



LOAN FORGIVENESS: SMALL BUSINESS PAYCHECK PROTECTION PROGRAM

The Paycheck Protection Program (PPP) provides small businesses and nonprofits with funds to use for payroll and certain nonpayroll expenses. The PPP Flexibility Act of 2020, signed into law on June 5, 2020, extended a borrower's covered period for loan forgiveness from 8 weeks to 24 weeks. Borrowers receiving loans prior to June 5 may elect to use either the 8-week or 24-week period.

Fully Forgiven

Funds are provided in the form of loans that may be fully forgiven when used for eligible payroll costs, interest on mortgages, rent, and utilities. At least 60 percent of the loan must be used for payroll expenses or else forgiveness is reduced.

Potential Reduction in Loan Forgiveness

A reduction in average full-time equivalent employees during the covered period as compared to a designated reference period may result in reduced loan forgiveness. Likewise, salary or wage reductions of greater than 25 percent during the covered period as compared to Q1 2020 may result in reduced loan forgiveness.

Exceptions and Safe Harbors to Loan Forgiveness Reductions

Restoration of eliminated employees or salary/wage cuts

- If FTE drops between February 15, 2020 to April 26, 2020, but the FTE drop is eliminated by December 31, safe harbor applies (all or nothing)
- If salary/wage cut by more than 25 percent during covered period as compared to Q1 2020 but restored by December 31, safe harbor applies (per employee)

Inability to rehire exception

- Inability to rehire individuals who were employees on February 15, 2020; and
- Inability to hire similarly qualified employees for unfilled positions on or before December 31, 2020

Business activity safe harbor

- Employer must document:
 - Inability to return to same level of business activity before February 15, 2020 by December 31, 2020;
 - Due to HHS, CDC, or OSHA requirement or guidance issued during March 1, 2020 to December 31, 2020; and
 - Relates to maintenance of standards for sanitation, social distancing, or any other worker or customer safety requirement related to COVID-19
- SBA provided further guidance:
 - May result from both direct and indirect compliance
 - Gave example of state or local shutdown
 - Borrowers must maintain documentation showing:
 - Reduction in business activity
 - Local government shutdown orders
 - Any other information to support their use of the safe harbor
 - Must certify if making this assertion