




COVID-19

UPDATE:
April 30, 2020

**Coronavirus / COVID-19
Response Team**

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**Forgiveness Under the
Paycheck Protection
Program: What We Know**

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Today's Topics

- The Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”), as amended, provides over \$725 billion for Paycheck Protection Program (PPP) and other Small Business Administration (SBA) loan program expansions and enhancements.
- Borrowers and their professional advisors have been anxiously awaiting further guidance on the mechanics of how loans under the PPP will be forgiven.
- As we await further guidance from the SBA and the U.S. Treasury, this program will provide an overview of what is currently known / anticipated on the topic in addition to providing practical advice where appropriate.

PPP: Permitted Uses of Loans

- PPP loans are generally permitted to be used for the following purposes:
 - Payroll costs (note that at least 75% of the loan must be used on payroll costs)
 - Group healthcare benefit costs during paid sick/medical/family leave
 - Insurance premiums
 - Employee salaries, commissions or similar comp.
 - Mortgage interest payments
 - Rent
 - Utilities
 - Interest on other existing debt

PPP: Forgivable Uses of Loans

- Forgivable uses are a subset of permitted uses.
- PPP loans are forgivable to the extent used during the eight week period after loan receipt (the “Covered Period”) for the following expenses:
 - Payroll costs
 - Excluding the portion of any employee’s cash compensation in excess of an annualized salary of \$100,000 (prorated for the covered period).
 - Mortgage interest
 - Rent obligations
 - Utility payments

PPP: Calculation of Potential Forgivable Amount

- **Sample Fact Pattern:**
 - Borrower applies for its PPP loan on April 6, 2020, and funds are received on April 13, 2020.
 - Borrower anticipates the following expenses during the Covered Period:
 - Payroll expense in an amount equal to \$50,000 will be due and payable on April 17, 2020 and every two weeks thereafter.
 - Rent expense in an amount equal to \$10,000 is due and payable on the first of each month.
 - Utilities expense in an amount equal to \$1,000 is due and payable on the first of each month.

PPP: Calculation of Potential Forgivable Amount

- **Total Potential Forgivable Amount: \$222,000**
 - **Total Payroll Expense: \$200,000**
 - Payable on April 17th; May 1st; May 15th and May 29th
 - **Total Rent Expense: \$20,000**
 - Payable on May 1st and June 1st
 - **Total Utilities Expense: \$2,000**
 - Payable on May 1st and June 1st
- This example assumes the SBA will permit forgiveness on payments during the Covered Period consistent with past practice.

PPP: Adjustments to Loan Forgiveness

- Forgiveness will be reduced to the extent the borrower's average number of full-time equivalent (FTE) employees during the Covered Period decreases compared to the borrower's average number of monthly FTE employees during one of the following periods (at borrower's election):
 - February 15, 2019 through June 30, 2019 (the "2019 Period"); or
 - January 1, 2020 through February 29, 2020 (the "2020 Period").
- To the extent the borrower experiences a reduction in its FTE during the period beginning on February 15, 2020 through April 26, 2020, then the borrower may remedy this reduction by "eliminating" the decrease in FTEs by June 30, 2020.

PPP: Calculation of the Reduction of the Forgivable Amount

- Sample Fact Pattern:
 - Borrower's FTE during the Covered Period is 95.
 - Three employees were terminated on April 1, 2020.
 - Two employees were terminated on May 1, 2020.
 - Borrower's FTE during the 2020 Period is 105.
 - Borrower's FTE during the 2019 Period is 100.
 - Borrower hires 5 full time employees by June 30, 2020.
- Total Reduction of Forgivable Amount: 2% (1-98/100)

PPP: Adjustments to Loan Forgiveness (cont.)

- Loan forgiveness will also be reduced to the extent total salary/wage reductions per employee exceed 25% compared to total salaries/wages during the most recent full quarter.
 - Reductions in salaries/wages for those earning more than \$100,000/year generally do not count for this purpose
- To the extent the borrower experiences a reduction in its employee compensation during the period beginning on February 15, 2020 through April 26, 2020, then the borrower may remedy the otherwise negative impact on its forgiveness percentage if it “eliminates” the reduction in employee compensation by June 30, 2020.

PPP: Calculation of the Reduction of the Forgivable Amount (cont.)

- **Sample Fact Pattern:**
 - Borrower’s bi-weekly employee compensation during the most recent full quarter was \$70,000.
 - Borrower’s bi-weekly employee compensation during the Covered Period is \$50,000.
 - A reduction of approx. 28.6%
 - Borrower does not make any changes to its employee compensation by June 30, 2020.
- **Total Reduction of Forgivable Amount:**
\$10,000 (\$2,500 per pay period).

PPP: Requesting Loan Forgiveness

- Request for loan forgiveness must be made to the lender that is servicing the loan.
- Borrowers must submit, and certify the accuracy of, documents verifying the number of full-time equivalent employees and pay rates, as well as the payments on eligible mortgage interest, rent and utility payments.
- The lender must make a decision on the forgiveness within **sixty days**.

PPP: Practical Advice

- Align beginning of the Covered Period with the beginning of a pay period, if possible.
- Maintain a separate bank account for loan proceeds.
- Do not make material changes to any related party rent.
- Good recordkeeping and bookkeeping will be critical for getting your loan forgiven.
- Be audit-ready if loan is greater than \$2MM.



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