

CALCULATING PPP LOAN FORGIVENESS

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MINNEAPOLIS ST. PAUL PLYMOUTH



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By: Jeremy E. Warring

If you have received, or anticipate receiving a Paycheck Protection Program Loan (PPP), you have done so with the expectation that all or a portion of the loan will be forgiven. The following is an outline describing what expenses are covered, how forgiveness is calculated, and applications process.

1. **Covered Expenses.** Recipients shall be eligible for forgiveness on covered loans in an amount equal to the sum of costs incurred and payments made during the Covered Period for Payroll Costs, payment of interest on covered mortgage obligations, Covered Rent Obligations, and Covered Utility Payments.
 - > The “Covered Period” begins on the date the loan is first funded, and continues for eight weeks.
 - > “Covered Rent Obligations” are rents obligated to be paid during the Covered Period under a lease agreement in force prior to February 15, 2020.
 - > “Covered Utility Payments” are payments for electricity, gas, water, transportation, telephone, or internet access during the Covered Period for services which commenced prior to February 15, 2020.
 - > “Payroll Costs” means the sum of payment of any compensation to (or income for sole proprietors and independent contractors), that is a wage, commission, income, net earnings from self-employment, or similar compensation, paid during the Covered Period, in an amount which does not exceed \$100,000 per person on an annual basis, prorated over the Covered Period. **At least 75% of the forgiven amount must fall into this category.**

2. **Calculating Forgiveness and Reductions.** The amount of forgiveness will be based on how much of the loan was used for covered expenses, and can be reduced if FTE levels during the Covered Period are lower than Historic FTE (the average monthly FTE level for either February 15 through June 30, 2019; or January 1 through February 29, 2020). If during the Covered Period, FTE headcount declines, or salaries and wages decrease by more than 25%, from the Historic Period, the amount forgiven will be reduced.
 - > Reduction Based on FTE Headcount. The amount of the reduction based on FTE headcount is equal to the percent reduction in FTE headcount, as follows:
 - > Assume a \$400,000 loan is received; \$300,000 used for Payroll Costs (75% of loan) and \$100,000 used for a combination of other Covered Expenses.
 - > 100% of the loan is used for Covered Expenses, and should be forgivable.
 - > FTE Headcount during January 1 through February 29, 2020 = 100 FTE.
 - > FTE Headcount during Covered Period = 95 FTE.
 - > Ratio of Covered Period FTE to Historic FTE = 95/100 (95%).
 - > Forgiveness Calculation: \$400,000 Loan, multiplied by 95% = \$380,000 (a 5% reduction in forgiveness).



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- > Reduction Based on Wage/Salary Decline. The forgiveness based on the amount of wages actually paid is more nuanced. The reduction shall be equal to the amount of the reduction in total salary or wages of any employee during the Covered Period, to the extent such reduction exceeds 25% of the total salary or wages paid to such employee during the most recent full quarter prior to the Covered Period, during which such employee was employed (employees making \$100,000 or more on an annualized basis are excluded from this calculation). By way of example:
 - > Assume a \$400,000 loan is received; \$300,000 used for Payroll Costs (75% of loan) and \$100,000 for other Covered Expenses.
 - > Again, 100% of the loan is used for Covered Expenses, and should be forgivable.
 - > FTE Headcount during January 1 through February 29, 2020 = 40 FTE, each paid \$20,000 during the most recent full quarter prior to the Covered Period (\$800,000 total salary and wages).
 - > During the Covered Period, all 40 FTE remain employed, but pay is reduced to \$15,000 for each (\$600,000 total salary and wages paid). **No reduction in this case because the total salary and wages did not decrease by more than 25%.**
 - > Alternately, during the Covered Period, all 40 FTE remain employed, but pay is instead reduced to \$12,500 for each (\$500,000 total salary and wages paid). **Forgiveness is reduced by \$100,000.** ($\$800,000 \times .75 = \$600,000$; $\$600,000$ less $\$500,000 = \$100,000$).

For purposes of calculating forgiveness, both Full-Time Employees and Full-Equivalent Employees are used for these calculations. A Full-Time Employee must be employed on average at least thirty hours per week. A FTE Employee is a combination of employees, each of whom is not individually a Full-Time Employee, but who, when combined with other non-Full-Time Employees, are counted as the equivalent of a Full-Time Employee. As used through this post, FTE refers to Full-Time Employees and Full-Time Equivalent Employees.

3. Eliminating a Reduction. If your FTE headcount or wages decreased during the Covered Period resulting in a reduction to your loan forgiveness, you do have the opportunity to “fix” the event causing the reduction and potentially get the full forgiveness (assuming all other use requirements are met).

- > Eliminating Reduction for FTE Headcount. If, by June 30, 2020, you increase your FTE headcount to pre February 15, 2020 levels, the reduction in forgiveness attributable to the decrease in FTE headcount during the Covered Period will be excused. According to the CARES Act, you will have “eliminated” the reduction of FTE headcount.
- > Eliminating Reduction for Wage/Salary Decline. If, again by June 30, 2020, you have restored salary and wage levels for those who suffered a more than 25% decrease during the Covered Period to at least the level existing on February 15, 2020, the reduction in forgiveness attributable to the wage/salary decline will be excused. The CARES Act again refers to having “eliminated” the decline.



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- 4. Applying for Forgiveness.** Applications for forgiveness must be submitted to your lender, and will need to include documentation verifying your FTE headcount and pay rates during the Covered Period, as well as all other payments on Covered Expenses (ie. payments on eligible mortgage interest, leases, and utility obligations). Documentation you should provide includes:
- > payroll tax filings reported to the IRS;
 - > state income, payroll, and unemployment insurance filings;
 - > cancelled checks, payment receipts, transcripts of accounts; and
 - > any other documentation verifying payments towards Covered Expenses.

You must also provide certification that the documents and evidence provided true and correct, and that the amount for which forgiveness is required was used for these Covered Expenses. The administrator may request additional information, so keep thorough records of FTE headcount, and how all funds are used. Your lender is required to provide a determination on your request for forgiveness within 60 days of receiving your application.

Conclusion

If you have applied for and obtained a PPP or EIDL Loan, make sure you take steps necessary to get the full benefits of the program – forgiveness. If you have questions or concerns about your loan, calculating your anticipated forgiveness, or navigating the business decisions you are facing while balancing the forgiveness requirements, please contact one of our attorneys today.

Jeremy E. Warring
Email: jwarring@messerlikramer.com
Phone: 612.672.3657