



The SBA PPP Loan – Spending and Forgiveness

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Gene has been in public accounting for over 30 years

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- Tax strategies, tax incentives and entitlements
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- Small to medium-sized businesses, established companies, and start-ups



Can I Still Apply for a PPP Loan?

- The Paycheck Protection Program is authorized to run through June 30, 2020. Small businesses are supposed to be able to apply up to that date.
- The initial appropriation in the CARES Act was \$349 billion. Those funds were exhausted on 4/16/20. On 4/24/20 the President signed the bill that approved an additional \$310 billion for the PPP Loan program. Due to many uncertainties surrounding the needs and spending provisions of the program the demand has decreased dramatically. The Treasury says it is unlikely there will be further appropriations.
- \$60 billion of the newly approved funds are earmarked for credit unions and community banks.
- **If you did not receive a PPP loan from the initial funding we urge you to be proactive with your bank to ensure they have your application and documentation ready to submit.**



Key Definitions: Payroll Costs

- Payments to U.S. legal residents for:
 - GROSS salaries, wages, commissions, tips, vacation pay, family or medical or sick leave pay, separation pay and bonuses;
 - Group healthcare benefits including insurance premiums (employer's share only);
 - Retirement benefits (employer's share only);
 - State and local taxes assessed on employee compensation (generally these are state unemployment taxes);
 - Self-employment income of partners in a partnership;
 - Owner Compensation Replacement for a sole proprietor or independent contractor, also known as net earnings from self-employment.



Key Definitions: Payroll Costs (Cont.)

- Compensation, such as gross salaries, wages, net earnings from self-employment and partner self-employment income, is capped at \$100,000 on an annualized basis for any individual, prorated for the eight-week period. This works out to 8/52 times \$100,000, or \$15,385 per person.
- Payroll costs do not include any amounts used to claim the Emergency Paid Sick Leave Credit or the Emergency Family and Medical Leave Credit.
- For a sole proprietor or independent contractor, healthcare insurance premiums and retirement benefits are not included.
- Payroll costs do not include the employer portion of FICA and Medicare and FUTA.
 - However, the employer portion of FICA through the date of loan forgiveness can be deferred to the following 2 years.



Key Definitions: Full-Time Employees and Full-Time Equivalents (FTE)

- The definitions are the same as they were for determining Obamacare era penalties.
- Full-time employee: an employee who is employed on average at least 30 hours per week or 130 hours per month.
- Full-time equivalent employee (FTE): a combination of employees, each of whom individually is not a full-time employee because they are not employed on average at least 30 hours per week, but who, in combination, are counted as the equivalent of a full-time employee.
 - For example, two employees, each of whom works 15 hours per week, are the equivalent of one full-time employee.
- To determine total FTEs, take the aggregate hours worked by non-full-time employees in a month and divide by 130, then add that result to the number of full-time employees.

So I Received a Loan - What Can I Use The Money For?



During the eight weeks **immediately** following the initial loan disbursement, PPP loans can be used to pay:

- Payroll costs;
 - ❖ We recommend that any payments to partners made from the loan funds should be classified as guaranteed payments, so that there is no question that they constitute self-employment income to the partner.
 - ❖ We recommend that actual checks are written to partners in a partnership and that self-employed individuals write themselves checks over the 8 week period to prove payroll. It is likely that a “book entry” will not qualify as sufficient documentation.
- Group healthcare continuation costs for employees on paid sick, family or medical leave.
- Mortgage interest on loans incurred prior to February 15, 2020.
 - Includes real or personal property.
 - Property must be used in the business.
 - Includes loans for vehicles and other equipment used in the business.
- Rent or leases in existence prior to February 15, 2020. This appears to include non-facility leases such as machinery and equipment leases and copier leases.
- Utility payments for services begun prior to February 15, 2020, which includes:
 - Gas, electric and water;
 - Telephone and internet;
 - Fuel for business vehicles.

So I Received a Loan - What Can I Use The Money For? (Cont.)



During the eight weeks **immediately** following the initial loan disbursement, PPP loans can be used to pay:

- Interest on any other debt obligations incurred prior to February 15, 2020. Keep in mind that loan proceeds used for this purpose will not be forgiven.
- Refinance an Economic Injury Disaster Loan made between 1/30/20-4/3/20.
- At least 75% of the loan proceeds **MUST** be used for payroll costs. Stated another way, no more than 25% of the loan proceeds can be used for mortgage interest, rent and utilities and interest on any other debt obligations.
- No prepayments are allowed on these costs.
- These costs must be incurred and paid during the 8 week period. Therefore arrearages are not eligible expenses.
- Sole proprietors and independent contractors can only claim mortgage interest and utilities for their home office space if these are deductions taken on their Schedule C filings (Form 8829)
- If the funds are knowingly used for unauthorized purposes, such as paying suppliers or paying down loan principal, the federal government may hold the officer/owner liable for charges such as fraud.



Will My Loan Be Forgiven?

- PPP loans will be forgiven to the extent that the proceeds are used to pay the above expenses during the eight weeks following the date of the loan, with the exception of interest on debt obligations other than mortgages
- Borrowers will have to submit an application for forgiveness and related documentation such as payroll tax returns, cancelled checks, payment receipts and account transcripts, to their lender, who will be required to calculate the amount forgiven within 60 days. If you don't apply for loan forgiveness, you won't get it

Forgiveness is a proactive process and not automatic



Will My Loan Be Forgiven?

The amount forgiven is reduced:

IF you cut compensation for any individual making less than \$100,000 per year by more than 25% when measured against the most recent full quarter that individual was employed.

IF you don't maintain the average number of FTEs during the covered period (the 8 week period) when compared to a base period that the borrower gets to choose.

The choices are:

1. February 15, 2019, to June 30, 2019, or
2. January 1, 2020, to February 29, 2020.

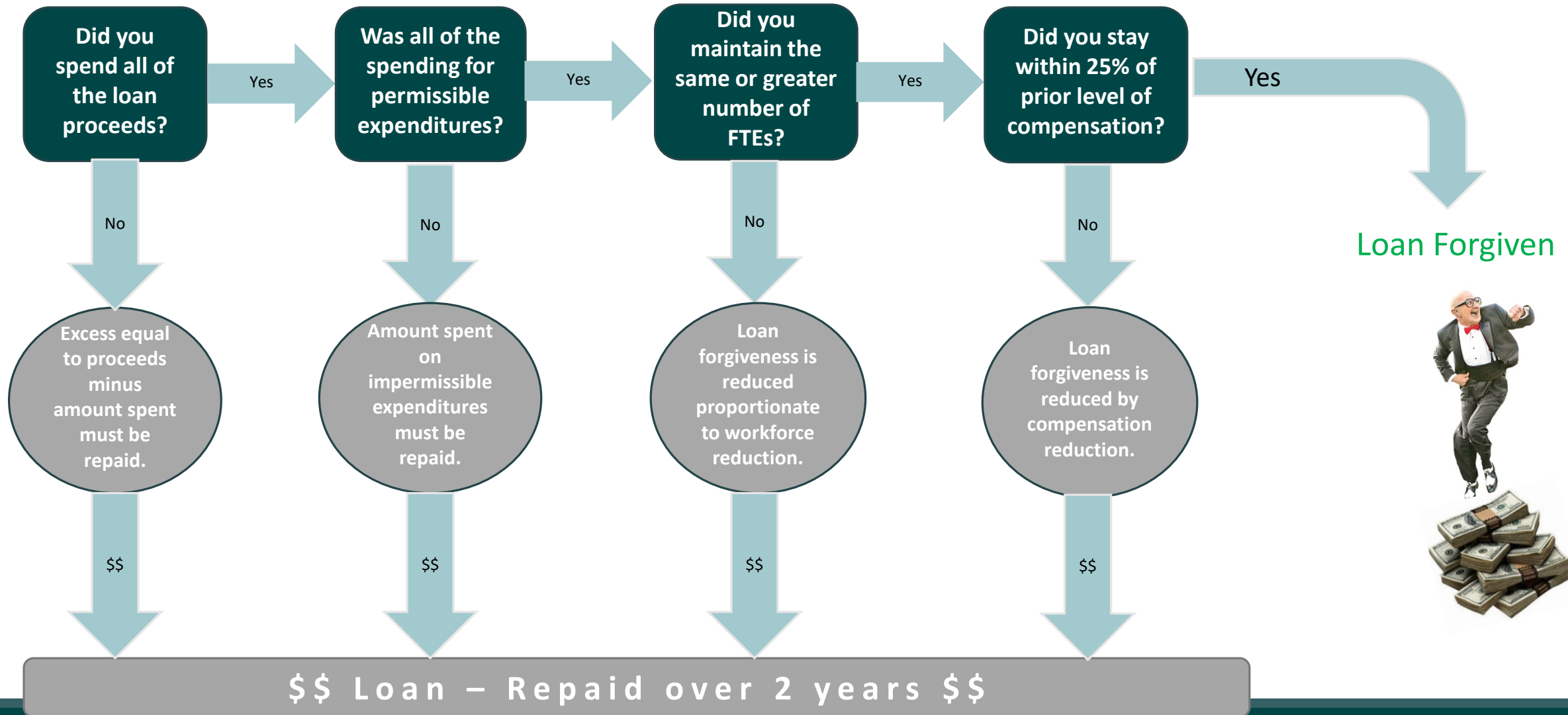
BUT if you cut FTEs or pay between February 15, 2020, and April 27, 2020, there will be no reduction of the loan forgiveness as long as you restore full-time employment and salary levels by June 30, 2020.

You can re-hire or replace individuals to get back to the needed FTE headcount.

You must increase the compensation of the same individuals who took pay cuts back to pre-pay cut levels.

Grants received under the EIDL program will reduce the amount forgiven to the extent of the grant amount.

Loan Forgiveness (Assuming No EIDL Grant)





Loan Forgiveness – FTE Example

- ABC Company received a PPP loan of \$400,000. All of the loan proceeds were spent on permissible expenses within the 8-week period immediately following the loan. The *potential* loan forgiveness is therefore \$400,000.
- During the 8-week period, ABC had 36 FTEs.
 - During the period February 15 – June 30, 2019, they had 42 FTEs.
 - During the period January 1 – February 29, 2020, they had 40 FTEs.
- They choose the latter period for their comparison. $36/40 = 90\%$. Therefore, the potential forgiveness amount is reduced by 10%, and the loan forgiveness becomes \$360,000.



Loan Forgiveness – Compensation Example

- Susan, an employee of ABC Company, normally earns an annual salary of \$60,000. In the first quarter of 2020, Susan is paid her normal \$15,000.
- After ABC Company receives their PPP loan, Susan's salary is reduced to \$40,000. This is a reduction of more than 25% in Susan's wages.
- The forgiveness amount of \$360,000 is further reduced by the \$20,000 reduction in Susan's salary.
- The total forgiveness amount becomes \$340,000.
- ABC Company must repay a loan of \$60,000.



Will My Loan Be Forgiven?

The amount of your loan that will not be forgiven also includes:

- Payments for non-payroll costs in excess of 25% of the loan.
- Amounts used for interest on debt other than mortgage obligations.
- Any amounts used for any expenses not listed in the previous slides

Forgiven PPP loans will NOT constitute taxable cancellation of indebtedness income for federal income tax purposes



How Do I Prove What I Spent the Money On?

We recommend you open a separate bank account for the loan funds

- Keep clear records of all checks written from the account – date, payee, purpose.
- Keep receipts for items such as fuel for business autos and other utility payments.
- Keep detailed records of payroll payments.
 - If you have a separate payroll account into which you normally transfer funds for payroll from a general checking account, transfer only the exact amount of the pay needed on the pay date from the separate loan funds account, so that you have a clear trail of the payroll costs paid.
 - If you use a payroll service, the transfers should match the cash requirements reports they provide.
 - **Payment of the employer portion of FICA and Medicare taxes is not a permissible use of the funds. If you have a separate source of cash, you should transfer the funds to cover those federal taxes to the payroll account from the cash not in the loan funds account.**

How Do I Prove What I Spent the Money On? (Cont.)



We recommend you open a separate bank account for the loan funds

- Keep detailed records of changes in your workforce.
- You may be able to set up and run special reports from your accounting software for the 8-week period.
- Submit copies of all records along with bank statements to your lender.
- It is possible that the forgiveness process will involve an audit verification. It is unclear at this time what is involved in an audit verification.

If A Portion Is Not Forgiven - What Are The Terms?



- The interest rate will be 1% per annum.
- The term is two years.
- No payments of principal or interest for six months – interest still accrues during this deferment.
- No personal guarantees needed.
- No collateral required.
- No SBA or bank fees.



Still Some Uncertainty

- What if the initial loan amount calculation included independent contractors?
- How will IRS react with respect to Code §265 prohibition on expenses related to nontaxable income?
- Will the covered period be modified for businesses that have not been allowed to reopen yet?
- “Incurred and Paid” definition
- Related Party rent
- How will non-COVID19 reductions in work force be accounted for?
- Will the time period for a “cure” in FTE or wages be extended beyond 6/30/20

Thank you for attending!

Questions?



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