

PPP Loan Forgiveness Strategies: Manage Your Outcome

AO Webinar Series

April 30, 2020

Presented by Pat Tabor

Topics of Discussion

- Updates on PPP Including Self Employer Application
- Managing the Forgiveness Process → Detail Dive Into the Rules and How to Maximize
- Tool Kit & Resources
- Quick Update on EIDL
- Q & A

Update on PPP

- Refunded, gates opened Monday 4/27.
- Predicted to be gone in two weeks, this will be the last one
- PPP guidance out on self employed, please see SBA document I've forwarded to AO
- New guidance issued on seasonal measurement just as we asked through Senator Daines, see SBA Document
- As of this moment in time, no additional guidance has been published on forgiveness, working on best available assumption at this time **SUBJECT TO CHANGE!**

Forgiveness is What the World Needs

- Law fraught with inconsistencies and contradictions
- Like the application process, at the end of the day, it will depend on your lender/regional office of SBA as to what they'll let you do.
- The info in this webinar is based on interpretation of law's intent, no guarantees it will work for you
- Documentation and backup will be critical for you to defend your ask, plan that into it from the start
 - Separate checking account
 - Canceled checks and all reports, schedules and other docs

Forgiveness Specifics

- First, borrowers must use PPP loan proceeds for payroll costs, mortgage interest, rent and utilities payments over the eight-week covered period after receiving the loan. It is important to note that the Final Rule provides that not more than 25 percent of the loan forgiveness amount may be attributable to non-payroll costs.
- Second, borrowers must maintain headcount, as loan forgiveness will be reduced if a business decreases its FTE employee headcount. This is determined by dividing the average FTE employee headcount during the eight-week covered period by the headcount during one of the following periods, at the election of the borrower:
 - Period from February 15, 2019 to June 30, 2019
 - Period from January 1, 2020 to February 29, 2020

Forgiveness Specifics

- Third, if a borrower decreases salaries and wages by more than 25% for any employee who did not receive, during any single pay period during 2019, wages or salary at an annualized rate of pay in an amount more than \$100,000, then a portion of the loan may not be forgiven
- Fourth and final, that borrowers have until June 30, 2020 to restore FTE employee headcounts and salary and wage levels for any decreases made between February 15, 2020 and April 26, 2020.

Forgiveness Specifics

- After the eight-week covered period following the loan origination date, borrowers have 90 days to submit loan forgiveness documentation to the lender. Then, the lender has 60 days to make a decision on loan forgiveness.
- Borrowers deferring the employer's portion of Social Security taxes under the CARES Act should be aware that they are no longer eligible to defer these taxes once they receive a decision on loan forgiveness from the lender.
- FTEs: It's not stated how to calculate FTE. Consensus is that this test will be similar to ACA: employees who work 30 hours or more per week will be considered full-time employees. Any person who holds a full-time position is one FTE. Then calculate hours of part-time employees, aggregate on a monthly basis and divide by 120 to determine the number of FTE employees attributable to part-timers.

Forgiveness Specifics

- What documentation will I have to provide to support my forgiveness calculation?
 - Calculations for FTEs, payroll tax filings (Form 941 and payroll registers), verification of payment (canceled checks, bank statements), account statements, bills, etc. We recommend keeping a spreadsheet of all eligible expenses as they are incurred and filing copies of the supporting documentation in a special folder.
 - A copy of the bank statement with eligible expenditures highlighted would also be helpful to support any EFT payments.
 - The SBA is clear on this point: no documentation = no forgiveness.

Steps to Minimize Loan Forgiveness Reduction

- Avoid reducing employee headcount during 8-week measurement period
- During 8-week period ensure that 75% of proceeds are used for “payroll” expenses, and no more than 25% is used for non-payroll
- Choose the option on counting AFTEs that results in lowest number as the base number, and then ensure you have more than that # during 8-week period
- Avoid reducing compensation during 8-weeks by more than 25% of what you paid to any one employee the preceding quarter

PAYROLL COSTS

Payroll costs include: salary, wages, commissions or similar compensation; cash tips or the equivalent; vacation, parental, family, medical or sick leave; allowance for separation or dismissal; payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums and retirement; payment of state and local taxes assessed on compensation of employees; and for an independent contractor or sole proprietor, wage, commissions, income or net earnings from self-employment or similar compensation.

The Act expressly excludes the following from payroll costs:

1. Any compensation of an employee whose principal place of residence is outside of the United States;
2. The compensation of an individual employee in excess of an annual salary of \$100,000, prorated as necessary;
3. Employer's share of federal unemployment taxes, FICA (Federal Insurance Contributions Act) and Railroad Retirement Act taxes; and
4. Qualified sick and family leave wages for which a credit is allowed under sections 7001 and 7003 of the Families First Coronavirus Response Act (Public Law 116-127).

75% OR MORE OF LOAN FORGIVENESS MUST BE PAYROLL COSTS

NON-PAYROLL COSTS

- Rent
- Utilities
- Mortgage interest on real or personal property debt obligations

25% OR LESS OF LOAN FORGIVENESS CAN BE NON-PAYROLL COSTS

Full-Time Equivalent Employee Reduction Test

Compare average full-time equivalent employee headcount in the eight-week period after receipt of the loan (X) to the following periods (Y)

Seasonal Employer

The average number of full-time equivalent employees employed by the borrower in the period beginning on February 15, 2019 and ending on June 30, 2019

$$X > Y$$

Yes

No reduction in loan forgiveness

No

Loan forgiveness is reduced proportionately by the reduction in full-time equivalent employees

Non-Seasonal Employer

At the borrower's election, the average number of full-time equivalent employees employed by the borrower in the period beginning on February 15, 2019 and ending on June 30, 2019 or beginning on January 1, 2020 and ending on February 29, 2020

$$X > Y$$

Yes

No reduction in loan forgiveness

No

Loan forgiveness is reduced proportionately by the reduction in full-time equivalent employees

Salary Reduction Calculation

Compare individual employee salaries and wages for any employee with an annualized rate of pay in an amount of not more than \$100,000 for the eight-week covered period to the most recent full quarter that the employee was employed

Were individual employee wages and salary reduced by more than 25%?

Yes

Loan forgiveness is reduced by the difference in salary and wages in excess of 25%

No

Loan forgiveness will not be reduced for wages and salary reductions

June 30, 2020 Restoration Test

Are FTE headcounts and salary
and wage levels for any
decreases made between
February 15, 2020 and April 26,
2020 restored by June 30, 2020?

Yes

Reduction in loan forgiveness
calculated in Steps Two and Three
is eliminated and loan forgiveness
equals amount computed in
Step One

No

Loan forgiveness is reduced for
amounts calculated in Steps Two
and Three



Forgiveness Example

Use of SMCG Developed Template

Unresolved Issues

- Whether “rent” includes amount due on equipment and other non-real estate leases
- Whether “other debt” includes interest on credit cards and other types of financing generating interest expense
- Unclear whether there is a 6/30 cut off for use of proceeds or availability of forgiveness
- Unclear as to what order to apply the three basis for imposing reductions of forgiveness

Unresolved Issues

- Unclear for the computation of reductions related to reducing compensation during 8-weeks by more than 25% of what you paid to any one employee the preceding quarter → as it stands now you are comparing pay during 8-weeks to a full quarter

Update on EIDL

- EIDL also funded, haven't started processing beyond the \$10,000 yet
- An amazing array of response folks have gotten from SBA, one outfitter already got full loan amount without filling out larger application
- Seems like there are several places you could be in cue depending on when you applied
- URLs are confusing
<https://disasterloan.sba.gov/ela/Account/Login> if you filled out long form, <https://www.sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources> for \$10k auto application

Tool Kit & Resources

- From Today:
 - New Spreadsheet calculating forgiveness
 - SBA/Treasury guidance on self employed individuals and how to calculate PPP loan request, new rule on measuring seasonal business
 - This presentation
 - New Money Making Idea (next slide)
- Check AO's site often, new tools contributed daily
- pat.tabor@swanmountainoutfitters.com

CRYPTOCURRENCY:



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Q & A





Thanks

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