



On Tuesday, June 16, 2020 the SBA issued and updated Form 3508, Paycheck Protection Program Loan Forgiveness Application. In addition to the update, Form 3508EZ was issued, a condensed version of the form for certain filers. The key takeaways and questions from these applications are below:

- **Business Activity Level:** Businesses who are not able to return to the same level of business activity during the covered period will be exempt from the Full Time Equivalent calculations.
  - Limitation by the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention, or the Occupational Safety and Health Administration.
  - These filers will be allowed to file form 3508EZ. This will reduce the amount of administrative burden forced upon those meeting this Safe Harbor.
- **Business Activity Level Questions:** The Instructions state that an applicant should retain appropriate documentation of the government directive causing the restriction or limitation, as well as financial information. Will there be required proof of financial impact in order to claim this exemption? How long will restrictions need to be placed on a business to meet this threshold?
- **Owner “Windfall” Provision:** Compensation received during the covered period must not exceed 2019 compensation.
  - Owners are only eligible for 2.5 months of payroll for themselves, limited to \$20,833 as that is the max loan amount for an owner making at least \$100,000.
  - As expected, non-owner employees can receive up to \$100,000 annualized salary (\$46,154) over the 24-week covered period. This would be limited if the period is shortened.
  - Owner-Employees may be eligible for more benefit inclusion (Retirement?) based on applications. More information should come available from the interim rules.
- **The 60% Sliding Scale:** There was concern based on the letter of the law that a 60% payroll cliff would be instituted on forgiveness calculations.
  - The SBA stated early in the process that the 60% amount would be administered the same way the 75% test was determined in the first application.
  - The updated applications take the same approach and apply the 60% test.
- **Early Application:** In electing the 24-week covered period, applicants can apply early, once the borrower has used all of the loan proceeds for which the borrower is requesting forgiveness. Safe Harbor thresholds and calculations will be done based on the application date to the extent it is prior to the end of the covered period or December 31, 2020, whichever comes first.

As always, we will continue to keep up on the constant changes to the Paycheck Protection Program. Please continue to monitor our COVID-19 Resource center (<https://www.peasecpa.com/covid-19-resource-center/>) for the latest developing information.