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Welcome!

**#WeGotThisWA Series:
What Every Business Should Know
about PPP Loan Forgiveness**

April 21, 2020



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Webinar Logistics

- Need help during the webinar? Use the Chat box

We won't be taking questions during the webinar

- Recording- will be available on event page tomorrow
- None of this presentation is intended to give legal or financial advice but to provide context, understanding, and examples only



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Sarai Childs
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Webinar Objectives

- Overview and examples of what is allowable costs under PPP
 - How to maximize PPP Loan forgiveness
 - How to calculate PPP loan forgiveness
- Understanding of what might reduce forgiveness



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Spirit of PPP

Note: Guidance is still fluctuating and being refined (until April 26th)

PPP was intended to:

- Keep people paid at their normal hours and wages
- Keep people's benefits in tact
- Keep the lights on (literally)

PPP was NOT intended to:

- Pay owners or highly compensated employees more
- Pay down debt of the business

What Every Business Should Know About PPP Loan Forgiveness

SEATTLE METROPOLITAN CHAMBER OF COMMERCE WEBINAR

Lewis Horowitz & Eric Kodesch, Lane Powell

LANE POWELL

Background for PPP Loan

- Provides relief in the form of the federal government paying certain costs (Covered Costs) of a small business over an Eight-Week Period
 - All \$349 billion allocated for this has been taken
 - Congress is looking at allocating an additional \$250 billion
- PPP program starts when an applicant secures loan from a lender in an amount equal to 2.5x average monthly payroll costs
- PPP loan forgiven to the extent the business uses the loan for Covered Costs over the Eight-Week Period after the bank makes first disbursement
- Reductions in employee headcount or salary may reduce forgiveness

Eight-Week Period and Covered Costs

- Eight-Week Period for forgiveness begins with first disbursement from the bank
- Forgiveness applies to the followings Covered Costs:
 1. Payroll Costs
 2. Mortgage Interest
 3. Rent
 4. Utilities

Covered Costs: Payroll Costs

- Includes employee vacation, parental, family, medical and sick leave
- Not reduced by federal income tax withholding or employee portion of FICA
- Capped at \$100k per employee, but the cap applies *only* to salary and other cash compensation – not to amounts paid by borrower for benefits (e.g. health care, retirement plan contributions)
- Statute applies this to “costs incurred and payments made”
 - Payments made during the Eight-Week Period for work done prior to the Eight-Week Period appear to qualify
 - Costs incurred during the Eight-Week Period but paid after (because of timing of payroll) appear to qualify
- Treatment of commissions and bonuses made on accrual basis remains unclear

Example 1 – Payroll Costs

Eight-Week Period starts April 20 and ends June 14

➤ **Organization pays normal wages**

Payroll paid on April 30 includes compensation from before April 20

Payroll is paid out on June 15 with normal payroll schedule

All employees earn under \$100,000 annualized

(or \$15,384 total over the eight weeks)

Example 1 – Payroll Costs Analysis

PPP period starts April 20 and ends June 14

➤ **Organization pays normal wages**

Payroll is paid out on June 15 with normal payroll schedule

*All employees earn under \$100,000 annualized
(or \$15,384 total over the eight weeks)*

Analysis

It appears that payroll costs include full amount paid on April 30 and amount incurred, but not paid, through June 14

Example 2 – Payroll Costs

PPP period starts April 20 and ends June 14

➤ **Organization pays “hazard pay” to individuals**

Regular wages of \$5,000 over the period (no hours or wage reduction)

Hazard pay of \$3,000 over the period

*Total wages, tips, bonuses, wages, salaries, hazard pay, etc.
of \$8,000 over eight weeks*

Example 2 – Payroll Costs Analysis

PPP period starts April 20 and ends June 14

➤ **Organization pays “hazard pay” to individuals**

Regular wages of \$5,000 over the period (no hours or wage reduction)

Hazard pay of \$3,000 over the period

*Total wages, tips, bonuses, wages, salaries, hazard pay, etc.
of \$8,000 over eight weeks*

Analysis

It appears that all of these costs qualify as payroll costs

Covered Costs: Mortgage Interest

- Includes any interest or indebtedness incurred in the ordinary course of business before February 15 that is a mortgage on real or personal property
- Principal payments or prepayments are excluded
- Will be hard to prepay interest; unclear if CARES Act prohibits forgiveness for late payments of interest
- Hopefully SBA will not attempt to limit definition of mortgage to real property – no suggested limitation in CARES Act
- Appears to apply only to payments made during the Eight-Week Period

Example – Mortgage Interest

PPP period starts April 20 and ends June 14

- Organization has a line of credit that it pays interest on
- Organization has a mortgage on building where its warehouse is located and pays interest on this mortgage
- Organization has a lease on a copy machine, which it pays interest on

Which payments are allowed uses and may be subject to forgiveness?

Example – Mortgage Interest Analysis

PPP period starts April 20 and ends June 14

- Organization has a line of credit that it pays interest on
- **Organization has a mortgage on building where its warehouse is located and pays interest on this mortgage**
- Organization has a lease on a copy machine, which it pays interest on

Analysis

Borrowers will need more clarity as CARES Act outlines “allowable uses” to include “interest on any other debt obligation that were incurred before the period covered” – and then Section 1106 of the Act doesn’t include this item. Could be that these uses are allowable but not forgivable. More guidance will be needed.

Covered Costs: Rent

- Generally includes rent under a lease agreement in force before February 15
- Nothing in CARES Act appears to disqualify rent paid to a related person, provided lease was in force before February 15
- Unclear how SBA will treat late payment of past-due rent or prepayments of future rent
- Appears to apply only to payments made during the Eight-Week Period

Example - Rent

PPP period starts April 20 and ends June 14

- Organization pays rent for April on April 24
- Organization pays rent for May on May 1
- Organization pays rent for June on June 1

Which payments are allowed uses and may be subject to forgiveness?

Example – Rent Analysis

PPP period starts April 20 and ends June 14

- Organization pays rent for April on April 24
- **Organization pays rent for May on May 1**
- **Organization pays rent for June on June 1**

Analysis

More guidance is needed, but it appears that the rents paid on May 1 and June 1 is fully included if Covered Costs, but not any of the April 1 rent.

Covered Costs: Utilities

- CARES Act limits utilities to:
 - Electricity
 - Gas
 - Water
 - Transportation
 - Telephone
 - Internet Access
- Service must have begun before February 15
- Appears to apply only to payments made during the Eight-Week Period

Example - Utilities

PPP period starts April 20 and ends June 14

- Payment of electricity bill
- Payment of gas bill (for the building)
- Payment of gas for workers driving around
 - Payment of internet provider
- Payment of cell phone bills for the organization
 - Payment of land lines for the organization
- Payment of cloud data storage for the organization

Which payments are allowed uses and may be subject to forgiveness?

Example – Utilities Analysis

PPP period starts April 20 and ends June 14

- **Payment of electricity bill**
- **Payment of gas bill (for the building)**
- ~~Payment of gas for workers driving around~~
- **Payment of internet provider**
- **Payment of cell phone bills for the organization**
- **Payment of land lines for the organization**
- ~~Payment of cloud data storage for the organization~~

75%-25% Split Required by SBA

- SBA added a requirement that no more than 25% of forgiveness amount of any PPP loan can be attributable to non-payroll costs
- This means that amounts spent on these other Covered Costs in excess of 25% of the PPP loan will not be forgiven
- There may be push back on this as nothing in CARES Act favors any one of the four Covered Costs when computing forgiveness
- It is unclear how this *regulatory* requirement works with *statutory* reductions in the amount forgiven
- **Computational problem:** With no reduction in headcount or compensation, borrowers will be below 75%
 - SBA based 75% on its calculation that borrowers receive “a loan amount 75% of which is equivalent to eight weeks of payroll (8 weeks / 2.5 months = 56 days / 76 days = 74% rounded up to 75%)”
 - However, 56/76 equals 73.68%

Example: 75%-25% Split Required by SBA

PPP period starts April 20th and ends June 14th

- Borrows \$100,000 in PPP
- Pays \$50,000 on payroll costs
- Spends \$40,000 in rent and utilities

Analysis:

Example. X Co.'s loan forgiveness is limited to \$66,667 (\$50,000/75%)

\$50,000 of payroll costs + \$16,667 of rent and utilities

\$33,333 of PPP loan remains outstanding

(\$23,333 of rent and utilities not included in forgiveness + unused funds)

How Much Can Be Forgiven?

Forgiveness Capped at PPP Loan Amount

- The amount forgiven cannot exceed the principal amount of the PPP loan
- This likely means that every borrower must pay at least two months of interest (computed at 1% per annum)
- Cap also avoids questions that could arise when the forgivable amount exceeds the principal amount of the loan.

Reduction in Forgiveness for Reduction in Number of Employees

- Reduction = sum of Covered Costs x ratio of average # of FTEs during Eight-Week Period to average # of FTEs from 2/15-6/30, 2019 OR average # of FTEs from 1/1-2/29, 2020 (borrower's election)
- Special rules apply for seasonal workers
- CARES Act appears to apply reduction to sum of all Covered Costs before taking into account the absolute cap
- Unclear how reduction applies with respect to 75%-25% split required by SBA

Reduction in Forgiveness for Reduction in Salary

- CARES Act requires businesses to calculate the Salary Reduction Amount, if any, for each employee who received, during a single pay period in 2019, wages or salary of \$100k or less on annualized basis
- This indicates that there is no Salary Reduction Amount for cutting wages or salaries for those who make over \$100k
- No reduction related to employees who did not work for the business in 2019
- Salary Reduction Amount = excess, if any, of reduction during Eight-Week Period of over 25% of total salary/wages of employee during Q1 2020
- Estimate that wages could be reduced by ~40% without having Salary Reduction Amount
- Salary reduction could make it difficult to achieve complete loan forgiveness due to 75%-25% split requirement

Example – Salary Reduction Amount

- Employee earns a salary of \$52,000 per year
 - Employee received \$13,000 in Q1 2020
- Employee normally would have received \$8,000 during the Eight-Week Period

If the employee earned \$7,000 instead of the \$8,000 normally, is there a reduction in forgiveness?

Analysis:

No. The salary reduction during the 8 weeks is \$1,000.

25% of the Q1 2000 compensation is \$3,250. Because the reduction was less than \$3,250, no Salary Reduction Amount

Example – Salary Reduction Amount Analysis

- As noted in the last slide, the employer would have a Salary Reduction Amount only to the extent that the reduction during the Eight-Week Period exceeded \$3,250
- Such a salary reduction represents a decrease of a little over 40%, without triggering any Salary Reduction Amount
- We would not be surprised if the SBA interprets the CARES Act in a manner that does not allow such large salary reductions

Impact of Rehiring

- Forgiveness amount “determined without regard” to reductions in forgiveness resulting from headcount/salary reduction during Eight-Week Period, **if** employer eliminates headcount/salary reduction by June 30
- Technically, this rule would allow an employer that fires all employees to avoid a reduction in forgiveness if the employer hires everyone back at original pay for only one day (June 30)
- We expect that SBA will provide additional rules about this

Example for Increasing Payroll Costs for Employees Earning Less Than \$100k

- Employers have more flexibility for employees making under \$100k:
 - Hazard Pay
 - Bonuses (retention)
 - Accelerate holiday bonuses now (which is probably when employees need it more)
 - Increasing rates
 - Pay a 2020 bonus instead of a 2021 raise
 - For new employees, pay a signing bonus, with corresponding reduction in salary
 - Consider paying advances on future wages
 - Payout of vacation balances (thus reducing future liability) in addition to wages earned (under \$100k annualized cap)

Increasing Payroll Costs for All Employees

- A key planning strategy will be to increase payroll costs, especially by accelerating future anticipated payments
- Because of the \$100k cap, strategies applicable to all employees will increase benefits
- For example:
 - Employer contributions to a 401(k) plan
 - Employer contributions to HSA accounts
 - Paying for internet costs of workers who are remote

Maximizing Forgiveness & Layoffs

A Company Already Had Layoffs

Should people be re-hired immediately and use PPP funds even if folks don't have work to be doing?

- *Any delay will make it difficult to satisfy the 75% for payroll costs requirement*
- *However, employers should think about whether the employees will want to come back or stay with the increased unemployment benefits*
- *Also, think through the implications of hiring everyone back for eight weeks to then lay them off again at the end of PPP*

Interaction with Deferral of Social Security Tax

- All employers can defer payment of the employer portion of social security taxes otherwise due between March 27 and December 31
 - Half of the deferred taxes are due by December 31, 2021
 - Other half due by December 31, 2022
- This is basically an interest-free loan
- Pursuant to recently issued IRS guidance on this deferral:
 - PPP loan forgiveness *only* prevents deferral of payment obligations subsequent to “the date the lender issues a decision to forgive the loan” (Forgiveness Date)
 - The employer portion of social security taxes deferred prior the Forgiveness Date remain deferred
- **Planning Consideration:** delay forgiveness to the end of 2020 to maximize the interest-free loan

Thoughts on Documentation

- More guidance will be needed for this
- The PPP Loan agreement likely will discuss, but in broad terms:
 - Federal and state payroll tax filings
 - State unemployment filings
 - Cancelled checks
 - Payment receipts
 - Transcripts of accounts
- Generally, the types of documents needed in the past to support a tax deduction for the payments



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Where to Go From Here

First, tune into the next webinar after guidance is published April 26th

Step 1: Decide Your Parameters

- 1) How much are you OK with not being forgivable?
(loan over 2 years at 1%)



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Where to Go From Here

First, tune into the next webinar after guidance is published April 26th

Step 2: Do the Math

(Based on step 1)

- 1) How much of your total loan needs to be on payroll (75%)
 - 2) What is your payroll right now?
 - 3) Do you need to boost compensation or rehire?
- 4) Calculate what your non-payroll costs likely are (rent, utilities, mortgage interest, etc.)

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Utilize the
calculator by
Lane Powell

AutoSave Off | PPPLoanCalculationUPDATED2 (1) - Saved

File Home Insert Draw Page Layout Formulas Data Review View Help Acrobat Search

Clipboard: Cut, Copy, Paste, Format Painter | Font: Verdana, 11, Bold, Italic, Underline, Color, Background Color | Alignment: Wrap Text, Merge & Center | Number: General, Currency, Percentage, Decimals, Fractions | Styles: Conditional Formatting, Format as Table, Cell Styles | Cells: Insert, Delete, Format | AutoSum, Fill, Clear

B34: Average number of FTE employees per month from February 15, 2019 to June 30, 2019

Payroll Protection Program ("PPP") Loan Calculations (Not for Sole Proprietors or Independent Contractors)			
		Trailing 12 Months Or 2019	Running Total
1	1		
2	2		
3	3		
4	4		
5	5		
6	6		
7	7		
8	8		
9	9		
10	10		
11	11		
12	12		
13	13		
Calculation of Forgivable Portion of PPP Loan (SBA Will Provide More Guidance)			
		8-Week Period From Receiving PPP Loan	Running Total
15	15		
16	16		
17	17		
18	18		
19	19		
20	20		
21	21		
22	22		
23	23		

Where to Go From Here

Step 2: Start Tracking & Comparing Payroll Costs

Test 1 - Showing no Wage Reduction:

- 1) Create a tracking document (or pre-made report) that shows payroll costs by employee for the covered period
- 2) Calculate weekly payroll based on Q1 2020 limitation to compare to the 8-week period of payroll costs (*75% of Q1 2020 wages*)

Test 2 – Showing no FTE Reduction:

- 1) Calculate your total FTEs for the 8 weeks
- 2) Calculate your total FTEs (see slide 28) to use in any reduction test



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<u>Total FTE calculation for 8 week period</u>	
Total Hours	6621
FTE calculation	21
<u>Total FTEs from 2/15 - 6/30, 2019</u>	
Total Hours	21213
FTE calculation	28
<u>Total FTE calc Jan/Feb 2020</u>	
Total Hours	7282
FTE Calculation	21



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Where to Go From Here

Step 3: Gather Other Checks/Invoices

Proactively save copies of invoices and checks for other eligible payments



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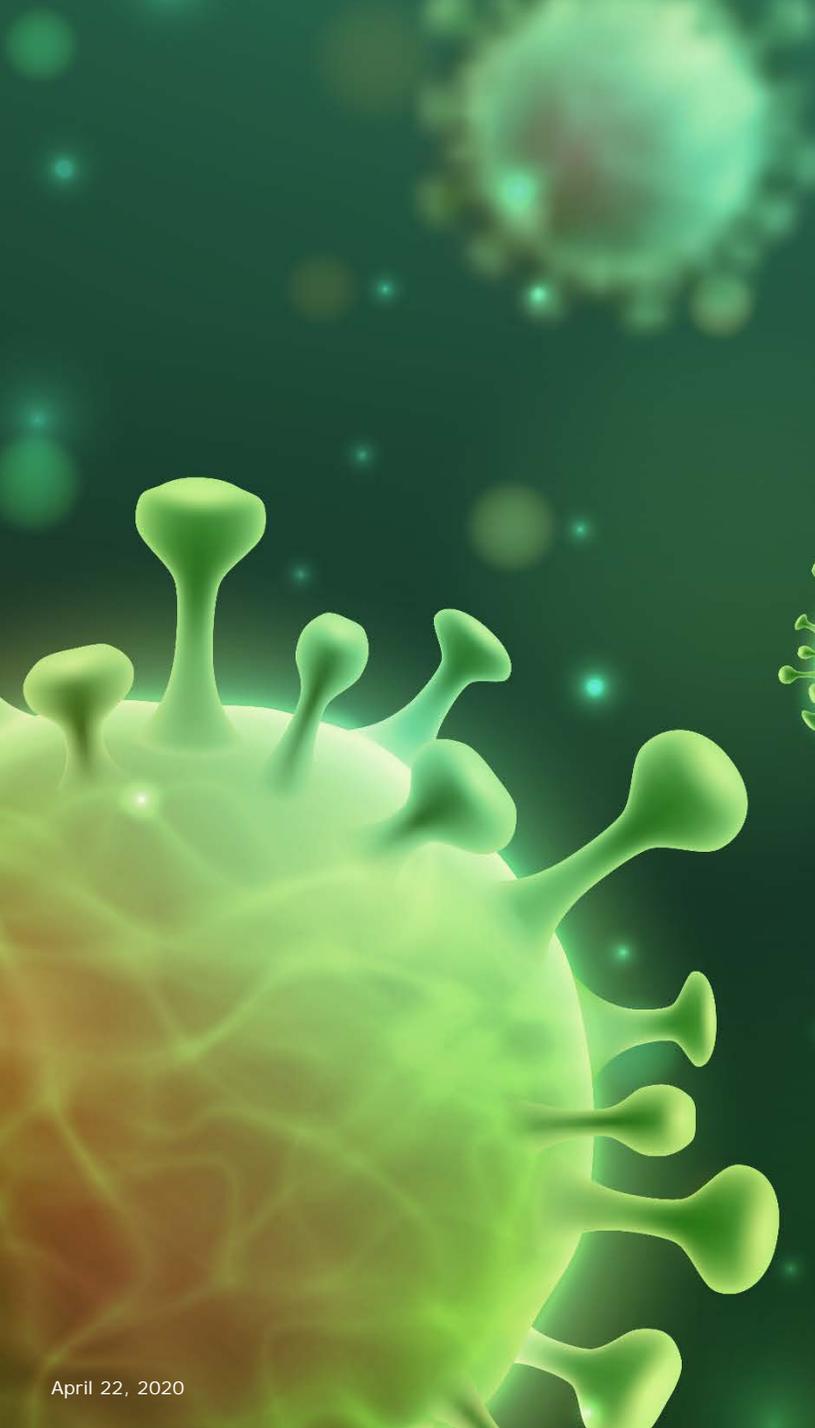
Where to Go From Here

Step 4: Make It Easy for the Bank

With your supporting documents, create a summary sheet showing:

- The amount of the loan
- The amount requesting forgiveness
- What portion of forgiveness is payroll (and that it is 75% or more of the total that you are requesting forgiveness on)
 - What other expenses were paid (total and outline)
 - Show FTE calculation, showing you didn't reduce FTEs*
 - Show Wages calculation, showing you didn't reduce wages*

*or indicating how it reduced the requested amount



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Download our [PPP Spreadsheet](#)
to calculate estimated loan forgiveness



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