



# PPP Forgiveness

Best Practices to Protect Your Business

# Some Housekeeping Items

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# PPP Loans – The Basics

- The Paycheck Protection Program (PPP) is administered by the federal Small Business Administration (SBA) and provides relief funding to small businesses as well as individuals who are self-employed or are independent contractors if they also meet program size standards.
- A PPP loan is designed to provide a direct incentive for small businesses to keep their workers on the payroll.
- Paycheck Protection loans may be eligible to be **forgiven** in whole or part in an amount equal to the sum of certain costs incurred and payments made during the 8-week period beginning on the date of the origination of a PP loan.
- The amount of loan forgiveness can't exceed the amount borrowed plus accrued interest, but the amount of forgiveness **will be reduced** if there is a reduction in the number of employees OR a reduction of greater than 25% in wages paid to employees.
- **IMPORTANT**: This information is a snapshot – this is what we know now. Guidance, regulations are subject to change.



# PPP Loan Forgiveness

- On May 20, the SBA issued Form 3508, the Loan Forgiveness Application
  - You must complete the application and return it to the lender
  - Lenders are required to decide on loan forgiveness within 60 days of receipt of the complete application from the borrower. The SBA then has 90 days to review the loan forgiveness application.
  - **Application must be filed by October 31, 2020**

## **Important Considerations:**

- As with the PPP itself, SBA is expected to issue guidelines that may hone or restrict forgiveness requirements – it is imperative that you keep abreast of any updates
- To hopefully avoid any issues, STRICT COMPLIANCE WITH THE FORGIVENESS APPLICATION REQUIREMENTS IS RECOMMENDED – NO SHORTCUTS!!!
- For this reason, good recordkeeping and bookkeeping is *critical* for getting the maximum amount of your PPP loan forgiven
- Don't be cute – follow the rules – or your application may be denied for any discrepancies

# PPP Loan Forgiveness

- Application contains two critical questions:
  - Number of full-time employees (FTE) at the time the loan application was made
    - FTE's determined by those working at least 40 hours per week
    - Part time employees may count as .5 FTE
  - Number of FTE at the time loan forgiveness application is made; or
  - June 30, 2020, the end of the rehiring grace period.
- Required documents:
  - Documents verifying the number of FTE on payroll and their pay rates, for the periods used to verify you met the staffing and pay requirements:
    - Payroll records from payroll provider
    - Payroll tax filings
    - Income, payroll, and unemployment insurance filings from your state
    - Documents verifying any retirement and health insurance contributions
    - Documents verifying that your eligible interest, rent, and utility payments were active in February 2020
    - Documents verifying your eligible interest, rent, and utility payments (canceled checks, payment receipts, account statements)
  - **Must keep for 6 years after loan is forgiven or is paid in full.**

# Qualifying Expenses

- Employee salary and wages
  - Forgiveable payments for compensation cannot exceed the pro-rated amount of a \$100,000 annual salary, or \$15,385 over 8 weeks
- Employer contributions to employee benefits including group health care coverage, insurance premiums and retirement, i.e. 401K
- Payment for vacation, parental, family, medical, or sick leave; allowances for dismissal or separation
- Business loan interest, including mortgage interest, and interest on real and personal property used for business, e.g. cars, copiers, office equipment
- Rent
- Utilities, including electricity, gas, water, transportation, telephone, or internet access
- For an independent contractor or sole proprietor, wage, commissions, income, or net earnings from self-employment or similar compensation



# Qualifying Expenses

- Qualifying expenses must have been incurred and paid within the eight week covered period or incurred during the covered period and paid on or before then next regular billing date, even if that date is after the eight weeks.
  - Covered period begins on date of first disbursement from lender
- Alternative Covered Period: Borrowers with a biweekly (or more frequent) payroll schedule may elect to calculate eligible payroll costs using the eight-week (56-day) period that begins on the first day of their first pay period following their PPP Loan Disbursement Date.
  - For example, if the Borrower received its PPP loan proceeds on Monday, April 20, and the first day of its first pay period following its PPP loan disbursement is Sunday, April 26, the first day of the Alternative Payroll Covered Period is April 26 and the last day of the Alternative Payroll Covered Period is Saturday, June 20.
  - Borrowers who elect to use the Alternative Payroll Covered Period must apply the Alternative Payroll Covered Period wherever there is a reference in this application to "the Covered Period or the Alternative Payroll Covered Period."
- At least 75% of the loan must have been paid to employee compensation
  - If the employees' pay over the 8 weeks is less than 75% of the pay they received during the most recent quarter in which they were employed, the eligible amount for forgiveness will be reduced by the difference between their current pay and 75% of the original pay.
  - **You must maintain the number of employees on your payroll.**
- No more than 25% of the loan can be used towards rent, utilities or business loan interest expenses

# Excluded Expenses

- Anything not expressly considered as “qualifying.”
- Remember, your PPP application contained the following certification:
  - *The funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments, as specified under the Paycheck Protection Program Rule; I understand that if the funds are knowingly used for unauthorized purposes, the federal government may hold me legally liable, such as for charges of fraud.*

# Potential Reduction – Less FTE

- **Headcount reduction - Examples**

- At the time of the PPP loan application, you had three employees and they each made \$2,000 per month, meaning your PPP loan amount was \$21,000 ( $2000 \times 3 \times 2.5$ ). You had to lay them off in March due to COVID-19.
- If you only hire back two out of the three employees, your workforce is 67% of your original headcount of 3.
- Employees who were laid off or put on furlough may not wish to be rehired onto payroll. If the employee rejects your re-employment offer, you may be allowed to exclude this employee when calculating forgiveness. To qualify for this exemption:
  - You must have made an written offer to rehire in good faith
  - You must have offered to rehire for the same salary/wage and number of hours as before they were laid off
  - You must have documentation of the employee's rejection of the offer
- If any of these conditions apply to an employee, you can also qualify for an exemption:
  - They were fired for cause
  - They voluntarily resigned
  - They voluntarily requested and received a reduction of their hours

# Rehiring Grace Period

- You can rehire any staff that were laid off or put on furlough and reinstate any pay that was decreased by more than 25% to meet the requirements for forgiveness.
  - You have until June 30th to do so.
- If your eight-week forgiveness period ends before June 30, you can still use the grace period if you reinstate headcount and/or pay.
  - Just be sure to apply for forgiveness after June 30.
- Applies only if the FTE count was reduced between February 15, 2020 and April 26, 2020
- Also, doesn't have to be the same staff members, just the same number

# Calculate Forgivable Loan Amount

- Determine the maximum amount of possible loan forgiveness based on the borrower's "qualifying" expenditures during the "Covered Period"
- Determine the amount, if any, by which the maximum loan forgiveness will be reduced because of reduced employment or reduced salaries and wages; and
- Apply the 75% rule that requires that at least 75% of eligible loan forgiveness expenses go towards payroll costs.

# Loan Not Forgiven?

- If your entire PPP loan amount is not forgivable:
  - Remaining balance will become a loan at 1% for two years
  - Payments deferred for first six months and balance must be repaid within 18 months thereafter
  - 30 days from lender decision to file appeal with SBA



# Consult an Expert

- Now is not the time to be penny wise and pound foolish
- If you have any questions regarding your forgiveness or loan application, consult an expert

**QUESTIONS?**



# Thank You For Joining Us!



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