

# TaxNewsFlash

## United States



No. 2020-747  
December 10, 2020

## Updated FAQs on PPP loans; questionnaires to verify loan eligibility and forgiveness

The U.S. Treasury Department updated a set of “frequently asked questions” (FAQs) concerning the Paycheck Protection Program (PPP) as administered by the Small Business Administration (SBA).

The PPP is one of two programs that provided financial support lending for small and large businesses pursuant to measures included in the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act) (Pub. L. No. 116-136).

The [FAQs](#) [PDF 266 KB] (updated December 9, 2020) now include FAQ #53 to explain why recipients of PPP loans of \$2 million or more are receiving questionnaires from the SBA. The purpose of the questionnaires is part of a PPP loan review process for loan eligibility, fraud or abuse, and for compliance with loan forgiveness.

According to FAQ #53, PPP loan recipients need to return the questionnaires within 10 days of receipt.

### Text of FAQ 53 (footnotes omitted)

**53. Question: Why are some PPP borrowers receiving a Loan Necessity Questionnaire (SBA Form 3509 or 3510)?**

**Answer:** As previously announced, SBA is reviewing all loans of \$2 million or more, and other loans as appropriate, for eligibility, fraud or abuse, and compliance with loan forgiveness requirements. As part of this process, SBA is providing a Loan Necessity Questionnaire to lenders for them to provide to PPP borrowers that, together with their affiliates, received loans of \$2 million or more. Upon request from their lender, borrowers should return the completed questionnaire to their lender within 10 business days of receipt.

*The information that borrowers provide on the questionnaire will help SBA assess those borrowers' certification in their loan application that "[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant," as required by the CARES Act.*

*A request to complete the Loan Necessity Questionnaire does not mean that SBA is challenging a borrower's certification that is required by the CARES Act. SBA's assessment of a borrower's certification will be based on the totality of the borrower's circumstances through a multi-factor analysis. As described in FAQ #46, SBA will assess whether the borrower had adequate basis for making the required good-faith certification, based on its individual circumstances in light of the language of the certification and SBA guidance. This certification is required to have been made in good faith at the time of the loan application, even if subsequent developments resulted in the loan no longer being necessary. In its review, SBA may take into account the borrower's circumstances and actions both before and after the borrower's certification to the extent that doing so will assist SBA in determining whether the borrower made the statutorily required certification in good faith at the time of its loan application.*

*After a borrower submits its completed questionnaire, SBA may request additional information, if necessary, to complete its review. When additional information is requested, borrowers will have an opportunity to provide a narrative response to SBA explaining the circumstances that provided the basis for their good-faith loan necessity certification. SBA will make a final determination that a borrower lacked an adequate basis for its loan necessity certification after reviewing any additional information that a borrower chooses to submit. This targeted, multi-step approach will ensure the integrity of the evaluation process and expeditious processing, as well as properly allocate SBA's finite resources to those loans that require additional review.*

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