

CLIENT ALERT

Treasury Issues Guidance and a Form Agreement for Air Carrier Payroll Support Program and Provides an Update on Payments

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This week, Treasury published additional [guidance](#) regarding funding under the Air Carrier Payroll Support Program (Division A, Title IV, Subtitle B of the CARES Act) and an [update](#) on payments made under the program. Treasury advised that it has received hundreds of Payroll Support Program applications and that earlier this week it disbursed \$2.9 billion as the initial payments to two major airlines and 54 smaller passenger air carriers. Additional payments will be made to approved applicants on a rolling basis, though Treasury has not committed to a specific timeline.

The guidance addresses frequently asked questions about the program, including applications and eligibility, reporting requirements, affiliate definitions, stock buybacks, continuation of service requirements for air carriers, and the use and taxation of payroll support funds. In terms of the financial instrument requirement (which was waived for passenger air carriers receiving less than \$100 million), Treasury notes that it has not yet decided what will be required from cargo carriers or contractors. The guidance also notes that while Payroll Support funds are calculated being on amounts through September 30, 2020, there is no deadline for the use of the funds provided that they are used only for the continuation of employee wages, salaries and benefits. Treasury also provided a copy of the agreement that applicants will be required to sign. The form agreement can be found [here](#).

Notably, the guidance also clarifies that Part 145 repair station operators ("[repair stations](#)") and ticket agents who are eligible for loans under Division A, Title IV, Subtitle A of the CARES Act ("[CARES Loan Program](#)") are also eligible for the Payroll Support Program, [provided](#) that they meet the Payroll Support Program's "contractor" eligibility requirements. Treasury makes clear in the guidance that eligibility requirements for each of the Payroll Support Program and the CARES Loan Program will be determined independently. The Payroll Support Program only covers contractors and subcontractors that provide Part 121 air carriers with catering services or services on airport property that are directly related to air transportation, including, but not limited to loading and unloading of property on aircraft, assistance to passengers with disabilities, security, airport ticketing and check-in, ground handling, aircraft cleaning, sanitation, and waste removal. While repair stations and ticket agents often perform functions directly related to air transportation, they may not be under contract with a Part 121 air carrier or perform such services on an airport. Nevertheless, repair stations and ticket agents should consider whether they qualify as an eligible "contractor" under the Payroll Support Program since these funds may not have to be repaid. Previous guidance on applications procedures and deadlines for the Payroll Support Program can be found [here](#) and [here](#).

Repair stations and ticket agents that do not meet the strict criteria required for the Payroll Support Program may obtain relief under the CARES Loan Program, which has more flexible criteria and specifically includes repair stations and ticket agents within its scope. Unlike the Payroll Support Program, however, the CARES Loan Program requires repayment of the funds provided. Whether Treasury will waive the financial instrument requirement for carriers seeking less than \$100 million remains to be seen. Further guidance on the CARES Act Loan Program can be found [here](#).

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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