

PPP Loan Forgiveness

January 22, 2021

Businesses are now eligible to apply for forgiveness of loans received through the federal Paycheck Protection Program (PPP) established under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. PPP loan recipients should be thoughtful in responding to information requested by lenders and the Small Business Administration (SBA).

As borrowers prepare, certify, and submit hundreds of thousands of PPP loan forgiveness applications, PPP loan recipients need to be aware of and assess various risks they face in this process. The U.S. Department of Justice and U.S. Small Business Administration are reviewing and investigating all violations of the PPP. In particular, the SBA plans to review all loans of more than \$2 million.

McGlinchey is well situated to advise PPP borrowers on potential pitfalls in the loan forgiveness application process and provide recommendations for avoiding potentially serious legal jeopardy in the face of investigators' and prosecutors' scrutiny. Contact our team to get started.

SBA PPP loan forgiveness materials

- [Frequently Asked Questions \(FAQs\) on PPP Loan Forgiveness](#)
- [Interim Final Rule on Loan Forgiveness Requirements and Loan Review Procedures as Amended by Economic Aid Act](#)
- [PPP Loan Forgiveness Application Form 3508](#)
- [PPP Loan Forgiveness Application Form 3508EZ](#)
- [PPP Loan Forgiveness Application Form 3508S](#)
- [PPP Loan Necessity Questionnaire](#)
- [Borrower's Disclosure of Certain Controlling Interests](#)

what is the paycheck protection program?

The links below collect PPP guidance from the U.S. Treasury Department. Please review the application and guidance carefully to ensure you are utilizing or relying on the most current information.

- [Overview of PPP](#)
- [PPP Information Sheet for Borrowers](#)
- [Borrower Application](#)

- [PPP Information Sheet for Lenders](#)
- [Treasury Interim Final Rule for PPP](#)
- [SBA Interim Final Rule on CARES Act and PPP](#)

are forgiveness applications open?

Yes! The SBA is currently taking applications, however, you must first apply to your lender.

when should I apply for forgiveness, and what is the timeline?

- A business submits its application for forgiveness to its PPP lending institution.
- The lender has 60 days to make a determination on the application and submit a recommendation for forgiveness to the SBA.
- The SBA has 90 days to review the request.
- The SBA will send borrowers who received more than \$2 million a supplemental questionnaire to guide its decision.
- Upon receipt of the questionnaire, **the business only has ten business days to return the supplementary documentation to the SBA.**

when is the deadline to file for PPP forgiveness?

Borrowers may submit a loan forgiveness application any time before the maturity date of the loan, which is either two or five years from loan origination.

what does the forgiveness application process entail?

Borrowers who received more than \$2 million will receive a supplemental questionnaire to guide the SBA in consideration of forgiving the loan. The form aims to validate that your loan was spent on permissible expenses and reaffirm the necessity of the funding at the time of your loan application, in the form of documents evidencing financial need.

what are the risks if my loan is not forgiven?

The risks to borrowers if the request for forgiveness is denied include having to repay the loan, as well as possible fines and civil or criminal sanctions.

reductions in your forgiveness amount (examples)

The CARES Act requires borrowers to reduce the amount of the PPP Loan which may be forgiven if, under certain circumstances, the salary or hourly wages of the borrower's employees are reduced. The application adds further details to this reduction calculation and process.