

Treasury Simplifies Recordkeeping for Payroll Costs

September 22, 2020

The US Treasury Office of Inspector General (“OIG”), the audit officials responsible for monitoring the Coronavirus Relief Fund (“CRF”), issued Frequently Asked Questions (“FAQs”) on August 28 that seemed to contradict Treasury’s initial Guidance concerning the eligibility of payroll expenses for public health and public safety employees.

Subsequently, eight state and local organizations penned a letter to OIG seeking clarification and resolution to the conflicting guidance, especially as the September 21 quarterly-reporting deadline approached.

Yesterday, on September 21, OIG released revised FAQs correcting their earlier guidance on August 28, returning to a reading consistent with Carrington Coleman’s Per Se Rule advice.

CARRINGTON COLEMAN’S PER SE RULE

The Per Se Rule was derived from Treasury’s initial Guidance and FAQs, which stated that payroll for employees “substantially dedicated” to mitigating COVID-19 was an eligible expenditure, that public health and public safety employees were presumed to be “substantially dedicated,” and therefore public health and public safety payroll was eligible.

Additionally, this presumption was granted for administrative convenience, meaning these entire departments were eligible under the Per Se Rule, without the need to test or analyze the day-to-day change in job function for these employees.

On top of this, the supporting documents needed to establish these eligible costs were simple- standard payroll records and account ledgers demonstrating payment using CRF funds.

CONFUSION CREATED IN AUGUST 28 FAQs

OIG released FAQs on August 28 that attempted to narrow the scope of the Per Se Rule, leaving local government officials to make determinations based on vague and conflicting guidance.

Based on released reporting describing how state and local governments were allocating their CRF funds, payroll costs for public health and public safety employees are an overwhelmingly popular expenditure category.

Because of resulting inconsistency and confusion, eight national organizations wrote to the OIG asking them to confer with Treasury and reconsider their August 28 FAQs.

SEPTEMBER 21 RESOLUTION

On the afternoon of September 21, OIG released updated FAQs clarifying their position on the eligibility and documentation requirements for public health and public safety payroll. FAQs 70 – 72 explain local governments “do not have to demonstrate/substantiate that a public health or public safety employee’s function or duties were substantially dedicated to mitigating COVID-19” thereby re-establishing Treasury’s presumption that these employees are substantially dedicated.

These FAQs also state that local governments “are not required to perform an analysis or maintain documentation of the substantially dedicated conclusion for payroll expenses of public health and public safety employees.”

It also reaffirms that these expenses, even if previously budgeted for in the FY 2020 budget, are eligible CRF expenditures.

TAKEAWAYS

Payroll for public health and public safety employees, dating back to March 1 and extending through December 30, is the most efficient and best use of CRF funds in many instances.

Reduced recordkeeping and generally large payroll costs make the Per Se Rule particularly powerful.