



**Q. How much of the Payment Protection Plan (PPP) loan (in whole or in part) will be forgiven and when does it have to be spent?**

- A. The amount of the loan forgiveness can be up to the full principal amount of the loan and any accrued interest. The actual amount of the loan forgiveness will depend, in part, on the total amount of payroll costs (defined as gross salary and wages, health care and health insurance costs, retirement benefit costs, state unemployment, workers compensation), payments on interest on mortgage obligations incurred before Feb. 15, 2020, rent payments on leases dated before Feb. 15, 2020, and utility payments under services agreements dated before Feb. 15, 2020 *over the 8 week period following the date of the loan*. However, 25 percent of loan forgiveness amount may be attributable to non-payroll costs. In other words, limiting non-payroll costs during that period of time to no more than 25 percent of the total. The Small Business Association (SBA) will issue additional guidance on loan forgiveness.

**Q. What type of documentation does the lender have to rely on from the borrower for loan forgiveness?**

- A. The lender does not need to conduct any verification if the borrower submits documentation supporting its request for loan forgiveness and attests that it has accurately verified the payments for eligible costs.

**Q. The CARES Act excludes any employee compensation in excess of an annual salary of \$100,000 from the definition of payroll costs. Does that apply to all employee benefits of monetary value?**

- A. The exclusion of compensation in excess of \$100,000 annually applies *only to cash compensation*, not to non-cash benefits, including:
- Employer contributions to defined benefit or defined contribution retirement plans
  - Payment for the provision of employee benefits consisting of group health care coverage, including premiums
  - Payment of state and local taxes assessed on compensation to employees

**Q. The amount of loan forgiveness shall be reduced based on the number of employees. How is this number determined?**

- A. The average number of full-time equivalent employees shall be determined by calculating the average number of full-time equivalent employees for each pay period falling within a month.
- B. The amount of loan forgiveness will be reduced by multiplying the amount described above by the quotient obtained by dividing:
- The average number of full-time equivalent employees per month employed by the eligible recipient (employer) during the covered period by or
  - The average number of full-time equivalent employees per month employed by the eligible recipient during the period beginning on Feb. 15, 2019 and ending June 30, 2019 or
  - The average number of full-time equivalent employees per month employed by the eligible recipient during the period beginning on Jan. 1, 2020 and ending on Feb. 29, 2020 or
  - In the case of an eligible recipient that is a seasonal employer, the average number of full-time equivalent employees per month employed by the eligible recipient during the period beginning Feb. 15, 2019 and ending on June 30, 2019.
- C. Reduction Relating to Salary and Wages – the loan forgiveness shall also be reduced by the amount of any reduction in total salary or wages of any employee during the covered period that is in excess of 25 percent of the total salary or wages of the employee during the most recent full quarter during which the employee was employed before the covered period (*employee defined as any employee who did not receive during 2019 wages or salary at an annualized rate of pay in an amount more than*

**\$100,000**). This seems to mean that if an employee took a pay reduction in excess of 25 percent of their total salary or wage the loan forgiveness would be reduced.

- D. Exemption for Re-Hires – the amount of loan forgiveness shall be determined without regard to a reduction in the number of full-time equivalent employees of an employer or a reduction in the salary of 1 or more employees during the period beginning Feb. 15, 2020 and ending 30 days after enactment of this Act (which seems to be April 26, 2020). As long as the employer has eliminated the reduction in the number of full-time equivalents and as long as the employer has eliminated the salary reduction not later than June 30, 2020.
- E. Exemptions – The Administrator (SBA) and the Secretary of the Treasury may change regulations granting de minimis exemptions from the requirements under this subsection.

**Q. What is the actual process I need to go through to formally receive loan forgiveness?\***

- A. Recipient (employer) shall submit to the lender an application (each lender may design their own application or wait until the SBA issues something) which shall include the following information and documentation:
  - 1. Verifying the number of full-time equivalent employees on the payroll and pay rates for the periods described in 4.A. and 4. B above.
  - 2. Payroll tax filings to the IRS and State income, payroll, and unemployment insurance filings.
  - 3. Cancelled checks, payment receipts, transcripts of accounts, or other documents verifying payments on covered mortgage obligations, covered interest obligations, payments on covered lease obligations, and covered utility payments.
  - 4. Certification from a representative of the recipient authorized to make such certification
  - 5. Any other documentation SBA determines necessary.
  - 6. The lender shall issue a decision no more than 60 days after the date on which the lender receives an application for loan forgiveness under this section.

**Q. Is any of the loan that is forgiven taxable as forgiveness of debt?**

A. Any loan amount forgiven shall be excluded from gross income.

**Q. For the portion of the loan not forgiven, when does the borrower have to begin repaying interest and principal on the loan?**

A. The borrower will not have to make any payments for six months following the date of the disbursement of the loan. Interest will continue to accrue on PPP loans during the six month deferment. The Act authorizes SBA to defer loan payments for up to one year.

***\*Special Note – Not later than 30 days after enactment, SBA will issue guidance and regulations implementing the loan forgiveness section of the Act.***

**CONTACT US**

For further information or questions regarding the loan, please contact us today at 216.566.9000 or [info@barneswendling.com](mailto:info@barneswendling.com).