

# PPP LOAN FORGIVENESS

*PPP SBA LOAN PROGRAM PROVIDED  
THRU BANKS & CREDIT UNIONS  
Loan Proceeds Must Be Used For A  
Qualifying Purpose  
To be forgiven, must satisfy SBA  
requirements*

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PPP SBA LOAN PROGRAM PROVIDED  
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Loan Proceeds Must Be Used For A  
Qualifying Purpose



To be forgiven, loan proceeds must be spent within 24 weeks of disbursement but before December 31, 2020.

One needs to note is that at least 60% of your loan must be used to cover payroll costs in order to be forgiven. The remaining 40% can be used to pay mortgage interest, utilities, and rent.

If by chance the expenses you pay are deemed ineligible then those amounts become a loan which you must pay back to SBA over a 5 year period with 1 percent interest.

Head count and salary level amounts must be similar to last year. To get forgiveness there is a test about 1. Headcount and 2. Salary level.

These are the categories that count:

Salaries, Wages, Tips & Commissions: Capped at \$100,000/annually per employee.

State and local taxes on compensation

Employee Benefits: This includes costs associated with retirement plans, group health insurance, vacation time, sick and medical leave..

## Rent

To be considered a qualified expense, a lease agreement for the property must have been in effect before February 15, 2020. Rent on buildings, offices and equipment yards, and equipment and other "personal property" used in the business.

Independent Contractors do not count as employees. Independent contractors have the ability to apply for a PPP loan on their own so they do not count for purposes of a borrower's PPP loan calculation.

Because the SBA made up the rules as time went along, there is some pretty murky water out there about what is and what isn't eligible for loan forgiveness.

## Utilities

1) Water & Sewer, 2) Electricity, 3) Telephone & cell phone 4) Internet, 5) natural gas for building

Workers compensation insurance is not specifically qualified as a forgivable category

Wages amount test. The amount of the wages paid must be at least 75% of the 4th quarter 2019 wages or seasonally adjusted for this same time period of measurement.

Wages headcount test. The wages there is a head count requirement. You have to have the same number of employees as you had last year. The PPP forgiveness bill allows for a little wiggle room here. If you offered a job to a former worker and they declined, if you simply can't find qualified workers or if the city, county or state has mandated or regulated your business operations such that you cannot return to full staff, there may be some relief.

Questions on the bank forgiveness application form:

Borrower did not reduce the annual salary or hourly wages of any employee by more than 25% during the covered period ("CP") compared to the reference period (January 1, 2020 – March 31, 2020); AND

The borrower did not reduce the number of employees or the average paid hours of employees between January 1, 2020 and the end of the CP. (Ignore reductions that arose from an inability to rehire individuals who were employees on February 15, 2020 if the borrower was unable to hire similarly qualified employees for unfilled positions on or before December 31, 2020.) Also ignore reductions in an employee's hours that the borrower offered to restore and the employee refused.

## Wages

The Employer share of the payroll taxes (FICA & Medicare) are not eligible for forgiveness. The state payroll taxes paid by the employer are eligible. The wages to be reported are the "gross wages."

PPP loan recipients can have their loans forgiven in full if the funds were used for eligible expenses and other criteria are met. The loan forgiveness amount may be reduced based on the percentage of eligible costs attributed to non-payroll costs, any decrease in employee headcount, and decreases in salaries or wages per employee.

As a general matter, the lender will review the application and make a decision regarding loan forgiveness. The lender has 60 days from receipt of a complete application to issue a decision to SBA.

If the lender determines that the borrower is entitled to forgiveness of some or all of the amount applied for under the statute and applicable regulations, the lender must request payment from SBA at the time the lender issues its decision to SBA.

SBA will, subject to any SBA review of the loan or loan application, remit the appropriate forgiveness amount to the lender, plus any interest accrued through the date of payment, not later than 90 days after the lender issues its decision to SBA.

If applicable, SBA will deduct EIDL Advance Amounts from the forgiveness amount remitted to the Lender as required by section 1110(e)(6) of the CARES Act. There may be opportunity to explain that the EIDL amounts were not used for payroll or other PPP category expenses and was used as working capital for the business as designed by EIDL. This explanation should do away with the EIDL offset to PPP forgiveness, upon a showing of proof.

The lender is responsible for notifying the borrower of the forgiveness amount. If only a portion of the loan is forgiven, or if the forgiveness request is denied, any remaining balance due on the loan must be repaid by the borrower on or before the five-year maturity of the loan.

Though the lender will sign off on forgiveness of the loan, don't forget that SBA has the right to review or "audit" the loan and its application for several years after the settlement is made with the borrower.

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