



COVID-19 UPDATE: SBA ISSUES PPP LOAN FORGIVENESS APPLICATION

By Darryl J. Horowitz

The CARES Act authorized the issuance of Payroll Protection Program (“PPP”) loans through the SBA. Under the PPP, where PPP funds are used for their intended purpose of payroll, rent, mortgage payments and utilities, all or a portion of the loan would not have to be repaid. How this would operate in practice was unknown until the SBA issued its forgiveness application and provided an explanation on how the forgiveness procedures would be implemented, including what documents a business would need to provide as part of the forgiveness process.

Those familiar with the PPP loan program will recall that the PPP would provide a business with 2½ times a company’s average monthly payroll costs (including salaries, wages and commissions up to \$100,000, vacation, sick pay, group health insurance costs, retirement benefit costs and employer’s portion of state and local taxes on compensation) and approved non-payroll costs (rent, utilities and interest on mortgages, but not principal reduction or mortgage prepayment), up to \$10 million. To be eligible for forgiveness, 75% or more of the funds were to be used for payroll costs and 25% or less used for approved non-payroll costs paid within 8 weeks (or 16 pay periods of pay if bi-weekly) after the loan was funded (the “Covered Period”).

The total amount forgiven (“TAF”) is relatively simple to determine. A borrower first starts with the amount of funds received (the “Loan Amount”). Once the Loan Amount is determined, the following factors incurred or paid during the Covered Period will determine the amount that will be forgiven:

- **Step 1:** Whether you used 75% of the loan proceeds on payroll expenses (as defined above) during the Covered Period. If so, the maximum amount forgivable (“MAF”) is the payroll costs divided by 75%. Thus, if you used the funds correctly, you should be OK. In fact, if you use more than 75% of the funds for allowable payroll expense, the larger the MAF. To determine the MAF, you would use the following formula: **MAF = Loan funds used for payroll costs ÷ by .75**. Thus, if your company received \$100,000 from the PPP and your company used \$50,000 for approved payroll costs, the MAF could be \$66,666.67. However, if your company used \$80,000 of the \$100,000 proceeds on approved payroll costs, the MAF would be \$106,666, but would be reduced to \$100,000 as the MAF cannot exceed the loan amount.
- **Step 2:** Whether you received an Economic Injury Disaster Loan (“EIDL”) emergency loan (another program that provided a \$10,000 advance to companies who applied for the loan). If you received funds from such a loan, even if only the \$10,000 advance, these

funds will be deducted from the amount that might be forgiven. The formula at this stage is: **TAF = MAF – EIDL Funds received.**

- **Step 3:** Whether you reduced the total headcount of employees (the reduced headcount or “RH”) between February 15th and April 26th, unless the employer returns to pre-February 15th levels no later than June 30th or during the alternative, Covered Period. If so, the TAF is reduced in proportion to the percentage of full time employees (“FTE”) reduced. To calculate this number, you use the following formula: **RH = FTE (at the end of the covered period) ÷ average FTE prior to the covered period.** For example, if you had 100 employees and 15 left, your RH would be .85, or 85% of your original headcount.
- **Step 4:** Whether you reduced the pay of any of your workers. If so, the TAF will be reduced for every dollar of reduced individual worker pay greater than 25% of the average full salary during the Covered Period. The formula to determine the employee pay reduction (“EPR”) is: **EPR = (employee salary x .75) – (new salary after reduction).**

The formula to determine the amount forgiven is thus: **TAF = MAF – (EIDL Funds received + RH + EPR).**

The procedure for obtaining forgiveness is relatively straightforward. A company will complete the “Loan Forgiveness Application Instructions For Borrowers” and turn it into the bank that provided the funding. The bank will then review the application to determine if all documents needed have been provided and then evaluate the application to determine the amount that is recommended for forgiveness. The bank will then forward the application and supporting documentation to the SBA for evaluation and a determination.

In addition to the completed application, a borrower will need to provide documentation verifying the information supplied including payroll, verification of FTEs, cancelled checks, tax filings and the like. The application sets forth the required documents.

The process is designed to be simple enough for business owners to complete on their own. We recommend that your accountant or CPA be consulted to make sure you have all of the information and documents needed to obtain the maximum amount of forgiveness. Your bank may also help but only to a certain extent and cannot replace your accountant or CPA.

The application can be found at: <https://www.sba.gov/sites/default/files/2020-05/3245-0407%20SBA%20Form%203508%20PPP%20Forgiveness%20Application.pdf>

As further information is disclosed that may affect you and your business, we will provide updates. If you have any questions in the meantime, please contact the author at (559) 248-4820, ext. 111 or dhorowitt@ch-law.com.



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