

## **SBA Defines Maximum Owner Compensation for Multiple PPP Borrowers & Certain Allowable Costs**

On August 24th, an Interim Final Rule ("IFR") was released by the SBA on Treatment of Owners and Forgiveness of Certain Non-payroll Costs.

Importantly, the IFR is critical to properly calculating the payroll costs allowable toward forgiveness of a PPP loan. The owner-employee compensation rule limits the amount of compensation of an "owner-employee" to 2019 compensation in order to avoid a situation where an owner-employee uses his or her position of ownership to increase his or her level compensation at the government's expense and potentially at the expense of the employees of the borrowers. The owner-employee compensation rule was summarized in our Client Update [here](#).

In connection with the owner-employee compensation rule, owners of more than one business should be aware that, for payroll cost allocation purposes, an individual's payroll compensation is subject to the cap across all businesses in which an owner has an ownership stake; provided that owners may choose how to allocate the capped amount across different businesses. See SBA's discussion of this issue [available here](#) at Question #8.

### **Key highlights of the IFR include:**

- Owner-employees with less than a 5 percent ownership stake in a C- or S-Corporation are not subject to the owner-employee compensation rule. All other owner-employees are subject to the compensation rule.
- Rent to related parties can be counted towards forgiveness, but rent cannot exceed the mortgage interest owned on the property during the Covered Period and a lease agreement must be in place by 2/15/20.
- A lessor cannot count a percentage of their mortgage interest toward forgiveness that is attributable to tenants.
  - For example, an office building leases out 75% of the available space to tenants, therefore only 25% of mortgage interest can be counted toward forgiveness.
- Subleases do not count toward rent expense.
- Home-based businesses can only include covered non-payroll expenses that were deductible on their 2019 tax filings.

A copy of the IFR can be found [here](#).

### **Contact Us**

Fraser Stryker's business attorneys are here to help:



**Mark L. Brasee**  
[mbrasee@fraserstryker.com](mailto:mbrasee@fraserstryker.com)  
(402) 978-5306



**Neil P. Hassler**  
[nhassler@fraserstryker.com](mailto:nhassler@fraserstryker.com)  
(402) 978-5374

*This article has been prepared for general information purposes and (1) does not create or constitute an attorney-client relationship, (2) is not intended as a solicitation, (3) is not intended to convey or constitute legal advice, and (4) is not a substitute for obtaining legal advice from a qualified attorney. Always seek professional counsel prior to taking action.*