

Paycheck Protection Program (PPP)
Update and Loan Forgiveness Guidelines
As of May 7, 2020
Any Questions? Please contact Meg at trajectorytax@gmail.com

A number of you have applied for and received PPP loans. These loans are issued through lenders, typically through the lender you bank with. They are loans in the amount of 2.5 times your average monthly payroll. The loan term is for 2 years at 1% interest rate with the first payment due six months after your loan was disbursed. A key component of the PPP is 100% of the loan amount can be forgiven when used for eligible expenses in the 8-weeks following the loan disbursement. While we expect more guidance and clarification to the forgiveness process, we do believe certain components of the program are reasonably determined now, and we offer that known guidance here. **It is important to work with your lender to ensure compliance with the forgiveness program and to understand if any of these items change. Program changes are happening daily, so this information will be out of date before it's even published, but we are doing our best to provide timely information!**

General Guidelines

- The forgiveness calculation is based on the eight-week period beginning on the date the loan is deposited into your bank (not the date you were approved).
- The 8-week time period is called the covered period.
- Expenses must be paid; they cannot be accrued.
- 75% or more of your expenses must be spent on payroll cost, otherwise your forgiveness amount will be reduced.
- You cannot prepay expenses for future periods beyond the 8 weeks (e.g. rent, utilities, interest).
- The forgiveness amount will be reduced if your FTEs are reduced or compensation per employee is reduced and not restored to pre-loan levels prior to June 30, 2020.

Eligible Expenses for Forgiveness

- Expenses in the 8 weeks can be used on
 - o Payroll (see below)
 - o Rent for leases in place prior to Feb 15, 2020
 - o Utilities for services in place prior to Feb 15, 2020 (electricity, gas, water, telephone, and internet for business properties, not personal residences)
 - o Interest portion of mortgages for business properties in place prior to Feb 15, 2020 (not personal residences)
- Payroll is defined as
 - o Salary, wages, commissions, tips, vacation, sick leave, dismissal/separation pay (up to \$100K cap)
 - o Company paid health benefits
 - o Company paid retirement benefits (these do not include withholdings from employees)
 - o Company paid state and local taxes (these do not include withholdings from employees)

Items That Can Reduce Your Loan Forgiveness

- Your loan forgiveness can be impacted by failing any one of three tests.
- Test 1: Employee Census

- You must maintain the same average equivalent FTEs during the covered period as either prior baseline period of 1) Feb 15, 2019 – June 30, 2019 or Jan 1, 2020 to Feb 29, 2020. It's recommended to pick the time period option that produces the fewest employees.
- (Seasonal employers, see FAQ for alternate baseline periods).
- If your average FTE in the covered period is less than then the baseline period, then your forgiveness amount will be reduced by that percentage of FTE reduction.
- Your loan application was based on FTE counts. The loan forgiveness is based on equivalent FTEs. An equivalent FTE is currently believed to be 30 hours/week. Adjustments for part time FTEs will need to be made in determined your forgiveness amount. Further guidance is needed from SBA and the Department of Treasury on the inconsistency between the two FTE definitions.
- Test 2: Wage Reduction Test
 - The forgivable amount will be reduced dollar for dollar by the amount of any reduction in salary or wages for any employee that is greater than 25% compared to their wages in Q1 2020 (or the employees last fully paid quarter)
- Test 3: Two-prong 75% Payroll Test
 - 75% of the loan proceeds used during the covered period must be used on payroll costs.
 - 75% of the total loan amount must be used on payroll costs.
 - The remaining 25% must be used on permitted expenses within the covered period to achieve full loan forgiveness.
- You cannot use the PPP loan and the Economic Injury Disaster Loan (EIDL) for the same expenses.
- You cannot use the PPP loan and the Families First Coronavirus Response Act (FFCRA) business credit for the same wages.

Gathering Documentation

- Keep documentation of your covered expenses and proof of payment during the covered period. We recommend you gather:
 - Employee pay records for 2019 and 2020 (to prove baseline wages before the covered period began).
 - Employee pay records for the covered period.
 - FTE count for Feb 15, 2019 – June 30, 2019 and Jan 1, 2020 – Feb 29, 2020.
 - FTE county for each week during the covered period.
 - Supporting documentation for payments of non-payroll costs (invoices, checks, proof of services in place prior to Feb 15, 2020).
 - A written statement describing how and why, at the time of your application, the economic uncertainty made your loan request necessary to support the ongoing operations of your business.

Frequently Asked Questions

- Do I need a separate bank account?
 - We do not recommend you open a separate bank account for PPP if we are your accountant. We can provide you with reports on expenses during your covered period. And the additional account creates problems on the bookkeeping end.
- Do I include independent contractors in my payroll costs?
 - Independent contractors are not included in your payroll costs. Independent contractors apply for PPP directly themselves.

- Do the loan proceeds have to pay out as a continuation of current monthly payroll amounts or can they be paid as bonuses during the covered period?
 - o Yes, you can increase your employee’s wages and/or pay bonuses during your covered period.
- Can I pick the 8-weeks for my covered period?
 - o No, the 8-week covered period begins on the date the loans are deposited to your bank account.
- What if my business is not reopened yet? How does that impact my forgiveness?
 - o Only expenses paid during the 8-week covered period are eligible for forgiveness. You can find options for your employees to work at home or during business closures (e.g. admin work, updating policies and procedures, having company training, performing cleaning/maintenance) or you can pay your employees while they are at home.
- I am unable to spend the funds during the 8-week period, for any number of reasons. What happens then?
 - o The 8-week covered period is important for your loan forgiveness but not a requirement. Any funds that are not spent within the 8-week period or are spent on ineligible expenses will remain as a loan under the original loan terms (2 years at 1% interest with payments deferred for 6 months).
- I had to let my employees go and now I’ve received my PPP. How does this impact my forgiveness?
 - o You can bring back or rehire your employees (or their replacements) in your covered period and include those expenses in your loan forgiveness application.
- What if I extended to offer to rehire my employee and they opt not to come back? Will this impact my loan forgiveness?
 - o No, this will not reduce your loan forgiveness. You must have made a good faith, written offer of rehire, and the employee’s rejection of that offer must be documented. You should remind the employee that rejecting an offer for re-employment may forfeit their eligibility for continued unemployment compensation.
- I am a seasonal employer; can I use a different base period?
 - o Yes, you can use 1) Feb 15, 2029 to June 30, 2019, 2) March 1, 2019 to June 30, 2019, or 3) May 1, 2019 to Sept 15, 2019.
- I no longer want the PPP loan. When do I have to give the loan back to be considered as having not taken a PPP loan?
 - o The safe harbor deadline to return a PPP loan is May 14, 2020. Loans repaid by this date will be treated as though the employer had never received a loan under the PPP for purposes of other tax credit options.

Other Items

- We anticipate your lender will have a specific form to provide your loan forgiveness documentation and calculations, along with requesting certifications for accuracy and completeness, similar to your loan application.
- It is best to take a conservative approach in determining the expenses for your loan forgiveness application.
- If you are unable to maximize your loan forgiveness with a conservative approach to expenses, you should reach out to your lender, lawyer, or consult with Meg Abbott to discuss your options.
- If you have additional questions or would like assistance with your PPP loan and forgiveness, Meg Abbott is available to consult with you on a discounted rate of \$60/hour. Please reach out to her at trajectorytax@gmail.com.

Disclaimer

- This information is based on interpretations under the CARES Act and guidance from the U.S. Treasury. Guidance has been continually updated for clarity, and it is highly likely that subsequent guidance will be published after all PPP funding has been deployed that may impact guidance provided here. Individual judgement and interpretation of the CARES Act and U.S. Treasury guidance may be necessary by you for your PPP loan and forgiveness application.