



## **PPP Loan Updates 10/16/2020**

The Payroll Protection Plan looks vastly different today than it did when it was first introduced six months ago. In its different variations PPP has morphed into its current form that should offer most, if not all, hospitality driven businesses full forgiveness.

Forms 3508 and 3508EZ go a long way toward getting over the initial hump of forgiveness by allowing hospitality organizations to point to federal and local government mandates to show that their business activity has been greatly reduced or, in some scenarios, completely halted as a result of the Covid-19 pandemic.

But, “Winter is Coming” to New England, and how the pandemic will change is anyone’s guess. We may be confronting a perfect storm as the 24-week period ends no later than December 31, 2020, and we are heading into the winter months without the ability to utilize any additional relief funds.

While there had been talk of an additional stimulus package with a potential second round of PPP funds, it appears that the parties are content to hold pat until after the election, which is right around the corner. Treasury Secretary Mnuchin has even recommended businesses apply for forgiveness without waiting for additional legislation.

Even though legislation, PPP, and any future stimulus is in a holding pattern, there have been two significant developments in the last month.

The first is that there is a new PPP forgiveness application form, Form 3508S. This form is for PPP borrowers that have a loan of \$50,000 or less. It is a one-page form that asks primarily for certifications. Without giving false hope, Form 3508S is the easiest way to gain forgiveness. There are certain stipulations to use the form, though, and you should get with your advisor to confirm that you would be eligible to use it.

The second development circles around “change in ownership” and the process that must occur in these situations. There are three definitions of change in ownership:

1. At least 20% of the stock or interest of a PPP borrower is sold or transferred, including to an affiliate or an existing owner of the entity.
2. Sells or transfers at least 50% of its assets; or
3. Merged with or into another entity.

If any of these situations occur, then the following needs to occur:

- The PPP Borrower must notify the PPP Lender of the transaction and provide the lender with the documentation of the transaction. The PPP Lender must sign off
  - There is specific verbiage that needs to be included in the documentation

- There are specific lender forms that must be filled out
- In some instances, the SBA needs to sign off on the transaction. This will be driven by the PPP lender, as they make that determination.

Remember, the PPP borrower is still responsible for all performance, obligations, certifications, and documentations of the PPP loan. The selling of the business does not relieve you in any way from the PPP loan process.

We recommend that if you are selling a business to place the proceeds of the sale in the amount of the PPP loan plus a year's worth of interest in an escrow account. Once the PPP loan is forgiven, that money can then be released to the seller at that time.

As in all things, please consult with your advisors and lenders before making any decisions.

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