

SBA Allows Some Borrowers to Increase PPP Loan Amounts, but You Must Act Fast!

On May 13, 2020, the Small Business Administration (“SBA”) published an [interim final rule](#) (“IFR”) allowing certain partnerships that applied for Paycheck Protection Program (“PPP”) loans but did not include partner income in “payroll costs” to amend their loan applications to include partner compensation. Notably, modification is permitted even if the PPP loan has already been disbursed. Although not explicitly stated, the IFR should apply equally to LLCs taxed as partnerships, permitting LLC members to increase PPP loan amounts to include member draws.

An SBA [interim final rule issued on April 14, 2020](#) clarified that a partner in a partnership may not submit a separate PPP loan application as a self-employed individual. Instead, the self-employment income of general active partners may be reported as a payroll cost, up to \$100,000 annualized, in the partnership’s PPP loan application. Unfortunately, many partnership and LLC borrowers had already been approved for loans, with no mechanism to amend their loan applications. The new IFR – issued nearly a month later – allows eligible partnerships that calculated their loan amount prior to April 14, 2020 to increase their loan amount accordingly.

The IFR also allows a seasonal employer that received a PPP loan before the alternative criterion for determining the maximum loan amount for seasonal employers [became available on April 28, 2020](#), to work with its lender to increase its loan amount.

In each case, the borrower must provide documentation to support the calculation of the increase.

Loan increases are not available if a borrower’s lender has already filed a Form 1502 for the loan, or if the date on which the lender was required to submit Form 1502 has passed. Lenders are required to file Form 1502 twenty calendar days after the loan is approved or by May 22 for loans approved before the updated Form 1502 was made available by the SBA.

As of May 14, 2020, the SBA reported \$193,659,109,822 of the \$310 billion allocated for round two of PPP have been approved, leaving roughly \$116 billion of funds available.

Borrowers eligible for an increased loan under the IFR should contact their lender as soon as possible if interested.

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If you have any questions regarding your PPP loan, [contact](#) your primary Tonkon attorney.

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