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Going Back to Work: Using Paycheck Protection Program Loan Proceeds to Maximize Forgiveness

Loan Forgiveness under the PPP

- *Covered Period*
- *Forgivable Expenses*
- *Reductions in Forgiveness*
 - 75% Requirement
 - FTE Test
 - Wage Reduction Test
- *Forgiveness Exemptions*
- *Loan Forgiveness Application*
- *Best Practices*
- *Frequently Asked Questions*

Covered Period

- *Covered Period*
- *Alternative Covered Period*
 - Begins on first day of first pay period after the first loan disbursement
 - Example

Forgivable Expenses

- *Payroll Costs*
 - Salary, Wage or Other Cash Compensation
 - Tips
 - Vacation and other leave
 - Severance Payments
 - Group Health Benefits
 - Retirement Benefits
 - State and Local Taxes
- Caps on Payroll Costs- Generally and for Owners

Forgivable Expenses Continued

- *Utilities*
- *Mortgage Interest - mortgage on real and personal property*
- *Rent - real and personal property*
- *Interest on other Debt - Note this expense is not forgivable*

Reductions in Forgiveness

- *75% Requirement for Payroll Costs – not all or nothing*
 - Example
- *FTE Test*
 - Forgiveness of Forgivable Expenses is Reduced by:
 - (Average Full Time Employee Equivalents (FTEs) during the applicable Covered Period) *divided by* the lesser of (Average of FTEs from 2/15/2019-6/30/19) and (Average FTEs from 1/1/20 – 2/29/20)
 - Calculating FTE
 - Exclusions from FTEs
 - Refusals to return to work, fired for cause, voluntarily resigned or voluntarily requested hours reduction
 - Example

Reductions in Forgiveness

- *Wage Reduction Test*
 - Total Salary and wages during the applicable Covered Period may not be reduced by more than 25% for any employee making more than \$100,000 per year
 - Applied on an individual employee basis
 - Example

Forgiveness Restoration

- *Rehire Restoration*
 - When applying the FTE Test exclude FTEs terminated between 2/15/20 – 4/26/20 and rehired prior to 6/30/20 from FTE test
- *Wage Restoration*
 - Borrowers are entitled to exclude from the Wage Reduction Test, wage reductions made during the period of 2/15/20 – 4/26/20 , if the wage reductions are restored before 6/30/20.
- *Additional Guidance Needed*
- *Audit*

Forgiveness Best Practices

- *Use PPP Loan Proceeds for Permitted Purposes*
- *Segregate PPP Loan Proceeds*
- *Document PPP Loan Expenditures*
- *Collect and maintain documents to conduct FTE Analysis, such as employee listings, hours worked per week, employment status during the Covered Period or Alternative Covered Period, voluntary terminations, retirements, furloughs or layoffs, rehires and offers to rehire and refusals.*

Forgiveness Best Practices

- *Maintain Historical Wage Records*
 - Documents for wages/cash compensation paid during the Covered Period/Alternative Covered Period
 - Documents for non-cash benefit payments paid during the Covered Period/Alternative Covered Period
- *Collect Payment Records for Rent, Mortgage and Covered Utilities*
- *Compile Tax Filings*
- *Apply for Forgiveness Promptly*
- *Prepare for an SBA Audit*

Forgiveness FAQ

- May a PPP borrower deduct, for Federal income tax purposes, those expenses incurred in its business for which the borrower received a covered PPP loan and for which expenses the borrower received forgiveness of such covered loan?
- Can a PPP Borrower Prepay Expenses?
- What if a PPP Borrower fires an employee, or an employee retires, resigns or refuses to come back to work?
- What if a fourth payroll date falls outside the eight-week period? Can the borrower accelerate it?
- Our business was shut down until recently, can we move the covered period?
- How do non-COVID19 related absences affect loan forgiveness?

Forgiveness FAQ

- If a company has deferred the payment of the employer's share of Social Security tax under section 2302 of the CARES Act, is it still eligible for PPP loan forgiveness?
- Can a borrower continue to use PPP loan proceeds after the eight-week forgiveness period expires?
- Can a partner or LLC member include Retirement contributions above \$100,000?
- Can I repay my loan with PPP loan proceeds that I don't use?
- Can I return my PPP loan proceeds if circumstances change and I don't need them?
- Do the 75% requirement, Wage Reduction Test and FTE Test all simultaneously reduce loan forgiveness?
- Can a loan forgiveness determination be appealed?



Questions



**Thank
You**

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