



In the News

Paycheck Protection Program – Use of Proceeds and Loan Forgiveness

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SBA PAYCHECK PROTECTION LOANS

Permitted Uses of Loans

- **Payroll Costs; Includes (i.e., what was included in your loan amount calculation):**
 - gross employee compensation (e.g., salary, wages, commissions, cash tips, etc.) *up to* annualized compensation of \$100,000
 - paid Personal Time Off (i.e., vacation, sick days, etc.) *(but note exclusion below)*
 - severance payments
 - payment for group health benefits, including insurance premiums
 - retirement benefits
 - state and local payroll taxes
 - *Excludes* excess cash compensation above the \$100,000 threshold; employer portion of federal payroll taxes; compensation to non-U.S. employees; and sick/family leave wages for which credit is allowed under the Families First Coronavirus Relief Act
- **Rent Payments** – on leases dated before February 15, 2020
- **Utility Payments** – on service agreements dated before February 15, 2020 (including telephone and cellphone service in business name)
- **Mortgage Interest Payments** – on mortgage obligations incurred before February 15, 2020
- **Other Interest Payments** – on other debt obligations incurred before February 15, 2020
- **Refinancing an SBA Economic Impact Disaster Loan (EIDL)** – made between January 1 and April 3, 2020 if proceeds were used for payroll costs

Loan Forgiveness

Maximum Loan Forgiveness Amount

- Capped at principal amount of the loan plus any accrued interest
- Equal to the sum of the following payments *incurred and paid within 8 weeks of loan funding*

(See above for further detail on the following acceptable costs)



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- payroll costs (*but note that period for actual payroll costs is limited to 56 days; contrast with 76 days used for loan amount calculation*)
- rent payments
- utility payments
- mortgage interest payments
- *No other permitted uses of loan proceeds are eligible for forgiveness*

Limitations

- **At least 75% of loan proceeds must be used for payroll costs**
- ***Not more than 25% of the loan forgiveness amount may be attributable to non-payroll costs***
- Any dollars spent more than 8 weeks after your loan is funded, even for these forgiveness-eligible expenses, will not be included in your forgiveness amount

Reductions in Loan Forgiveness

Reductions/Penalties – Maximum forgiveness amounts will be reduced:

- Proportionately for reductions based on average full-time equivalent employees (FTEEs) per pay period during the 8-week forgiveness period divided by lesser of average FTEEs per pay period for February 15-June 30, 2019 OR January 1-February 29, 2020 (*an FTEE is based on Affordable Care Act definition of 30 hours per week*)
- Dollar-for-dollar reduction for payroll reductions over 25% (compared to the prior completed quarter of employment—i.e., first quarter 2020) for workers making less than \$100,000 annually

For any advance, up to \$10,000, taken on an SBA EIDL.

Relief from Reductions for Payroll Adjustments Made by June 30, 2020 – Reduction rules will *not* apply if *by June 30, 2020* you eliminate:

- any reductions (compared to February 15, 2020) in the number of FTEEs made between February 15, 2020 and April 26, 2020; and/or any salary reductions (compared to February 15, 2020) made between February 15, 2020 and April 26, 2020 for 1 or more employees (with annualized compensation up to \$100,000)

Loan Forgiveness Documentation and Certification are Expected to Be Required

- Documents to verify FTEEs on payroll and their pay rates (via IRS payroll tax filings and state income, payroll, and unemployment filings)
- Documents to verify other covered costs actually paid (e.g., canceled checks, receipts, or other documents verifying mortgage, rent, and utility payments)
- Certification (by an authorized business representative) that the documentation is true and correct and that forgiveness amounts requested were used to retain employees and make other forgiveness-eligible payments

Lender to Determine Forgiveness within 60 Days of Borrower Certification

Additional SBA Rulemaking Is Possible Regarding Loan Forgiveness

- Loan Terms
 - **Term** – 2 years



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- **Interest Rate** – 1%
- **Payment Deferral** – No payments for 6 months after date of disbursement of loan
- Terms Apply to Loan Amount That Is Not Forgiven

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