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**Loan Forgiveness Application Steps**

To help crack the code, we have put together the following analysis with our review of the application, SBA’s newly released guidance as to the loan terms, and key issues in the application, as well as input from our subject matter experts.

**1. Necessary Documents**

Before you fill out your Forgiveness Application, you will need to have the following documents handy.

* Your original Borrower Application, because the Forgiveness Application requires much of the information from your Borrower Application to be re-entered.
* All records related to SBA approval of your Borrower Application (you may need to request from your lender), which will be necessary for, among other things, the SBA PPP Loan Number and your lender’s PPP Loan Number.
* All records related to your lender’s disbursement of the loan to you (and, in particular, the records related to the earliest disbursement you received, if you received more than one), because the Forgiveness Application requires you to report the amount of the loan you received, the date you received it, and the number of employees you had at that time.
* If you received an Economic Injury Disaster Loan (EIDL) advance, you will need all records related to that advance, because the amount of that advance cannot be forgiven under the PPP forgiveness program.
* Your payroll system and/or bank account records, because you will need to use these records to calculate which payroll costs are eligible for loan forgiveness—this includes all payroll records for all employees, including owner-employees, owners/partners generally, and fired or furloughed employees, and tip-related records for any tipped employees you have or had during the eight-week period for which you received your PPP Loan.
* Tax documents for your state quarterly business tax filings.
* Payroll tax documents.
* Employee benefits records, such as health insurance and retirement accounts.
* Your non-payroll business-related bills for obligations in force prior to February 15, 2020, including business utilities (e.g., water, gas, electricity, transportation, phone, and internet), business rent payments, and/or interest payments on business mortgages for both real and personal property (but not payment or prepayment of principal).
* Records showing the average number of full-time equivalent (FTE) employees you employed per month between either (1) February 15, 2019 and June 30, 2019, or (2) January 1, 2020 and February 29, 2020; if you are a seasonal employer, the average number of FTE employees you employed during either of the two periods noted here, or between any consecutive twelve-week period between May 1, 2019 and September 15, 2019.

Also, you will need to submit some of these documents with your Forgiveness Application to your lender (i.e., the bank that originally paid out your PPP Loan).  The list of categories of documents you must submit is on page 10 of the Forgiveness Application, and is primarily concerned with proving the exact amounts of your payroll versus non-payroll expenses.

**2. SBA Guidance on PPP Loan Terms**

For PPP Loans, both payroll and non-payroll costs are forgivable, which is why you will need documents related to both of those types of costs when you fill out and submit your Forgiveness Application.  However, the calculations you will perform on the Forgiveness Application, which the above document list will help you fill out, will determine how much of your loan will be forgivable based on the proportion of costs you have expended.  The SBA guidance states that up to 25% of the total PPP Loan you receive may be used for non-payroll expenses. However, if your non-payroll costs exceed 25% of the total amount you have expended using your PPP Loan, the amount that exceeds that 25% will not be forgivable, and you will have to pay it back with the 1% interest over the next 2 years.  This does not necessarily mean that your Forgiveness Application will be denied outright, but it is something you should track during the eight-week period during which you are meant to use your PPP Loan.  Also, there is word that Congress is working on a bill that will revise this, as well as the period for use of the PPP Funds.

Specifically, the House bill is structured to allow for a higher percentage of PPP Loan amounts to be used for non-payroll expenses, but we do not yet know the details.  It will also expand the time for use of the PPP Funds to be eligible for forgiveness from eight weeks to 24 weeks.  Both these changes are meant to give small businesses greater flexibility in use of the funds.  Again, we have to wait and see if and when those concepts are passed into law—so stay tuned!

**3. Review of the Forgiveness Application**

**a. Schedule A Worksheet**

To actually begin filling out your Forgiveness Application, you will first need to complete the PPP Schedule A, which is located on page 6 of the Forgiveness Application just after the summary form.  To help you complete Schedule A, the Forgiveness Application provides a Schedule A worksheet with instructions on pages 7-9.  This worksheet requires you to enter information about each of your employees and the compensation you give them.  Note that loan forgiveness only applies to amounts paid to employees whose “principal place of residence is in the United States.”

Before you start the worksheet, make sure you decide which “covered period” you’d like to apply to yourself.  There are two possible covered periods for the purposes of forgiveness of payroll costs specifically: (1) you may seek forgiveness for your payroll costs for eight weeks beginning on either the date on which your PPP Loan was disbursed to you, or (2) the first day of your first payroll cycle following that disbursement.  The former is known as the “covered period,” while the latter is known as the “alternative payroll covered period,” and you’ll need to be clear on which one you’d like to choose for forgiveness purposes prior to starting your Forgiveness Application. Note that the covered period versus the alternative payroll covered period issue applies only to payroll-related costs, and not to non-payroll costs!  And, as noted above, this eight-week period may change soon from eight weeks to 24 weeks due to the bills floating through Congress as we write this.

As you fill out the Schedule A worksheet, you will notice that it contains two separate tables for employee “cash compensation” information.  Table 1 is for employees you paid “at an annualized rate of less than or equal to $100,000 for all pay periods in 2019,” or whom you did not employ at all in 2019.  Table 2 is for employees you paid “at an annualized rate of more than $100,000 for any pay period in 2019.”  So, in practical terms, if you have an employee you hired in November 2019 at an annual salary of $120,000, that employee’s information will go in Table 2, even though you did not actually pay that employee more than $100,000 in 2019.  The fact that their compensation would have exceeded $100,000 in 2019 if they were paid for the entire year is enough to move them into the second table, there is no requirement that you must have actually paid them more then $100,000.  This question has been raised quite a bit, so we want to clarify that point.  Also, note that compensation includes bonuses and any hazard pay, but not health insurance or retirement accounts, according to SBA’s guidance.  Even if you normally would not pay a certain employee more than $100,000, but now, due to COVID hazard pay or retention bonuses, you are presently paying them  an amount that, when annualized, could exceed $100,000—meaning, if you were to continue to pay the employee at that rate through the end of the year, that employee will be bumped into Table 2 for the purposes of the Forgiveness Application.

That leads to the question of why the Forgiveness Application is forcing borrowers to divide their employees into two tables?  This division exists because payroll is only forgivable up to a $100,000 annualized salary.[[1]](%22%20%5Cl%20%22_ftn1)  Take the example of an employee paid $120,000 per year.  You can still pay that employee’s total salary, but only the piece that would work out to a $100,000 annualized salary is eligible for forgiveness.  Thus, for the remainder of that person’s salary, you will have to pay back any loan amount that is used for paying the annualized salary above $100,000.  In this example, the extra $20,000 would not be eligible for PPP Loan forgiveness.

Again, the payroll costs for furloughed or fired employees should be represented in these tables as well, because they are forgivable.  However, if you applied for a PPP Loan and then laid off one (or more) of your employees, you will need to pay back the amount of the loan that would otherwise have been used to compensate that employee—unless you can show that you extended a written offer of re-employment to that employee and they rejected your offer.[[2]](%22%20%5Cl%20%22_ftn2)  Likewise, if you reduced an employee’s wages by more than 25% of the employee’s base salary as it existed between January 1, 2020 and March 31, 2020, and you paid that employee less than $100,000 per year prior to the reduction, the amount of the reduction that exceeds 25% of the employee’s base wage will not be eligible for forgiveness.

For example, suppose you pay a particular full-time employee $60,000 per year (roughly $1,250 per week) under normal circumstances.  But, on April 5th, due to the pandemic, you cut that employee’s wages down to $40,000 per year (roughly $833 per week).  Using SBA’s guidance, you will be eligible for forgiveness of the first $312.50 per week by which you reduced the employee’s salary, but not for the remaining $104.17 per week, because that amount exceeds the allowed 25% reduction.  That is, unless the “safe harbor” provision applies to you, as explained and calculated at the bottom of page 7 of the Forgiveness Application.

**b. Schedule A**

Once you complete the Schedule A worksheet, you’ll need to fill in the Schedule A itself.  Luckily, the Forgiveness Application has somewhat clear instructions regarding how to transfer the amounts you included on the worksheet into the Schedule A.  Once you fill in the “cash compensation” pieces, which you will pull directly from the worksheet you completed, you will need to move on to non-cash compensation.  This includes three discrete categories: employer contributions to employee health insurance, employer contributions to employee retirement plans, and employer state and local taxes assessed on employee compensation.  All these amounts are forgivable, but you will need the records to support the claimed amounts in the event that  SBA performs an audit or otherwise seeks the supporting documentation at any point during the next six years (which is the statue of limitations under the False Claims Act and is generally the timeline that the government has to review the issues in the Forgiveness Application).

**c. Loan Forgiveness Calculation Form**

Moving on to the actual Loan Forgiveness Calculation Form, use the information entered on Schedule A to fill out most of this form, but you also need the information from your original Borrower Application and your lender’s loan disbursement documents, among other things.  When you complete this form, send it, along with all required documents, to your lender.  Note that the Schedule A worksheet is not a required document, so you do not have to send it to your lender.

Your lender will have 60 days to notify SBA of whether the lender approves or denies your Forgiveness Application, in keeping with SBA’s [guidance for lenders](https://nam10.safelinks.protection.outlook.com/?url=https%3A%2F%2Fpilieromazza.us5.list-manage.com%2Ftrack%2Fclick%3Fu%3D3137381f0d20c6d9665e6633f%26id%3Ddb3bebcc0c%26e%3D90d18e84a2&data=02%7C01%7Cknew%40qri.com%7Cffc4e97cf5994dca2f6708d803545d1a%7Cf80900789a74439d88381100be30a342%7C1%7C0%7C637263008187727909&sdata=CU9h%2BlT1YO8LKNNUFaS%2F5AXE5eFxrC8q2Qk57yBmQOw%3D&reserved=0).  Should your lender accept it, SBA will reimburse the lender for the forgiven amount, and you will not be required to pay it back.  You may have all or part of your claimed amount forgiven, and under some circumstances, you may appeal a denial of forgiveness to SBA.[[3]](%22%20%5Cl%20%22_ftn3)  SBA may also decide to review your Forgiveness Application, as SBA ultimately has final say over whose loans are forgiven.

**4. Conclusion**

Remember that by completing and signing your Forgiveness Application, you are certifying that the information contained therein is true and correct to the best of your knowledge.  If you knowingly fill out the Forgiveness Application improperly, you expose yourself to potential civil and criminal liability for false claims.  Therefore, be sure to keep detailed records and only claim the amounts you know you can show evidence to support.