Update – Fraud Investigations Related to COVID-19 Assistance Programs

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The Paycheck Protection Program (PPP) was introduced with the CARES Act in 2020 in an effort to assist struggling businesses needing immediate access to cash during the pandemic. The Small Business Association (SBA) has interpreted the CARES Act's application based on the SBA Section 7(a) Loans program. Some businesses did not use PPP loan funds as they were intended by Congress. Due to the broad range of associated fraud, the SBA has been investigating PPP loan cases, as have other government agencies including the IRS, FBI, FDIC, and SSA. As of March 26, 2021, the Department of Justice has publicly charged 474 defendants with criminal offenses based on COVID-19 fraud schemes, totaling $569 million in claims, and investigations continue.

Fraud Reports: Just How Many Are There?

In 2020, there were over 21,000 Suspicious Activity Reports (SARs) filed by banks based solely on potential PPP loan fraud. By early 2021, the SBA had received 150,000 whistleblower reports on PPP loan fraud. Out of $202 billion in PPP loans issued, there has been at least $341 million in alleged PPP loan fraud.

PPP loan fraud comes in all shapes and sizes, from inflated payroll expenses to the fabrication of entire businesses with no operations. Reports suggest that together, bad actors have claimed thousands of fake employees for coverage while allegedly using PPP funds to purchase luxury vehicles, mansions, and diamonds, as well as for back payment of child support and other fraud cases.

For perspective, over 5.2 million PPP loans have been issued. These have largely served their original purpose of helping small businesses; however, high profile offenders continue to be charged, and at least 120 defendants face prosecution for suspected PPP loan fraud.

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High Profile Fraud Prosecutions and Settlements

Texas recently experienced the most ambitious fraud scheme. In *U.S. v. Dinesh Sah*, the defendant applied for 15 different PPP loans from eight different lenders using 11 different companies. The defendant sought a total of $24.8 million, the highest amount of any documented fraud scheme, and managed to obtain $17.3 million. The funds were used for homes, luxury vehicles, and jewelry.

The first settlement related to PPP loan fraud was entered in January 2021 in California. In addition to repaying the $350,000 in PPP funds received, SlideBelts Inc. and its president and CEO agreed to pay $100,000 in damages and penalties.

One of the largest fraud rings was also found in California. In *U.S. v. Richard Ayvazyan, et al.*, eight defendants applied for 142 loans under both the PPP and Economic Injury Disaster Loans programs. Stolen and fake identities and fake companies were used to apply for over $21 million, which was subsequently laundered through multiple bank accounts for luxury purchases.

Multiple cases have involved explicit tax fraud to support the PPP loan applications. A Florida man sent fraudulent forms to the IRS to receive $3.9 million from the PPP program, and he assisted others in doing the same. A pizzeria owner in Massachusetts falsified an official tax form to qualify his business for a larger loan. A Pennsylvania couple was charged with various counts of making false statements to IRS agents due to the forged IRS documentation and other fabricated materials they submitted.

While many of these examples were extreme and obvious misuses of funds, it is clear that various federal agencies have turned their attention to scrutinizing how PPP loans were documented and used. It is important for businesses to continue to ensure their use of PPP loan funds is compliant with regulations. Internal audits are a good idea to avoid PPP loan fraud implications.

For more updates, continue to check Tax Law Defined®. If you need assistance understanding your PPP loan obligations and how such loans are treated for federal and state tax purposes, contact any attorney on Frost Brown Todd's PPP Audits & Appeals team.

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