



# Navigating the PPP Loan Forgiveness Requirement for Bankers and Lenders:

*Are You Ready for the Tidal Wave?*

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# Today's Speakers

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# Highlights

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- ▶ PPP application deadline extended to August 8th
- ▶ Paycheck Protection Flexibility Act
- ▶ New Interim Final Rule
- ▶ The program rules for loan forgiveness
- ▶ Lender Requirements
- ▶ Example solutions
- ▶ Other considerations
- ▶ Questions and Answers

# PPP Loan Forgiveness Eligible Expenses

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Loan forgiveness – cost during covered period beginning on loan disbursement date. New Legislation extends period to earlier of 24 weeks or December 31, 2020

- ▶ Payroll Costs (gross wages <\$100,000, vacation/sick leave, employer paid group health care and retirement benefits, SUTA) – at least 60% must be this category

# PPP Loan Forgiveness Eligible Expenses: Payroll Costs

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- ▶ Wages
  - ▶ Alternative Payroll Covered Period – first day of next pay period (eligible if payroll schedule is bi-weekly or more frequent only)
  - ▶ Amounts paid or incurred during covered period
  - ▶ Payroll costs are considered incurred on day employee's pay is earned
  - ▶ Payroll costs paid in the 1st regular payroll after the covered period are allowed
  - ▶ Owner-employees, self-employed individuals and self-employed partners
  - ▶ Maximum compensation is  $8/52$  of 2019 compensation for 8 week period
  - ▶ Maximum compensation is  $2.5 / 12$  of 2019 compensation for 24 week period
  - ▶ Interim Final Rule (5.22.2020) indicates bonuses, hazard pay, etc. are eligible for forgiveness, but max comp for forgiveness per EE is \$15,385 for 8 week period
  - ▶ Maximum EE comp is \$46,154 ( $\$100,000 / 52 \times 24$ ) for 24 week period

# PPP Loan Forgiveness Eligible Expenses: Payroll Costs

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## ▶ Health Insurance

- ▶ Paid or incurred during covered week period
- ▶ Includes self-insurance
- ▶ Reduced by employee contributions
- ▶ It appears accrued costs paid during the covered period will count toward forgiveness (additional guidance may be forthcoming)

## ▶ Retirement

- ▶ Paid or incurred during the covered period
- ▶ No limitation outlined in forgiveness application
- ▶ It appears accrued costs paid during the covered period will count toward forgiveness (additional guidance may be forthcoming)

## ▶ Employer-level state taxes

- ▶ Amounts paid by the borrower assessed on employee compensation
- ▶ State withholding taxes are not included

# PPP Loan Forgiveness Eligible Expenses: What to include for owners? Depends on entity type

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## ▶ Compensation

- ▶ Use 2019 compensation to determine maximum eligible for forgiveness
- ▶ For 8 week period – maximum is \$15,385
- ▶ For 24 week period – maximum is \$20,833
- ▶ C Corp / S Corp – use wages. S Corp wages includes health insurance
  - ▶ Must pay out via wages during covered period in 2020
- ▶ 1065 (partnership) – use 92.35% of: 2019 SE income less Sec 179 exp
  - ▶ Also subtract unreimbursed partnership expenses and depletion
- ▶ Sch C – use 2019 Sch C net income

## ▶ Health Insurance

- ▶ Only include for C Corp owners
- ▶ Do not include for Sch C, 1065 (partnership), or S Corp owners

## ▶ Retirement

- ▶ Include for C Corp or S Corp owners
- ▶ Do not include for Sch C or 1065 (partnership) owners



# PPP Loan Forgiveness Eligible Expenses: Non-Payroll Costs

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- ▶ Eligible expenses limited to the following:
  - ▶ Rent or lease payments in place prior to February 15, 2020
  - ▶ Interest on mortgage obligation in place prior to February 15, 2020
    - ▶ Rent and mortgage interest are for both real estate, and personal property
    - ▶ Leases for equipment, copiers, vehicles, etc. all count
  - ▶ Utilities (electricity, gas, water, telephone, internet and transportation)
- ▶ Must be paid or incurred during covered period and paid on or before the next regular billing date
- ▶ It does not appear that pre-payments are forgivable
- ▶ Borrowers can elect to exclude any amount of non-payroll costs as part of their loan forgiveness application

# Reductions in Loan Forgiveness (FTEs)

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- ▶ Decrease in FTE headcount during covered period
  - ▶ Uses a 40-hour workweek as a base
  - ▶ Any employee working less than 40 hours is a fractional employee (rounded to nearest tenth) or borrowers can elect to count all PT employees as ½ FTE
  - ▶ Two look back periods for FTE threshold
    - ▶ Average monthly FTE for
      - ▶ 1/1/20 - 2/29/20 or
      - ▶ 2/15/19 - 6/30/19
      - ▶ Pick the lower one for your threshold
  - ▶ Meet / exceed that FTE during covered period or part of loan is not forgiven
  - ▶ FTE Safe Harbor - If lower FTE between 2/15 and 4/26, and re-hire to 2/15/20 FTE level by / before December 31, 2020, no reduction in forgiveness

## Reductions in Loan Forgiveness (FTEs)

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- ▶ No penalty if offer to return to work is denied (in writing), terminated for cause, voluntarily resigned or requested reduction of hours – must report denials to unemployment bureaus
- ▶ There are two new alternatives for a borrower to restore a potential reduction in forgiveness:
  - ▶ An inability to find qualified employees to replace those let go, and
  - ▶ An inability to restore the business operations to February 15, 2020, levels due to COVID-19-related operating restrictions

# Reductions in Loan Forgiveness (Wages)

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- ▶ Decrease in an individual employee's wages
  - ▶ Can't drop anyone's wages more than 25%
  - ▶ Exception for those who made > \$100k annualized for **any** 2019 pay period
    - ▶ Excluded from wage reduction calculation
- ▶ Look at the employee's avg wages during the period 1/1/20-3/31/20
  - ▶ Pay them at least 75% of that amount during the covered period
- ▶ Wage Reduction Safe Harbor – If the employee's annualized wages from February 15 - April 26, 2020, are less than the annualized wages on February 15, 2020 (because wages were reduced during this period), and the employee's June 30 or December 31, 2020, annualized wages are greater than or equal to the employee's February 15, 2020, annualized wages, loan forgiveness does not need to be reduced for this calculation.

# Accumulating Documentation Incurred and Paid

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- ▶ The SBA Forgiveness Application lists specific documentation that must be included with the application, and additional documentation that must be retained for 6 years
- ▶ If the loan is not forgiven, the term has been extended to five years from the previous two years, interest rate is still at 1%.
  - ▶ Not automatic 5 year loan, have to contact bank to change terms
- ▶ The IRS Notice 2020-32 conclusion that expenditures producing loan forgiveness are non-deductible, thus the forgiveness is effectively taxable.
- ▶ Companies that participate in the Payroll Protection Program Loan program will be eligible to defer the company portion of payroll taxes throughout 2020. This is a change from being eligible for the payroll tax deferral only through the date a company receives loan forgiveness

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# How are Lenders Getting Ready



# Lender Requirements in Forgiveness Process

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- ▶ In their applications, the Borrowers must attest to the accuracy of the reported information and calculations. Lenders are expected to perform a good faith review of the Borrower's calculations and supporting documents.
  1. Confirm receipt of the Borrower certifications contained in the Loan Forgiveness Application Form
  2. Confirm receipt of the documentation Borrowers must submit to aid in verifying payroll and nonpayroll costs
  3. Confirm that the Borrower made the calculation on Line 10 of the Loan Forgiveness Application correctly.
  4. Lender is required to confirm the Borrower's calculation (including the dollar amount)

# Calculation Confirmation

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- ▶ The Lender is required to confirm the Borrower's calculation (including the dollar amount) of the following items:
  1. Schedule A Line 1, Cash Compensation (PPP Schedule A Worksheet, Table 1)
  2. Schedule A Line 4, Cash Compensation (PPP Schedule A Worksheet, Table 2)
  3. Schedule A Line 6, Employer Paid Health Insurance
  4. Schedule A Line 7, Employer Contributions to Employee Retirement Plans
  5. Schedule A Line 8, Employer Paid State and Local Taxes on Employee Compensation
  6. Schedule A Line 9, Amounts Paid to Owner-Employees/Self-Employed Individual/General Partners
  7. Loan Forgiveness Calculation Form Line 2, Business Mortgage Interest Payments
  8. Loan Forgiveness Calculation Form Line 3, Rent or Lease Payments
  9. Loan Forgiveness Calculation Form Line 4, Utility Payments



## Potential Solutions (Example 1)

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- ▶ Consider placing forgiveness applications in three buckets
  - ▶ <\$350,000
  - ▶ >\$350,000 to \$2,000,000
  - ▶ >\$2,000,000
- ▶ All Loans: Loan processors will confirm **receipt of the Borrower certifications** and follow-up directly with Borrower on incomplete representations and certifications
- ▶ All Loans: Loan processors or Data Vendor will confirm **receipt of the Borrower documentation** and follow-up directly with the Borrower on incomplete documentation, if identified
- ▶ All Loans: Loan processors will confirm **calculation of Line 10 divided by 0.75 or 0.60.**
- ▶ By Bucket: Confirm borrower calculations and supporting documentation support using different levels of review and a risk based approach

## Potential Solutions (Example 2)

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- ▶ Fully outsource the process
- ▶ Partially outsource the process
  - ▶ Work with a advisory firm to develop your processes and checklists
  - ▶ Use your loan processors to run agreed upon procedures to minimize cost
  - ▶ Have a advisory firm review all loan forgiveness applications over \$2million

## Additional Possible Procedures

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- ▶ Develop a Loan Forgiveness Calculator for distribution to Borrowers and/or to be used by Loan Processors.
  - ▶ The calculator can have protected fields that cannot be changed by the Borrower to maintain the integrity of the detailed forgiveness calculations (as outlined in the Loan Forgiveness Application).
  - ▶ The calculator will also contain data entry fields and selection fields where the Borrower can input eligible expenses and make choices that automatically feed into the loan forgiveness calculations.
- ▶ Develop a detailed work stream checklist to be followed by Loan Processors
- ▶ Facilitate a training sessions Lender employees that will be assigned to the Loan Forgiveness Application Process
  - ▶ Training can include use of the Loan Forgiveness Calculator and check lists developed for reviewing Borrower Forgiveness Applications.
- ▶ Consider working with a CPA firm as a resource to Lender employees for Q&A throughout the entirety of the project.

## Additional Possible Procedures

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- ▶ Consider offering private Webinars/Zoom meeting training sessions to your customers on loan forgiveness and use of a Loan Forgiveness tools.
- ▶ As your customers if they worked with a CPA firm throughout the process and ask if they can provide documentation as support.
- ▶ Consider outsourcing review of riskiest loan (loans over \$2 million)
- ▶ Create an audit process of your loan forgiveness process
  - ▶ Use a risk based approach
  - ▶ Cover all regions and or loan processors
  - ▶ Periodically review audit results and modify throughout the forgiveness process

# Questions?

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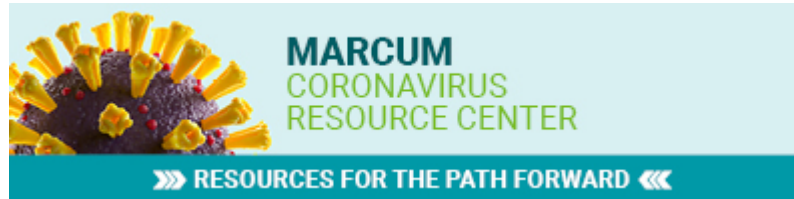
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# Thank You!

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