

Paycheck Protection Program Loan Administration

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May 20, 2020



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- ▶ This presentation and our advice is based on the most recent interpretations and the guidance available as of today. As this situation continues to evolve, guidance may and will change after the delivery of this information and advice.
- ▶ We are providing advisory and taxation advice as our continual commitment to educating our community. Nothing within this presentation is to be considered as legal advice.
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Outline

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EIDL Grant and PPP Loan Proceeds Received? How will Forgiveness Work?

- ▶ IF you utilize PPP funds and EIDL grant funds for the same expenditures
 - ▶ Grant amount will reduce PPP Loan forgiveness
 - ▶ As an example, if you received an EIDL Grant of \$10,000 (not required to be paid back, by its definition) and subsequently received a PPP Loan for \$100,000, the maximum forgiveness you could achieve on your PPP Loan would be \$90,000 (\$100,000 loan minus \$10,000 Grant). This is to ensure that there is no double dipping on tax free funding for the same expenditures.
- ▶ If you utilize EIDL Grant funds to cover expenses other than what the PPP loan is intended to cover, there is no reduction in the forgiveness possible for the PPP Loan

Reminder on PPP Loan Terms

- ▶ Any portion of the loan NOT forgiven will have payment terms of 18 months at 1%.
- ▶ Interest accrues as of funding date for the first 6 months
- ▶ SBA will pay the lender the accrued interest and principal for all forgiven loans
- ▶ Interest on unforgiven balance will be added into the calculation of your payments starting at month 7 after your funding date
- ▶ You may pre-pay this loan without penalty at any time
- ▶ If the repayment is not possible for the unforgiven portion within the 18-month period, terms will renew at 7%, however the repayment duration may vary

Taxation Update For PPP Loans Forgiven and The Expenses Covered

- ▶ Loan amounts forgiven by the SBA will be non-taxable Debt Cancellation Income.
- ▶ As of today, expenses paid with forgiven loans will be non-deductible according to Treasury Secretary Mnuchin, per IRC 265. This is contrary to the intent of the legislation according to lawmakers. This may change prior to the end of the year if lawmakers are successful in circumventing IRC 265 with an exemption.
- ▶ Businesses that have reduced revenue comparable to or greater than their forgiven PPP Loan will experience a net taxable income result that is the same as or lower than if the loan forgiven was taxable.
- ▶ Business that have income the same or possibly higher than their past year will experience a taxation burden. While their PPP loan forgiven will not be taxable, the expenses paid with it are not deductible, resulting in business income with no corresponding expenses, which would create an unintended taxation burden to the business owner.

PPP Fund Usage for Maximum Forgiveness

▶ Eligible Payroll

- ▶ Payroll costs are considered paid on the day that the payroll is disbursed
- ▶ Payroll costs are considered incurred on the day that the employee's pay is earned
- ▶ Payroll costs incurred, but not paid, during the last pay period of the covered period are eligible for forgiveness, if paid on or before next payroll date
- ▶ Otherwise, it is treated cash basis and must be paid during the covered period

PPP Fund Usage for Maximum Forgiveness

- ▶ Minimum of 75% utilized for payroll and related expenses
 - ▶ Gross Wages
 - ▶ Forgivable wages for any single employee **MAY NOT** exceed \$100,000 of annualized salary, thus the maximum amount includable is: \$1,923.08 per week, \$3,846.16 per bi-weekly payroll, \$4,166.67 per semi-monthly payroll and \$8,333.33 per month total
 - ▶ You can pay a team member above this level, however, it will not be included in the forgiveness calculation
 - ▶ State Unemployment
 - ▶ Payroll Processing Fees
 - ▶ Health Insurance Premiums (Employer portion only)
 - ▶ Employer Portion of Retirement Contributions
 - ▶ Employer match for FICA **IS NOT** an allowable expense

PPP Fund Usage for Maximum Forgiveness

- ▶ Maximum of 25% utilized for Rent, Utilities, Interest on business debt
 - ▶ Eligible Expenses
 - ▶ MUST be paid during the covered period or incurred and paid on the next billing cycle, if after the covered period.
 - ▶ At any time, no more than 2 months of expense will be eligible.
 - ▶ Rent is for lease agreements in place before February 15, 2020. Cannot pre-pay rent.
 - ▶ Interest on debt is for loans in place before February 15, 2020. Cannot pre-pay and principal is not includable.
 - ▶ Utilities include Electric, Water, Gas, Telephone, and Internet for which service began before February 15, 2020.
- ▶ Home Office Considerations - No Official Guidance Available
 - ▶ MAY count towards the 25% of your PPP Loan towards forgiveness
 - ▶ Percentage of business use of your home would apply
 - ▶ Rent or Mortgage interest, utilities only apply, not all eligible home office expenses

Accounting for your PPP Loan

- ▶ Accounts to Set Up in your Accounting Software
 - ▶ If you have opened a separate bank account, set up the “PPP Loan Proceeds” cash account.
 - ▶ Set up a “PPP Loan Payable” account as an “Other Current Liability.”
 - ▶ Set up a “PPP Loan Forgiven” account as an “Other Income” account below the line.
 - ▶ QuickBooks, turn on class tracking. For other software, utilize departments or locations. Create a “PPP Funds” class or department to track your eligible expenditures.
- ▶ Upon receipt of your forgiveness amount, journal that forgiven amount from PPP Loan Payable to PPP Loan Forgiven income.
- ▶ The remaining balance in PPP Loan Payable will be your unforgiven portion. You will make your monthly principal (applied against this account) and interest (loan interest expense) until your loan is paid off.
- ▶ We recommend the utilization of a separate checking or savings to house the PPP fund not yet utilized. This CAN be an interest-bearing account

S Corporation Owner's Salary Limitations in Forgiveness Calculation

- ▶ Business owner's salary is limited to the lesser of:
 - a) \$100,000 annualized salary
 - b) 8/52 of the owners 2019 total salary paid
- ▶ Guidance provided as part of the Loan Forgiveness application released Saturday May 16, 2020
- ▶ Researching if a control period would be applicable as an alternative to the 8/52 rule
- ▶ Business owners that applied for and received unemployment (Pandemic Unemployment Assistance) need to forego this benefit for all periods where PPP loan funds are utilized to pay W2 wages. You cannot do both at the same time

Guidance for Single Member LLC S Corporation PPP Fund usage without non-owner employees

- ▶ Used primarily for salary replacement
- ▶ Can also use other allowable payroll expenses towards forgiveness of your loan
- ▶ Owners can fund their employer portion of SEP IRA or Owners 401K applicable to 8-week period wages to assist in utilizing maximum forgivable expenditures
- ▶ Business use of home MAY apply, not yet confirmed
- ▶ Business use of Cellphone and Internet apply
- ▶ Salary limitations may result in repayment of a portion of PPP loan funds for those with minimal applicable overhead

Guidance for Schedule C Business Owners

- ▶ Loan amounts for Schedule C Businesses have not been consistently calculated as 2.5x average monthly net income, thus creating the possibility of funds that must be returned to the SBA
- ▶ 8/52 usage rule for owner's compensation
- ▶ Example: You secure a PPP Loan for \$9,000. During 2019, your net business income subject to self-employment tax was \$39,000. Divided by 52 (weeks in the year) = \$750. Multiplied by 8 (weeks in PPP spending period) = \$6,000. This represents the maximum automatic owner's "compensation" applicable to the PPP loan forgiveness, or 75% of total forgiveness. The non payroll expenditures cannot exceed 25% of the total forgiveness available. This means that your maximum non payroll expense can be $\$6,000 / 3 = \$2,000$.
- ▶ Total maximum forgiveness will be \$6,000 compensation + \$2,000 rent and related = \$8,000.
- ▶ The \$1,000 remaining can be sent back or repaid over the 18-month repayment period at 1% interest.

Full Time Equivalents for Businesses with Employees Beyond Owner(s)

- ▶ Control Period: February 15 - June 30, 2019 or January to February 2020 per business owner's discretion
- ▶ Full Time Equivalent (FTE) is equal to 40+ hours per week
- ▶ Average FTE's per pay period compared to average during control period

Full Time Equivalents for Businesses with Employees Beyond Owner(s)

- ▶ ABC Company has 4 full-time and 4 part-time employees during the control period of January and February 2020. 2 part time employees work 20 hours average per week: one works 25 hours average per week, one works 30 hours average per week.

Method A - Full time Equivalents = $4 + (2 \times 20 / 40) + (1 \times 25 / 40) + (1 \times 30 / 40) = 4 + 1 + .63 + .75 = 6.38$ FTEs. Alternatively, you can calculate as $((4 \times 40) + (2 \times 20) + (1 \times 25) + (1 \times 30)) / 40 \times 8$ (total employees) = $255 / 320 = .7969 \times 8$ employees = 6.38 FTEs.

Method B - Optional election by employer to apply half FTE for all employees under 40 hours per week. 4 full time $(\times 1) + 4$ part time $(\times .5) = 6$ FTEs. If you are struggling to restore FTEs, this method may make it a bit easier to achieve employee restoration. Situations may vary and it will not benefit in all cases.

Employers with many employees under 20 hours per week will most likely benefit from Method A, while those with most part-time employees over 20 hours per week may benefit from Method B.

Full Time Equivalents for Businesses with Employees Beyond Owner(s)

► FTE Reduction Exception:

For any position that the borrower made a good faith (documented) offer to rehire an employee during the covered period which was rejected and for any employee terminated for cause, voluntarily resigned, or voluntarily requested and received a reduction in hours. Such a position or hours not filled by a new employee WILL NOT COUNT in the reduction of the borrower's loan forgiveness.

► Safe Harbor for restoring FTE count by June 30, 2020

Borrower is exempt from the reduction in loan forgiveness based on FTE employees if a) the borrower reduced its FTE levels in the period beginning 2/15/2020 and ending 4/26/2020 and b) the borrower then restored its FTE employee levels by no later than 6/30/2020 to its employee levels in the pay period that included 2/15/2020



Restoring Staff Salaries for Businesses with Employees beyond owner(s)

- ▶ Each continuing team member must be paid an AVERAGE of at least 75% of control period wages during the 8-week covered spending period
- ▶ Control Period per the instructions on the Loan Forgiveness application: 3-month period January 2020 through March 2020
- ▶ Bonuses may be used to correct salaries to meet requirement
- ▶ Need to project actual average wages for 8-week period compared to average for the control period and target an average of no less than 75% by the end of the period
- ▶ DOES NOT APPLY to new team members hired after the control period

PPP Application for Forgiveness and Additional SBA Resources

- ▶ SBA Support

<https://www.sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources>

- ▶ OMB 3245-0407 Form Number

- ▶ [SBA Form 3508 PPP Forgiveness Application](#)

Certification of Good Faith

- ▶ SBA guidance provided on May 13, 2020 deems that all PPP loans under \$2 million will be deemed to have made the required certification concerning the necessity of the loan requested in good faith.
- ▶ SBA has allotted \$35 Million to retain auditors over a 5-year period to look at PPP Loans and investigate or audit records to determine if an economic consideration or need existed in obtaining the loan.
- ▶ May require a good faith certification opinion provide by legal counsel.

Potential Changes to 8-Week Spending Period and Other Components to the SBA PPP Loan Program

- ▶ The House next week is planning to overhaul the government's flagship small business aid program, amid growing concern that it's become unworkable for many employers.
- ▶ House leaders have agreed to hold a vote on bipartisan legislation to ease restrictions on how businesses use so-called Paycheck Protection Program loans, which can be forgiven if employers agree to maintain their payroll and avert layoffs during the coronavirus pandemic.
- ▶ The legislation that the House is planning to take up next week would give businesses more flexibility in how they use the \$670 billion Paycheck Protection Program and still have their loans forgiven. The request has become an urgent demand from restaurants and other industries as shutdown orders nationwide have persisted longer than lawmakers first expected when they created the program in March. Business owners fear they will be stuck with the debt if changes aren't made, and it's made some employers skittish about using the money.

Source: Politico.com 5/19/2020



Need More Help?

The Team at Phocus Accounting and Tax is available to help you through these most difficult and uncertain times.

Please contact us for any further assistance –
the entire team is here to help!

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