

**NEWS ALERT****TAX AND BUSINESS GROUPS****Treasury/SBA Extends “Safe Harbor” to May 14, 2020 for Return of PPP Loan Proceeds**

By Marc T. Finer, Mark J. Tarallo and Sergio E. Marin | May 7, 2020

On May 5, the Small Business Administration released further [guidance](#) regarding the Paycheck Protection Program (“PPP”), extending the “Safe Harbor” date to return PPP loan funds or to terminate pending applications to May 14, 2020. On April 23, 2020, the SBA announced, in FAQ #31, that borrowers under the PPP loan program would need to certify, in good faith, that “[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant, taking into account their current business activity and their ability to access other sources of liquidity sufficient to support their ongoing operations in a manner that is not significantly detrimental to the business.” FAQ#31 also included language to the effect that any borrower that had received funds, and could not make the required certification, could return the funds by May 7th without penalty.

On May 5th, in FAQ #43, the SBA announced that it will automatically extend the safe harbor period to return PPP loans/withdraw applications that do not meet the economic need certification from May 7 to May 14, 2020. FAQ #43 also included language that the SBA intends to provide additional guidance on how it will review the certification prior to May 14, 2020, so borrowers who are unsure whether or not to draw down on their funds will have some additional guidance to help them make that determination prior to the date funds must be returned.

*If you have any questions regarding the Paycheck Protection Program, your eligibility to apply for a PPP loan or how a PPP loan might affect your business, please contact:*

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