



Loan Forgiveness Under Payroll Protection Program

● April 28, 2020

WITH YOU TODAY



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The slides for this presentation are available on our website

AGENDA

- PPP Loan Calculation
- Latest Update
- Expected Procedures
- Loan Amount Not Forgiven
- Key Dates
- Trap 1 – Headcount Reduction
- Trap 2 – Pay Rate Reduction
- Solutions to Traps 1 and 2
- Forgivable Costs : Other than Payroll
- Payroll Costs
- Sole Proprietors
- Partnerships
- Forgiveness Calculation
 - 75% Rule
- Employer Social Security Tax Deferral
- Other Thoughts
- Questions and Contact Information

PPP LOAN CALCULATION

Gross wages in 2019 or 4/1/19 to 3/31/20		1,200,000
Wages for employees in excess of 100K		<u>(100,000)</u>
		1,100,000
Employer state and local payroll taxes		10,000
Health Insurance costs, employer portion		60,000
Retirement plans, employer portion		30,000
Costs not part of the final rules		
Federal payroll taxes		-
Independent contractors		<u>-</u>
	Annual costs	1,200,000
	Monthly Costs	100,000
	Factor	<u>2.5</u>
	LOAN REQUEST	250,000

LATEST UPDATES

EXPECTED PROCEDURES

1/2

- Just as you provided an application and documents to receive the loan, there will be an application with required documents to seek forgiveness of the loan.
- The application will be “timely” submitted to the bank that gave you the loan. The bank will have 60 days to issue a decision.
- This may make the banks nervous. There are concerns the SBA will hold them responsible for loan amounts inappropriately forgiven.

EXPECTED PROCEDURES

2/2

- Just as each bank had its own forms and documents required at loan application, the same will likely be true for loan forgiveness.

- Required documentation will include
 - Payroll records
 - Full Time Equivalents both in the 8 week period and the baseline period
 - Pay Rates both in the 8 week period and in the testing period
 - Interest, Rent and Utility invoices and payment
 - A **certification** that:
 - The documentation is true and correct.
 - The **amount for which forgiveness is requested was used to retain employees**, make covered interest payments, rent and utility payments.

LOAN AMOUNT NOT FORGIVEN

- What happens to portions of the loan NOT forgiven?
 - Interest rate fixed at 1%, interest charged from date loan received.
 - 2 year repayment period, payments begin in month seven.
 - No prepayment penalties or fees.
- Insight:
 - Continue to make sound business decisions over the next 8 weeks.
 - Focusing too much on loan forgiveness may not benefit your business.
 - A 1%, 24 month loan is a heck of a deal.

KEY DATES

- 8 week period begins the date the loan is deposited into your bank account.
 - Funds in your bank account on April 15, 2020.
 - 8 week period ends on June 10, 2020.
- Costs must be **INCURRED AND PAID** in the 8 weeks
 - Document that the bills being paid pertain to the 8 week period.
 - May and June Rent
 - Not July rent paid early
- Common Question – Can I make 3 rent payments in the 8 week period?
 - Yes...BUT only 2 months of rent are incurred in an 8 week period. As a result, only 2 rent payments should be included on the loan forgiveness application.

TRAP 1 – HEADCOUNT REDUCTION

- If your full time equivalents (FTE) in the 8 week loan period have decreased from your “baseline period,” loan forgiveness will be decreased.
- Baseline period is **your** choice the payroll period
 - 2/15/19 to 6/30/19 or
 - 1/1/20 to 2/29/20
- Example
 - 20 FTEs during baseline period.
 - 18 FTEs during 8 week forgiveness, or -10%.
 - 10% reduction in loan forgiven, see example (slide 20).

TRAP 2 – PAY RATE REDUCTION 1/2

- The amount of the loan forgiven will be reduced if pay rates have been reduced by more than 25%.
 - Only the amount in excess of 25% becomes the reduction.
 - This calculation is to be done on an employee by employee basis.
 - Expectation is this will likely be changed and simplified.
- Pay Rates Compared
 - Pay rate during the 8 week period.

COMPARED TO

- Pay rate during the most recent quarter the employee was employed, prior to the 8 week period.
 - Assumption is January and February 2020 pay rates will be used.

TRAP 2 – PAY RATE REDUCTION 2/2

○ Example:

- Sam's pay rate was \$40 an hour in January and February 2020.
- Sam's current pay rate was reduced below \$30 (75% of \$40) to \$25 an hour.
- Sam worked 320 hours during the 8 week period.
- The loan not forgiven is 320 hours @ \$5 ($\$30 - \25) = \$1,600 (slide 20)

Now do this for every employee....
except employees exceeding 100K annually
since they are limited to 100K

SOLUTIONS TO TRAPS 1 AND 2

- If you fall into the headcount reduction trap or the pay rate reduction trap, there is a time frame to fix this and have more of the loan forgiven.
- You have until June 30, 2020 to restore your full-time equivalents and pay rates and not have the loan forgiveness reduced.
- This will especially benefit businesses reopening May 4th and bring their employees back.
- Further guidance is hopefully forthcoming as the interplay between this rule and the 8 week rule is not yet available.

FORGIVABLE COSTS: OTHER THAN PAYROLL* 1/2

- Obligations that originated prior to **February 15, 2020** and were **incurred and paid** during the 8 week period for:
 - MORTGAGE INTEREST
 - Interest on any loan **secured** by real or personal property
 - Principal payments are **not** allowable costs
 - Interest on most lines of credit will qualify.
 - RENT
 - Both real and personal property rents qualify
 - Follow the lease carefully for common charges and escalation clauses
 - Leases with related parties qualify
 - Will Banks and SBA require a written lease???

* These costs are limited based on payroll (see example - slide 20)

FORGIVABLE COSTS: OTHER THAN PAYROLL*

2/2

- UTILITIES
 - Electricity
 - Gas
 - Water
 - Telephone
 - Internet
 - Transportation (fuel for business vehicles)

- Current guidance suggests that the 2 monthly bills paid in the 8 week period are the costs deemed to be incurred. Do NOT overthink dates on the bill vs dates of service.

- Document, document, document. Be ready to provide the invoice and the bank statement showing payment

* These costs are limited based on payroll (see example - slide 20)

PAYROLL COSTS

1/2

- The current guidance is the pay dates within the 8 week period are the pay dates that will count.
 - Don't overthink what the work week was etc. **As of now it's the PAY DATE.**
 - Weekly payers will have 8 pay dates, biweekly payers will have 4 pay dates.
- GROSS WAGES
 - All reportable compensation counts
 - Wages, commissions, tips, vacation, etc.
 - Remove wages
 - In excess of \$100,000 per year.....\$15,384 for the 8 weeks
 - For those whose residence is outside the US
 - Reimbursed under the Family First Act or other provisions
- EMPLOYER STATE AND LOCAL TAXES
 - State Unemployment
 - MA Family Leave (not sure about those who self insured)
 - Federal payroll taxes DO NOT COUNT

PAYROLL COSTS

2/2

○ HEALTH INSURANCE PREMIUMS

- Employer share only;
 - Total invoice less employee paid portion, including cobra
- Guidance is being sought for HSA and similar plans
- Union benefits should count but it's not clear

○ RETIREMENT BENEFITS

- Guidance is being sought here. Pretty clear that the employer matching contribution qualifies.
- Union benefits should count but it's not clear
- What about an employer profit sharing contribution??
 - Current assumption is that a contribution based on the eight weeks of payroll will count.

○ INDEPENDENT CONTRACTORS

- Are not on payroll and are not included in payroll costs

SOLE PROPRIETORS

- In applying for the PPP loan, sole proprietors were treated unfairly.
 - Earnings were calculated using only the net income reported on the schedule C.
 - They were not allowed to add back health insurance costs or retirement plan contributions for themselves, only for their employees.
 - They were required to submit a 2019 schedule C which many had not yet had prepared.
- For a sole proprietor without employees, the loan application consisted of:
 - Schedule C net income, maximum of \$100,000
 - $\$100,000/12 \times 2.5 = \$20,833$ would be the maximum loan amount.
- For loan forgiveness it appears the sole proprietor will be deemed to have a salary of \$15,385 ($\$100,000 / 52 \times 8$).
 - Business rent, interest and utilities can be added to the forgiveness application.

PARTNERSHIPS

- Confusion reigned within the PPP loan application for Partners who receive guaranteed payments and other types of self-employment income from their Partnerships.
 - Until April 14, the guidance was that each Partner should file individually for a PPP loan based on their 2019 income.
 - Many Partners did not have their k-1 to submit with their loan application.
- On April 14, SBA changed the rules and had the Partnership file the PPP loan application on behalf of all its Partners.
 - Partners wages are defined as the self employment income of each Partner, not to exceed \$100,000.
- There is minimal guidance available at this time as to how a Partnership will apply for forgiveness on Partners self-employment income.
 - Current thought is to “pay” each partner \$15,384 during the 8 week loan period, these “documented wages” may be part of the forgiveness application.

FORGIVENESS CALCULATION

Gross payroll for 8 weeks		170,000	
Amounts in Excess of > 100K		(10,000)	
			160,000
Health Insurance 2 months			15,000
SUTA and Retirement			<u>5,000</u>
TOTAL PAYROLL COSTS			180,000
Factor	/ 75%		
Maximum Forgiveness	180,000 / .75	240,000	
MAXIMUM OTHER COSTS	(240-180)	60,000	
Actual Other Costs		50,000	
Allowed Other Costs		lesser of	<u>50,000</u>
Forgiveness before "traps"			230,000
Head Count trap 1 (slide 10)			
base period FTE	20		
8 week FTE	18		
FTE reduction		-10%	(23,000)
Pay rate reduction trap 2 (slide 12)			
Sam			<u>(1,600)</u>
LOAN FORGIVENESS REQUEST			205,400
Unless Head Count and Wage Reduction increased by June 30			

EMPLOYER SOCIAL SECURITY TAX DEFERRAL

- The deposit for the employer portion of social security tax, since March 27, 2020 has allowed for deferral.
 - This tax is 6.25% of wages. On a weekly payroll of \$10,000 it's \$625.
- Many are just taking advantage of this as it was not clear how this provision and the PPP Loan interacted.
- NO PPP loan, the deferral is from March 27, 2020 to December 31, 2020. About 40 weeks.
 - Using the example above that's a deferral of \$25,000 (625 x 40)
- For PPP recipients, the deferral is from March 27, 2020 to the date the employer receives notification of loan forgiveness from the lender.
- The deferred taxes must be deposited
 - 50% by December 31, 2021
 - Balance by December 31, 2022

OTHER THOUGHTS

- Employers who compensated employees for Sick Leave of Family Care leave under the Families First Coronavirus Response Act, reimbursement comes in the form of a reduced federal payroll tax deposit.
 - Employer receives a credit equal to **gross wages plus medical costs**.
 - Form 941 is being revised for these credits.
- For those who were UNABLE to receive a PPP LOAN they should look into the EMPLOYER RETENTION CREDIT.
 - 50% decline in gross receipts over same quarter in 2019 or
 - Subject to shutdown due to Covid-19
 - Credit equals 50% of wages paid per employee up to \$10,000 in wages.
- Lots of pressure on the bankers.

FOLLOW-UP TRAINING(S)

- We intend to offer a few follow-up trainings to incorporate any changes and further guidelines as it relates to the PPP and CARES Act.
- We anticipate the next webinar on or around May 13-15. (Subject to Change)
 - We are also looking to have the final update on or around the 7-8 week deadline for all final guidance and calculations (early June).
- If you are interested in attending please inform the person who invited you and you will be notified when trainings will occur.

Thank you for your participation and Stay Safe!

ADDITIONAL QUESTIONS?

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