

# PPP Loan Forgiveness Rules Summary and CARES Act Roundtable Discussion



# Roundtable Discussion Participants

## Host & Moderator



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## Roundtable Discussion Members



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# PPP Loan Forgiveness Summary

## REMINDER: What costs qualify for forgiveness?

- Payroll Costs (wages, health ins, retirement benefits ...)
- Non-Payroll Costs\*
  - Rent / Lease Payments
  - Utilities
  - Mortgage Interest (and secured personal prop loans)

\* **NEW RULE: Non-payroll costs cannot exceed 40% of total forgiveness amount.**  
(see Appendix A for example of rules if non-payroll costs exceed 40% of loan amount)  
Leases, loans and utility service agreements must predate February 15, 2020

# PPP Loan Forgiveness Summary

## REMINDER: “Final” Payroll:

- Payroll costs incurred but not paid during the Covered Period can be paid *on or before the next regular payroll date* after the end of the Covered Period

### Example:

- Covered Period ends on Oct 5
- Bi-weekly pay period runs from Sept 27 to Oct 10
- Sep 27 – Oct 5 payroll qualifies if paid with Oct 10<sup>th</sup> normal payroll

# PPP Loan Forgiveness Summary

## Owner Employees, Self-Employed & General Partners Payroll:

- 8-week cap: \$15,385
- 24-week cap is lesser of:
  - \$20,833
  - 2.5 months of 2019 compensation

## S-Corp Owner Employees, Self-Employed & General Partners Health Insurance:

- Exclude Health Insurance from their “payroll” calculation

# PPP Loan Forgiveness Summary

## REMINDER: Non-Payroll Costs must be:

- 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 after the Covered Period.

### Example:

Covered Period runs from May 1 – Oct 15

- Electric for Apr 15 – May 14 is paid on May 24<sup>th</sup> (forgivable)
- Electric for Oct 1 – Oct 31 is paid when due on Nov 15<sup>th</sup>  
*Prorate for Oct 1 – 15*
- Rent for May is pre-paid in April  
*Does not qualify. Ask landlord to refund the rent and re-pay in May*

# PPP Loan Forgiveness Summary

## Due Date for Application Filing:

- Must file within 10-months after end of Covered Period to receive loan forgiveness

## Taxability:

- Forgiveness amount is not taxable
- Expense paid with forgiven PPP loan proceeds are not deductible (IRS Notice 2020-32)

# Reductions in Loan Forgiveness for Layoffs & Wage Reductions

## Loans of \$50,000 or less

- No forgiveness reductions for layoffs or wage cuts
- File form 3508S



# Reductions in Loan Forgiveness for Layoffs & Wage Reductions

## Loans Greater than \$50,000

### FTE Safe Harbors

- Employee FTE Headcount Restoration Rule (no change)
  - Layoffs occurred between Feb 15<sup>th</sup> and April 26<sup>th</sup> ; *and*
  - Employee FTE level restored by Dec 31<sup>st</sup> to FTE levels for the pay period that includes Feb 15<sup>th</sup>
- Can't return to Feb 15<sup>th</sup> FTE levels due to Covid-19 rules or guidelines issued by HHS, CDC or OSHA

## Reductions in Loan Forgiveness

### HR Issues: No FTE Reduction if employee:

- Document inability to rehire staff employed on Feb 15<sup>th</sup> AND can't find similarly qualified individuals by Dec 31<sup>st</sup>
- Employee declines written offer to restore hours or wages
- Voluntarily resigns
- Terminated for *cause*
- Requested hours reduction

AND

*Position is not filled by a new employee*

# PPP Loan Forgiveness Summary

## What to file?

- Most banks will provide you with an online form
- 3508S: Loans \$50K or under
- 3508EZ:
  - Self-employed
  - No wage reductions in excess of 25% AND
    - No reduction in number of employees or ave. paid hours from Jan 1 through end of Covered Period; OR
    - Can't operate at Feb 15<sup>th</sup> level due to Covid rules/guidelines from HHS, CDC or OSHA

# SUBMITTED Documentation

Payroll	FTE	Non-Payroll
<p>Bank account statement for CP or APCP (if elected)</p> <p>Payroll service reports for applicable CP or APCP</p> <p>Payroll tax filings (941's and 1028's) for applicable CP or APCP</p> <p>Payment verifications (e.g. cancelled checks, payroll service reports)</p> <p>Account statements documenting employer contributions to health and retirement plans included in "Payroll" calculations</p>	<p><u>Reference Period FTE</u> (Select one of following)</p> <ul style="list-style-type: none"> <li>Ave FTE/month from 2/15/19 – 6/30/19</li> <li>Ave FTE/month from 1/1/20 – 2/29/20</li> <li>SEASONAL: Either of above or any consecutive 12-weeks between 5/1/19 – 9/15/19 <i>SELECT PERIOD WITH LOWEST FTE VALUE</i></li> </ul> <p>Include 941's and 1028's for selected Reference Period</p>	<p>Documents verifying loan, lease or service (i) started prior to Feb 15; and, (ii) includes the Covered Period</p> <p><u>Mortgage/Secured Loans and Leases</u> Copies of:</p> <ul style="list-style-type: none"> <li>LOANS: Lender amort schedule</li> <li>LEASE: Lease agreement</li> <li>Receipts, cancelled checks or account stmts verifying payments (statements for Feb through month following the end of Covered Period)</li> </ul> <p><u>Utilities</u></p> <ul style="list-style-type: none"> <li>Copies of invoices from Feb through those included in the Forgiveness calculation (lines 2 - 4 of PPP Forgiveness Application)</li> <li>Receipts, cancelled checks or account statements verifying payment</li> </ul>

# RETAINED Documentation

## Retained Documentation

PPP Schedule A worksheet

Documentation supporting the listing of each employee in PPP Schedule A worksheet

- Table 1: Salary/Hourly reduction calculations
- Table 2: Employee received during any single 2019 pay period compensation at an annualized rate > \$100,000

Firing for cause, voluntary resignations and written request for reduced work schedule

Inability to rehire individuals employed on Feb 15<sup>th</sup> AND can hire similarly qualified individuals

HHS, CDC or ASHO requirements or guidelines that reduced FTEs below Feb 15<sup>th</sup> levels

Documentation supporting “FTE Reduction Safe Harbor” (if applicable)

Copy of PPP loan application (including all attachments)

Documentation demonstrating compliance with PPP requirements

**Documents must be retained for 6-years from the later of date loan is forgiven or repaid in full**

# PPP Loan Forgiveness Summary

## Appendix A: Non-Payroll Costs Exceed 40% of Loan

Facts – Borrower receives \$100,000 PPP loan and spends \$54,000 on payroll and \$46,000 on non-payroll forgivable costs.

The borrower's non-payroll cost cap (i.e. 40% of the loan) is reduced by the same percentage as the borrower fell short of spending 60% of the loan for qualifying payroll costs. Let's call this 60% test the payroll cost minimum. In our example, the borrower's *payroll cost minimum* is \$60,000 ( $60\% \times \$100,000 = \$60,000$ ); however, the borrower spent only 90% of this \$60,000 minimum ( $\$54,000 / \$60,000 = 90\%$ ). Hence, the borrower will be forgiven only 90% of its *non-payroll cost cap*. Remember, non-payroll costs are capped at 40% of the loan which, in our example is \$40,000 ( $40\% \times \$100,000$  loan). Since our borrower only spent 90% of the *payroll cost minimum*, its non-payroll costs will be limited to the lesser of: (i) the amount spent for qualified non-payroll costs; or (ii) 90% of its *non-payroll cap* which is \$36,000. ( $40\% \text{ cap} \times \$100,000 \text{ loan} = \$40,000$  non-payroll cost cap  $\times 90\% = \$36,000$ ). Now, wasn't that fun and easy. Below is a chart summarizing these calculations.

Loan Amt: \$100,000	Amt Spent	Forgiveness
Payroll Cost (min 60%)	\$54,000	\$54,000
Non-Payroll (max 40% of payroll)	\$46,000	\$36,000
Total	\$100,000	\$90,000