

PPP Loan Forgiveness – Pitfalls and Opportunities



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As of July 17, 2020

Today's Discussion

- Where We Are Today
- FTE Reductions and Safe Harbors
- Double-dipping
- When to File Your Forgiveness Application
- Other Financial Resources

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Latest PPP Loan Numbers

	July 14 2020	June 27, 2020
Total number of loans	4.9 million	4.8 million
Total loan amount	\$517 billion	\$519 billion
Average loan size	\$105k	\$108k
Loans below \$100k	80.7%	80.2%
Loans above \$2 million	0.6%	0.6%
Funding still available	\$132 billion	\$134 billion

- The extended deadline for loan application submission is August 8, 2020.

Significant Outstanding Questions

- How is *owner-employee* defined?
- When are employee benefits considered to be paid?
 - Are 2019 retirement plan costs eligible if paid during the CP?
 - Are 2020 retirement plan costs eligible if paid outside of the CP?
 - When are health and retirement benefits considered to be paid?
- What rules apply to filing before the end of a borrowers CP?
 - How will FTE reductions during the CP work?
 - If the borrower relies on a safe harbor or exception that is later disallowed, can they amend the period used?
- What costs are included in utilities?

Significant Outstanding Questions

- For a fiscal year tax filer, can a taxpayer deduct expenses paid for with PPP funds while waiting for forgiveness to be approved?
- How will the “no double-dipping” rules work?

FTE Reduction Exceptions and Safe Harbors

- The rules are confusing and inconsistent.
- The documentation requirements can be quite burdensome.
- *Reduction exception* = The vacant position is counted as if it is filled.
- *Safe Harbor* = The FTE ratio is automatically 100%

FTE Reduction Exceptions and Safe Harbors – Summary

Rule	Genesis	RE	SH
Borrower reduced FTEs between 2/15/20 and 4/26/20 and restores them <u>by 12/31/20</u>	CARES Act, date changed from 6/30 to 12/31 by Flex Act		X
Positions eliminated [<i>by Borrower</i>] after 2/15 and Borrower is unable to rehire or replace <u>by 12/31/20</u>	Flex Act replaced SBA diminimis rule; changed end of CP to 12/31	X	
Borrower reduces hours and offers to restore them during CP, but offer is rejected	SBA diminimis rule	X	
Employees fired for cause or voluntarily resign or reduce hours during CP and position is not filled	Flex Act	X	
Borrower was unable to operate at pre 2/15 levels between 2/15 and the end of their CP due to government directives	Flex Act		X

Double-Dipping

- When the same expense is paid for by two different sources.
- Any business that does business with the government (federal, state or local) under cost-plus or cost reimbursement contracts are impacted.
 - But the nonprofit social services sector is probably the hardest hit.
- OMB Memorandum M-20-26, issued on June 18, 2020, requires:
 - Payroll costs paid with PPP loans must not also be charged to current federal awards
 - [Other federal] awarding agencies must inform recipients to exhaust other available funding sources [like the PPP loan?] to sustain its work force.

Double-Dipping Alternatives

	<u>Return Forgiven Grant Costs to Funding Agency</u>	<u>Reduce PPP Costs by Grant Funded Expenses</u>
Payroll costs	\$ 5,000,000	\$ 5,000,000
Non-payroll costs	<u>1,000,000</u>	<u>1,000,000</u>
Eligible costs	<u>6,000,000</u>	6,000,000
Less grant costs at 65%		<u>(3,900,000)</u>
Eligible non-grant costs		<u>\$ 2,100,000</u>
PPP Loan Amount	<u>\$ 2,250,000</u>	<u>\$ 2,250,000</u>
Forgiveness - Lesser of above	\$ 2,250,000	\$ 2,100,000
Less grant costs included in forgiveness amount at 65%	<u>(1,462,500)</u>	-
Net Benefit to NPO	<u>\$ 787,500</u>	<u>\$ 2,100,000</u>
Net Funding Difference	<u>\$ 1,312,500</u>	<u>\$ -</u>

Where We Are With Loan Forgiveness

- We still need guidance from SBA/Treasury on key questions.
- Most lenders are not accepting forgiveness applications yet.
- The SBA is not ready to accept forgiveness applications.
- Payroll providers are developing reports to help in delivering required information.
- Loan repayment doesn't start for 10 months after the end of the covered period.
 - And the covered period has been extended to 24 weeks.

So What's the Rush?

- AICPA blog post on July 16, 2020 – *5 reasons borrowers shouldn't rush their forgiveness applications.*
- Yes, borrowers are anxious – but there are advantages to waiting.
 - More clarity on rules
 - Hindsight is 20/20
 - Lenders will be in a better position to communicate their positions on eligible costs and to process and submit applications
- But... Don't wait to start preparing

What to Expect in the Coming Weeks

- New FAQ's and IFRs from SBA/Treasury.
- New legislation
 - PPP Phase 2
 - Business Relief Phase IV
 - Deductibility of expenses
 - Double-dipping relief?
- Opening up of the forgiveness application submission process

Other Sources of Funding/Relief

- Economic Injury Disaster Loan (EIDL)
- SBA 7(a) Loan
- Main Street Lending
- Employee retention credit
 - Up to \$5,000 per employee
 - Different rules for companies above and below 100 employees
 - Not available for PPP loan recipients
- Payroll tax deferment (employer portion of social security taxes)
 - Now available to PPP borrower, even after forgiveness
 - Half due by end of 2021, balance by end of 2022

Economic Injury Disaster Loan (EIDL)

- **Available to:** Companies with < 500 employees, sole proprietors and independent contractors.
- **Uses:** Working capital, payroll (but not amounts paid by PPP), debt service
- **Loan limit:** \$150,000
- **Grant funding:** No longer available
- **Loan terms:** 3.75% interest (2.75% for nonprofits); up to 30 year term
- **How to apply:** On-line through the SBA website

Main Street Lending

- **Available to:** U.S. businesses established prior to 3/13/20 with up to 15,000 employees or \$5B in 2019 revenue.
- **Additional Criteria:** Must have been in sound financial condition at the onset of the pandemic; PPP and EIDL borrowers qualify, but no specific industry-based support available under CARES Act (airlines, national security, others)
- **Loan limit and key terms:** See next slides
- **Restrictions:** Dividends, share buybacks, executive compensation
- **How to apply:** Through an eligible lender

Main Street Lending - Key Terms

Terms & Conditions	MSNLF	MSPLF	MSELF
Minimum Loan Amount	\$250,000	\$250,000	\$10,000,000
Maximum Loan Amount	Lesser of: 1. \$35 million ; or 2. An amount that, when added to existing outstanding and undrawn available debt, does not exceed FOUR times the borrower's adjusted 2019 EBITDA	Lesser of: 1. \$50 million ; or 2. An amount that, when added to existing outstanding and undrawn available debt, does not exceed SIX times the borrower's adjusted 2019 EBITDA	Lesser of: 1. \$300 million ; or 2. An amount that, when added to existing outstanding and undrawn available debt, does not exceed SIX times the borrower's adjusted 2019 EBITDA

Main Street Lending - Key Terms (continued)

Terms & Conditions	MSNLF	MSPLF	MSELF
Interest Rate	LIBOR (1 or 3-month) + 300 bps.		
Maturity	5 years	5 years	5 years; but underlying loan maturity \geq 18 months
Interest Deferral	1 year		
Principal Deferral	2 years		
Amortization	15% end of years 3 and 4; and 70% balloon payment end of year 5		
Prepayment Penalty	None		

SBA 7(a) Loan Program

- **Available to:** Small businesses operating for profit; subject to underwriting standards and exclusions
- **Loan limit:** Up to \$5M; Express loans up to \$350k and Export Express loans up to \$500k
- **Uses:** Working capital, fixed asset acquisition, real estate
- **Loan terms:** 25 years for real estate; otherwise 10 years; interest rates negotiated, but subject to SBA limitations; collateral required for loans over \$25K
- **How to apply:** Through a qualified SBA lender
- **Special Bonus:** If loan closes before 9/27/20, the first 6 months of payments are waived

PKFOD Forgiveness Assistance



Support Available

- Free forgiveness calculator updated for new guidance
- On-going thought leadership in our COVID-19 Resource Center
- Forgiveness Application Preparation
- Forgiveness Application Review
- Consulting and advisory services

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