



# The Small Business Administration released FAQ #46 - Tax Attorney Matt Campbell Shares Key Takeaways from this Guidance

May 14, 2020

On May 13 the Small Business Administration (SBA) released FAQ #46, which addresses how it will review a borrower's good faith certification concerning the necessity of their Paycheck Protection Program (PPP) loan request. Key takeaways from this guidance include:

- PPP borrowers of less than \$2,000,000 (together with affiliates) will be deemed to have made the required certification concerning the necessity of the loan request in good faith.
- With respect to PPP borrowers that do not meet the \$2,000,000 safe harbor and are therefore subject to a SBA compliance review, it is still unclear what the review will entail.
- To the extent a SBA compliance review results in a finding that a PPP borrower lacked an adequate basis for the required certification concerning the necessity of the loan request:
  - SBA will seek repayment of the outstanding PPP loan balance and will inform the lender that the borrower is not eligible for loan forgiveness.
  - If the borrower then repays the loan, SBA will not pursue administrative enforcement or referrals to other agencies based on its determination with respect to the certification concerning necessity of the loan request.

SBA also issued FAQ #47, extending once more the safe harbor deadline for returning PPP funds. The new deadline is Monday, May 18, 2020. Borrowers do not need to apply for the extension.

<https://content.govdelivery.com/accounts/USSBA/bulletins/28b5ec1>

## Practices

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