

# **SPECIAL REPORT**

## **PPP Loans – How to Lose Forgiveness**

On March 27, 2020, President Trump signed into law the Coronavirus Aid, Relief, & Economic Security Act (CARES Act). One big part of the CARES Act was the Payroll Protection Program (PPP). Here's a quick review of the PPP:

- Offers loans to small businesses to help them pay certain expenses
- Loan amount is 2.5 times the business' average monthly payroll expense
- If loan is used for allowable expenses, the loan may be completely forgiven (not paid back)

What's not to love, right? All you have to do is spend it the right way, and the PPP Loan becomes tax-free helicopter cash!! But there are several hoops you have to jump through before that magical transformation happens! Here are some ways you can mess up your PPP Loan forgiveness:

1. Spend the Money on Non-Allowable Items: to qualify for loan forgiveness, you can only spend the cash on certain expenses:
  - a. Payroll Items
  - b. Utilities
  - c. Loan Interest
  - d. Rent
2. Fail to Spend at Least 75% on Payroll Items: the intent of the PPP was to help businesses continue to pay their employees. So to secure forgiveness, at least 75% of the PPP Loan must be used for payroll expenses. Payroll expenses include:
  - a. Wages, commissions, etc. (up to \$100,000 per employee for the year)
  - b. State Unemployment Taxes
  - c. Healthcare expenses for employees (health insurance, health expense reimbursements, etc.)
  - d. Retirement benefits for employees (401(k) matches, SEP contributions, etc.)
3. Employee Reduction: For complete forgiveness of your PPP Loan, your average employee headcount can't go down over the 8-week period after you get the money (the Covered Period), when compared to one of two periods.
  - a. The Comparison Periods are 2/15/19 – 6/30/19 or 1/1/20 – 2/29/20; the business can choose which Comparison Period to use
  - b. The employee headcount is measured using Full-Time Equivalent (FTE). If you employ 2 full-time persons and 6 persons working 20 hours per week, you have 5 FTEs; if your average FTE count during the Covered Period drops below 5, the amount of your PPP Loan that can be forgiven will go down.
  - c. The business gets a "Mulligan" if any reduction in FTEs is cured by June 30, 2020. So if your FTE count drops, you can fix this by hiring more FTEs by 6/30/20.

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### PPP Loan Forgiveness

4. Payroll Amount Reduction: If the amount you pay your employees goes down over the Covered Period vs. the Comparison Period, your PPP Forgiveness will be reduced.
  - a. Another Mulligan opportunity – if the business reduces its pay rate as described above, but raises the pay rates back to the original levels by 6/30/20, all is forgiven for this limitation.
5. Failure to Document Expenses: at the end of the Covered Period, you must apply with your lender to have your PPP Loan forgiven. Part of the process will involve proving that you spent your PPP Loan according to the rules. If you can't prove where the money went, you will not get complete forgiveness.

Another few tips and topics:

- Only PPP Loan money spent during the Covered Period can be forgiven. This is not long-term savings. This money was handed out to be spent.
- The portion of your PPP Loan that is not forgiven will have to be paid back. But that's not all bad. Remember this is a loan with a 1% interest rate and a 2-year payback period (after a 6-month grace period). So it's still not a bad deal.
- The IRS announced yesterday that businesses will not get a tax deduction for expenses paid with forgiven PPP money. That makes sense, as you did not pay the expenses anyway. Uncle Sam did.
- If you received an advance on your Economic Injury Disaster Loan from the SBA (EIDL), that advance is basically a grant. It does not have to be paid back. It also reduces the amount of your PPP Loan that can be forgiven. So if you got an EIDL Advance of \$4,000, and your PPP Loan was for \$25,000, the maximum forgiveness you can receive on your PPP Loan is \$21,000. Don't fret – you still get \$25,000 of tax-free money that you don't pay back.

Please call or email us with your questions. We are here, ready to help.

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**This summary was not intended to fully explain every aspect or discuss every detail of the PPP. We strongly urge you to discuss these provisions with a professional legal and/or tax advisor before taking any action in these areas.**