



# **Payroll Protection Program Loan Forgiveness Application**

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# WITH YOU TODAY



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The slides for this presentation are available on our website

# AGENDA

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- Owner Payroll Cost Limitation
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- Process
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- Which Forgiveness Form Do I Use?
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- FTE Calculation
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# LATEST UPDATES

1/2

## ○ LARGE BORROWERS

- About 30,000 of the 5.2M PPP loans were \$2M or more.
  - Affiliated entities are included in the \$2M figure.
- These borrowers are required to file a Loan Necessity Questionnaire.
  - Lenders are not required to verify or validate the information.
- See Forms 3509 (for profit) and 3510 (not-for-profit);
  - Probably a good reason to hold the forgiveness application as we expect additional guidance and modifications to this form.

## ○ RENTS

- Rental payments must be reduced by any sublease income.
- Related parties:
  - Defined as ANY ownership in common between the business and the property owner.
  - Rent can only be forgiven to the extent of the mortgage interest paid by the property owner.

# LATEST UPDATES

2/2

- Lenders need only verify eligible costs to the amount of the PPP loan.
  - There is no need to be an “over achiever” and submit and document costs that exceed the PPP loan.
  - If payroll costs exceed the amount of the PPP loan there is no need to submit nonpayroll costs.
- “Owner of a business”
  - Defined as 5% or more ownership stake.
  - Compensation limited (slide 6).
- Transportation Utility, has been defined.
  - NOT fuel used by business vehicles as originally thought.
  - Fee charged for distributing the utility.
- Health insurance premiums include vision and dental benefits.

# OWNER PAYROLL COSTS LIMITATION

- Owner is defined as owning 5% or more.
- Rules are designed to limit compensation to the 2019 levels.
- Limitation is lesser of:
  - 8 weeks 15,385.....24 weeks 20,833.
  - 2019 wages @ 2.5/12....(will apply if 2019 wages were less than 100K);
    - Sole proprietor uses net income on 2019 schedule C.
    - Partners use 2019 self employment income.
- Are health insurance premiums allowed?
  - C Corp – YES.
  - S Corp, Sole Proprietor, Partner – NO.
- Are retirement plan contributions allowed?
  - Sole Proprietor and Partner – NO.
  - C Corp and S Corp - yes but no more than 2019 amount @ 2.5/12.

# REMINDERS

## ○ EIDL

- Grant many received. Either \$10,000 grant or \$1,000 per employee.
- Reduces the amount of the PPP loan forgiveness and will need to be repaid. The loan forgiveness application will compute full forgiveness but SBA will not forgive to the extent of the EIDL.
  - Example: \$50,000 PPP loan and \$5,000 EIDL grant. Application will include forgiveness costs for \$55,000, but maximum forgiven will be \$50,000.

## ○ TAXABILITY

- IRS ruled that the PPP loan forgiven is not taxable income.
- However, the expenses used to seek PPP forgiveness would not be deductible.
- Still no action by Congress to make this fully tax-free as they claimed was the original intent in the legislation.

# OVERVIEW

- Most borrowers should have full forgiveness using the 24 week period and **payroll only**. *Simplest and Recommended.*
- Loan application was for 8 weeks of payroll and forgiveness application provides for 24 weeks of payroll
  - Only massive FTE reductions would result in the 24 weeks of payroll not providing full forgiveness.
- Forgiveness application may not ask for the detail, however
  - Borrower is still required to maintain it
  - Lender may still require the information as support.
- **Recommendation:** Go thru all the steps as if you were filing the long form and the PPP schedule A worksheet.
  - Exception: Sole Proprietors with no employees.



# LOAN APPLICATION

employee	2019 W2 box 5	LOAN
1	30,000	30,000
2	30,000	30,000
3	30,000	30,000
4	30,000	30,000
5	50,000	50,000
6	50,000	50,000
7	120,000	100,000
8	120,000	100,000
owner a	150,000	100,000
owner b	80,000	80,000
TOTAL	690,000	600,000
MONTHLY		50,000 2.5
LOAN		125,000

- Borrower received a 125K loan on Wednesday April 15.
- Since loan is pre June 5 borrower can choose 8 or 24 week covered period.
  - post June 5 loan is 24 weeks.
- 8 weeks would end on Tuesday June 9. 24 weeks ends on Tuesday Sept 29
- Payroll week runs Monday thru Sunday. **Alternate period** is Monday, April 20 to Sunday, June 14 (8 weeks) Sunday, October 4 (24 weeks)

# PROCESS

1/2

## ○ Steps to follow

1. Was there a pay rate reduction of more than 25%
2. Calculate to see if there was an FTE reduction
3. Generally select the alternative payroll covered period (pay week beginning after PPP received). Get a payroll report that reports gross wages for both the 8 week and 24 week alternate payroll covered periods.
4. Adjust payroll report for:
  1. Reimbursed wages under the Family Leave and other acts.
  2. Wages for employees in excess of \$100k as prorated.
  3. Owners wages per their limitations.
5. Adjust totals for pay rate reduction.
6. Add in Other Payroll Costs (health ins, retirement, state taxes).
7. Add in Non Payroll Costs (mortgage interest, rent, utilities).
8. Reduce for pay rate reductions.
9. Reduce the total for FTE reductions.
10. Determine forgiveness.

# PROCESS

2/2

- Was there a Pay Rate reduction
  - Will only apply if the pay rate to employees who make less than 100k have their pay rate reduced by more than 25% over the pay rate from January 1, 2020 to March 31, 2020.
  - Only the amount in excess of the 25% reduction applies.
  - There is a safe harbor period to restore the pay rate.
  
- Was there an FTE reduction
  - FTE's during the covered period are compared to the FTE's during
    - 2/15/19 to 6/30/19 **OR** 1/1/20 to 2/29/20 (borrower's choice)
  - During the covered period FTE's are not reduced for employees if:
    - Written offer to rehire was rejected and state unemployment notified within 30 days
    - Any employee during the period (unless employee replaced)
      - Fired for cause
      - Voluntarily resigned
      - Voluntarily requested and received a reduction in hours
    - Could not find qualified employees
    - Unable to restore business due to COVID-19 restrictions

# EXAMPLE: SCHEDULE A WORKSHEET

employee	covered period pay	average fte	table 1	table 2	table 3	
						OWNERS
1	15,000	1.0	15,000			
2	15,000	1.0	15,000			
3	10,000	0.7	10,000			
4	10,000	0.7	10,000			
5	25,000	1.0	25,000			
6	25,000	1.0	25,000			
7	55,000	1.0		46,154		maximum
8	55,000	1.0		46,154		maximum
owner a	75,000	na			20,833	maximum
owner b	40,000	na			16,667	maximum based on 2019 W2 (80@2.5/12)
<b>TOTAL</b>	<b>325,000</b>	<b>7.4</b>	<b>100,000</b>	<b>92,308</b>	<b>37,500</b>	
Family Leave Act Wages			(10,000)	0	0	
			90,000	92,308	37,500	219,808
FTE Exceptions						TOTAL WAGES
emp 3		0.3	voluntarily resigned			
emp 4		0	none			
Total FTE		7.7				
Base Period FTE		8.0				
Reduction		0.96				0.96
TOTAL COSTS						210,466
LOAN						125,000
FULL FORGIVENESS						

# WHICH FORGIVENESS FORM DO I USE?

- 3508S
  - If loans received are \$50,000 or less.
    - Includes all affiliated borrowers.
    - Sole proprietors without employees should use this form.
- 3508EZ
  - The instructions include 3 different criteria. If any of the 3 apply you can use this form.
    - First criteria - now irrelevant due to form 3508S.
    - Second criteria - no pay rate and no FTE reductions.
    - Third criteria - no pay rate reduction and business could not operate at the same level of business activity due to COVID compliance.
- 3508
  - The most complex of the forms.
- This application can be filed up to ten months after the end of the covered period.

# COMPREHENSIVE FORGIVENESS EXAMPLE

	Payroll		500,000		
	Health Insurance		60,000		
	Retirement Plan		6,000		
	State Taxes		5,000		
		Total Payroll	571,000		
	Business Interest		20,000		
	Business Rent		30,000		
	Business Utility		8,000		
		Total	629,000		
		FTE reduction	0.9		
		Modified total		566,100	
		PPP Loan amount		600,000	
		Total Payroll/.6		951,667	
		Loan Forgiven	566,100	least of above 3	



# FORGIVABLE NONPAYROLL COSTS

- Obligations that originated prior to February 15, 2020  
(lease and loan renewals after 2/15/20 qualify)
  - MORTGAGE INTEREST
    - Interest on any loan *secured* by real or personal property.
    - Principal payments are *not* allowable costs.
  - RENT
    - Both real and personal property rents qualify.
    - Leases with related parties (any ownership) **Only to the extent of related party's mortgage interest.**
  - UTILITIES
    - Electricity, Gas, Water, Telephone, Internet.
    - “transportation” is the fees assessed by state and local governments for distributing the utility.

# FORGIVABLE PAYROLL COSTS

1/2

- GROSS WAGES (not independent contractors)
  - All reportable compensation counts.
    - Wages, commissions, tips, vacation, hazard pay.
  - **Remove wages**
    - In excess of \$100,000 ..\$15,385 for 8 weeks... \$46,154 for 24 weeks.
    - For those whose residence is outside the US.
    - Reimbursed under the Family First Act or other provisions.
  - *See additional limitations for owners payroll costs (slide 10)*
- EMPLOYER STATE AND LOCAL TAXES
  - State Unemployment and MA Family Leave.
  - **Not** Federal payroll taxes.
- Many are trying to claim payroll processing fees, I do not believe these fees qualify for forgiveness.



# FORGIVABLE PAYROLL COSTS

2/2

## ○ GROUP HEALTH CARE COVERAGE

- Employer costs only.
- **Not** employee contribution or cobra.
- Additional guidance is being sought for HSA and similar plans.
- Medical, vision, dental all qualify.
- Paid or incurred during the covered period.

## ○ RETIREMENT BENEFITS

- Employer matching contribution appears to qualify.
- Paid or incurred during the covered period.
- Additional guidance is still being sought here.

- These costs follow the payroll period selected, 8 or 24 weeks or alternate payroll period.

# COVERED PERIOD

- The Covered Period are the dates that costs incurred or paid can be used for loan forgiveness. The period starts the day the PPP loan is received.
- For PPP loans after June 4, the covered period is 24 weeks. For loans prior to June 4 the borrower can elect 8 weeks or 24 weeks.
- **Alternate payroll covered period can be elected for Payroll costs if payroll is paid on a weekly or biweekly pay period.**
  - The first day of the pay period that begins after the receipt of the funds plus 8 weeks or 24 weeks.
  - Example - Funds received on Monday April 20, payroll week runs Sunday thru Saturday. Alternate period is Sunday April 26 thru Saturday June 20 (8 weeks) or September 5 (24 weeks).

# PAID AND/OR INCURRED NONPAYROLL COSTS

- Paid during the covered period OR incurred during the covered period and paid on or before the next regular billing date, even if the billing date is outside of the covered period.
  - Example - Loan received on June 1 and eight week period ends on July 26. Borrower may seek forgiveness for:
    - May utility bill paid in June.
    - June utility bill paid in July.
    - The portion of the July bill thru July 26 if paid by the next billing cycle.
  - Above is more than 8/24 weeks of utilities.
  - Advanced payments of interest are specifically excluded.
    - Does this mean that rent and utility payments can be paid in advance???
  - If the borrower was behind in payments and in the above example paid March, April and May bills in June, are they all eligible for forgiveness???

# PAID AND/OR INCURRED PAYROLL COSTS

- As with the nonpayroll costs, the paid or incurred costs will exceed eight weeks of payroll.
- Paid is the date the paychecks are distributed or the ACH transaction originates.
- Incurred is the day the employee worked and earned the pay.
- Payroll costs PAID OR INCURRED during the chosen 8/24 week payroll period are eligible for forgiveness. Payroll costs incurred but unpaid during the 8/24 week period will be forgivable if paid on the next regular payroll date.

# FTE CALCULATION

- Calculate the average full time equivalent BY EMPLOYEE and round to the nearest tenth.
  - A 40 hour or more work week is considered 1 FTE. (NO OVERTIME)
  - Under a “simplified rule” 40 hours or more count as 1 FTE...and...Less than 40 hours count as .5 FTE.
- Employees under these FTE reduction exceptions do not reduce FTEs:
  - Written offer to rehire was rejected and state unemployment notified within 30 days.
  - Any employee during the period (unless employee replaced);
    - Fired for cause.
    - Voluntarily resigned.
    - Voluntarily requested and received a reduction in hours.
  - Could not find qualified employees.
  - Unable to restore business due to COVID-19 restrictions.
- Owner-Employee not counted in FTE calculation.
- See ever changing safe-harbor rules.

# PAY RATE REDUCTION

- 3 step calculation to determine if the payroll costs are reduced for pay rate reductions.
- Reduction applies if a pay rate deduction is in excess of 25% to:
  - Those who were employed in 2019 who had a pay rate of less \$100k for all pay periods in 2019 and for new employees.
  - Reduction is the pay in excess of the 25% reduction.
- Pay rates compared:
  - Pay rate during the PPP covered period. *TO*
  - Pay rate between 1/1/20 and 3/31/20.
- See ever changing safe harbor rules.

# SUBMISSION

- FTE documentation that shows
  - Average number of FTE employees per month for the reference period:
    - February 15, 2019 to June 30, 2019, **OR**
    - January 1, 2020 to February 29, 2020.
  
- Documents for Mortgage Interest, Rents and Utilities:
  - Verify existence of obligation prior to February 15, 2020.
  - Mortgage Interest (both real and personal property);
    - Lender amortization schedule with payment support, **OR**
    - Lender statements from 2/15/20 and the covered period.
  - Rent and Leases (both real and personal property);
    - Current lease agreement with payment support, **OR**
    - Lessor account statements from 2/15/20 and the covered period.
  - Utilities;
    - Invoices of 2/15/20 and covered period with payment support.

# DOCUMENTS TO MAINTAIN

- All records related to the Forgiveness Application must be kept for six years after the loan is forgiven or is paid in full **including:**
  - Necessity of the loan request.
  - Eligibility for a PPP loan.
- Payroll - documents supporting schedule A (page 6) related to each employee for:
  - Salary/wage reduction calculation.
  - FTE calculations including;
    - job offers and refusals.
    - voluntary resignations.
    - written requests for work schedule reductions.



# ADDITIONAL QUESTIONS?

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