - Employees earning an annual salary in excess of \$100,000 annually will be capped, for loan forgiveness purposes, at \$46,154 (24/52 of \$100,000).
 - Self-employed individuals, general partners, and “owner-employees” will be capped at \$20,833 (which is the 2.5 month equivalent of \$100,000 annually) or the 2.5-equivalent of their 2019 annual compensation, **whichever is lower**.
- The term “owner-employee” remains undefined, but the forgiveness application instructions clarify that health insurance contributions made on behalf of self-employed individuals, general partners, and “owner-employees of an S-corporation” are not eligible for forgiveness.
 - Although not specifically stated, this suggests that health insurance contributions made on behalf of shareholder employees of a C-corporation **are** eligible for forgiveness.
- Loan forgiveness is not available for retirement contributions made on behalf of self-employed individuals or general partners. The guidance notably does not reference “owner-employees” in this discussion, suggesting that retirement contributions made on behalf of owner-employees of an S-corporation, as well as shareholder employees of a C-corporation, **are** eligible for loan forgiveness.

EZ Loan Forgiveness Application

And as noted above, borrowers now have the availability of an [EZ application](#), which is available to borrowers that:

- Are self-employed and have no employees; or
- Did not reduce the salaries or wages of any employee by more than 25% during the loan forgiveness covered period/APCP, and did not reduce the number of employees or the average paid hours of employees between January 1, 2020, and the end of the loan forgiveness covered period; or
- Experienced reductions in business activity as a result of health directives related to COVID-19 and did not reduce the salaries or wages of their employees by more than 25%.

The news release announcing the EZ application explains that it “requires fewer calculations and less documentation for eligible borrowers.” This should allow many borrowers to breathe a sigh of relief, although it does not eliminate the obligation to keep and provide underlying documents and data supporting appropriate expenditures. Click to view the [EZ application instructions](#).

Our Chambliss team continues to monitor legal developments in connection with the COVID-19 pandemic. Please contact [Jim Catanzaro](#), [Justin Furrow](#), or your relationship attorney if you have questions or need additional information.

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