

AMERICAN PAYROLL ASSOCIATION

June 1, 2020

Jovita Carranza
Administrator
Small Business Administration
409 3rd Street, SW
Washington D.C. 20416

Michael Faulkender
Assistant Secretary for Economic Policy
U.S. Department of the Treasury
1500 Pennsylvania Ave., N.W.
Washington, D.C. 20220

Re: Paycheck Protection Program Loan Forgiveness Application and Instructions (SBA Form 3508, OMB Control Number 3245-0407); Business Loan Program Temporary Changes, Paycheck Protection Program – Requirements – Loan Forgiveness Interim Final Rule (Docket Number SBA-2020-0032; SBA RIN 3245-AH46; Treasury RIN 1505-AC69)

Dear Administrator Carranza and Assistant Secretary Faulkender:

Thank you for the opportunity to comment on the Paycheck Protection Program (PPP) Loan Forgiveness application process, including the form and related instructions as well as the Interim Final Rule. The American Payroll Association (APA) supports the SBA's Interim Final Rule and application process and requests guidance on addressing arrears in determining the eight-week loan forgiveness period and instructions for borrowers with multiple, pay-period frequencies.

ABOUT APA

APA is a nonprofit organization serving the interests of more than 20,000 payroll professionals across the United States, who are responsible for the administrative task of properly managing employees' pay and, now, addressing COVID-19 relief related to payroll operations. APA's primary mission is to educate its members and the payroll industry about the best practices associated with paying America's workers while complying with applicable federal, state, and local laws and regulations.

THE NEED FOR GUIDANCE

Payroll with Payment in Arrears

In identifying the eight-week period and applicable calculation for PPP loan forgiveness, APA requests clarity on whether the payroll arrears period can be included.

In the Interim Final Rule Section III.a., SBA explains, "Payroll costs are considered paid on the day that paychecks are distributed or the borrower originates an ACH credit transaction." Initially, this statement is clear on when a borrower may begin calculating payroll costs subject to PPP loan

forgiveness. In addition, the rule provides significant detail on the start and end of the eight-week period.

However, the Interim Final Rule also states, “Payroll costs are generally incurred on the day the employee’s pay is earned (i.e., on the day the employee worked).” The day that an employee’s pay is earned may not be pay day, raising a question about including arrears in the calculation. Most small businesses compensate employees through an accounting method referred to as “paid in arrears,” meaning there is a time gap between the end of the pay period and payday (e.g., one week). This allows employers to pay employees based on their actual work rather than projecting the number of hours worked. APA requests that the SBA add a Frequently Asked Question to its website to explain payroll arrears or adjust the language in the Interim Final Rule.

Employers with Multiple Pay-Period Frequencies

APA requests guidance on completing the PPP loan forgiveness application form for employers with multiple frequencies for paying workers.

The calculation for the PPP loan forgiveness amount is based on the pay period with a set of check boxes on the form. Some employers have multiple pay frequencies. For example, an employer may pay executives once per month and production-line workers every two weeks. An employer may have more than one division with different pay periods. How should the PPP loan forgiveness amount be calculated and application form completed?

To discuss this guidance request further, please contact APA staff member Alice Jacobsohn, at ajacobsohn@americanpayroll.org. Thank you.

Sincerely,



Alice P. Jacobsohn, Esq.
Senior Manager, Government Relations

APA leaders on federal issues:
Rebecca Harshberger, CPP
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