

Client Alert

Important Guidance Released – Interim Final Rule for the Paycheck Protection Program under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act)

This alert updates, clarifies and supersedes all prior publications and communications from our firm on the subject matter discussed below based on updated guidance; and it is likely that there will be additional guidance in the future from the SBA and other government agencies that may conflict with prior guidance.

Additional guidance pertaining to the Paycheck Protection Program (PPP) has been released, certain key points of which are summarized below:

- **What is the interest rate?** 1.0%.
- **What is the maturity of the PPP loan?** Two years.
- **When must the PPP loan be repaid?** The borrower will not have to make any payments for six months following disbursement of the loan, but interest will continue to accrue during that six-month period.
- **Can the PPP loan be used for non-payroll costs?** Yes, but at least 75% must be used for payroll costs.
- **Can the PPP loan be forgiven, either in whole or in part?** Yes, for eligible costs, subject to potential limitations based on reductions in employee head count and/or salaries. At least 75% of the forgivable amount must be used to pay for payroll costs. Any amount forgiven is excluded from federal gross income.
- **Are the PPP loans “first-come, first-served?”** Yes.
- **Are payments to independent contractors included as a payroll cost for purposes of calculating the amount of the PPP loan?** No.
- **What federal taxes are excluded from the calculation of payroll costs?** Payroll costs are calculated on a gross basis and are not reduced by federal taxes withheld from employee paychecks. The employer-side of federal payroll taxes (social security and Medicare taxes) are not included in the calculation of payroll costs.
- **Can the borrower apply using e-signature or e-consents if the business has multiple owners?** Yes, regardless of the number of owners.
- **What form does the borrower need to file?** SBA Form 2483. Additionally, the borrower must submit payroll documentation sufficient to demonstrate the qualifying payroll amount.

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