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# Paycheck Protection Program and Related Unemployment Concerns

**Presented by:**

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# Agenda

- Background
- Forgiveness Guidelines (Form 3508/Form 3508EZ)
- Required Documentation
- Process and Timelines



## Disclaimer (don't blame me if the rules have changed by day's end)

- Any information discussed in this presentation is made with the understanding that Forgiveness standards may be subject to additional interpretation.
- Fidelity Bank recommends that all businesses consult with their accountants, lawyers, advisors as well as bankers for guidance in determining loan forgiveness rules.
- Fidelity Bank offers no legal, accounting or banking recommendations with the proceeding discussion.



# Background

- On March 27, 2020, Congress enacted the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act).
- The CARES Act authorized the Paycheck Protection Loan Program (PPP) to assist small businesses impacted by the COVID-19 emergency.
- Funding was administered via the Small Business Administration, which guaranteed 100% of PPP loans.
- Paycheck Protection Loans may qualify for up to 100% forgiveness.
- More than 4.8 million businesses have applied for PPP loans so far. Fidelity Bank issued over 1,400 Paycheck Protection Loans totaling over \$156 million.



## THERE'S A PANDEMIC -- ARE THEY REALLY CHECKING?

- Sec. Mnuchin reported the government will conduct a 'full audit' of every PPP loan over \$2 million: *'This was a program designed for small businesses, not for public companies that have liquidity'*.
- Forgiveness boils down to two things:
  1. Spending your funds on the right things
  2. Proving your PPP expenses with supporting documentation



# WHAT SAY YE, PPP?

- Your loan amount is based on your average monthly payroll cost for 2019. You are eligible to receive 2 ½ times that amount and can use the funds for the following purposes:
  - Payroll –salary, wages, health benefits, family, medical or sick leave
  - Qualified Mortgage interest
  - Rent (lease agreement in effect before Feb 15,2020)
  - Utilities (includes cell phone bill and transportation costs)

**60/40 Rule:** The PPP Flexibility Act passed in late June set forth that Payroll expense must be no less than 60% and non- payroll expense must be no more than 40% of the forgivable amount. (this amount was originally 75/25)



# 24 Weeks of Coverage

- Eligible Expenses are those that are incurred over 24 weeks, starting from the day the first payment was made by your lender.
- December 31<sup>st</sup> is the final cut off date for eligible expenses so if you receive your loan after July 16<sup>th</sup>, you will not be able to take advantage of the full 24 weeks.
- The PPP Flexibility Act increased the covered period from 8 weeks to 24 weeks. You can still choose to spend the money within 8 weeks and apply for forgiveness sooner.





# ALL IS NOT FORGIVEN: Reductions to Forgiveness Amount

## Headcount Reduction

Example: You have three full time employees and they each make \$3,000 per month, meaning your PPP loan amount was \$22,500 ( $3000 \times 3 \times 2.5$ ). You had to lay them off in February due to COVID-19.

If you only hire back two out of the three employees, your workforce is 67% of your original headcount.

Assume over the 24-week PPP period, you spend \$36,000 on your employees, more than the PPP loan amount. You then claim \$22,500 of your loan for forgiveness.

Because you reduced your workforce, your forgivable amount will be multiplied by .67. So \$15,075 will be forgiven.



# All is Not Forgiven: Pay Reduction

- Example: You have three employees each earning \$3,000 per month, meaning your PPP loan was for \$22,500 ( $3000 \times 3 \times 2.5$ ). You had to lay them off in February due to COVID. You hire all three back, but reduce their pay to \$2,000 per month.
- Over 24 weeks, you spend \$36,000 on your employees and claim the full \$22,500 of your loan for forgiveness
- To calculate your forgivable amount, we look at each employee's individual compensation. The 75% minimum salary is \$2,250 so your paying each person \$250 less than that each month, so \$1,500 ( $250 \times 6$ ) for each employee would be deducted from the forgivable amount.



# The Safe Harbor

- Prior to the enactment of the Flexibility Act, PPP borrower had until June 30th to reverse any reduction in employment headcount and salary/wages. If the borrower could not restore employment or salaries prior to June 30<sup>th</sup> loan forgiveness would be reduced.
- The Flexibility Act extends this deadline to December 31, 2020 and also provides in a nutshell that employers can disregard headcount reductions in calculating loan forgiveness during the Covered Period if they can meet the “safe harbor” against FTE reductions caused by the inability to operate under federal closure or shelter orders during the Covered Period.
- Must be able to document this inability “in good faith”



# Forgiveness for Self-Employed individuals: All is Forgiven (probably)

- Sole Proprietors are entitled to use the PPP loan to replace lost compensation due to the impacts of COVID-19. You are eligible to claim 2.5 months worth of your 2019 net profit to replace pay.
- If you didn't have any other payroll expenses factoring into your PPP loan amount, your entire PPP loan can be forgiven for the 24-week period.
- If you have mortgage interest, rent, or utility expenses, you must have claimed or be entitled to a deduction for those expenses on your 2019 Form 1040 Schedule C in order to claim them for forgiveness.



- **Owner-Employees, Self-Employed Individuals and General Partners'** loan forgiveness may also opt either for a 24- or 8-week Covered Period (Line 9, page 3, Form 3508):

**-24-week Covered Period Cap:** \$20,833 (\$100k/yr) or the 2.5-month, 2019 equivalent, whichever is lower.

**-8-week Covered Period Cap:** \$15,385 (\$100k/yr) the 8-week, 2019 equivalent, whichever is lower.



# Partnership Forgiveness

- As a general partner in a partnership, you are eligible to claim the same amount you claimed as partner compensation expenses when you applied for the PPP.
- The maximum partner compensation is capped at the 2019 Schedule K-1 net earnings from self employment multiplied by .922235



# Forgiveness Form 3508/3508EZ

- **Retirement and Health Insurance Exclusion:** No additional forgiveness for retirement or health insurance is allowed for self-employed individuals (including Schedule C filers) and general partners, as such expenses are paid out of their net self-employment income.



# I've exhausted all my PPP money, now what?

- After the 24 weeks you need to apply for loan forgiveness. This is where your banking institution will step back into the picture.
- This is also where your good recordkeeping and bookkeeping skills will come into play....





## **Borrower Responsibility:**

1. Submit Loan Forgiveness Application (Form 3508, 3508EZ or lender's equivalent);
2. Provide **“Required Documentation”** to the lender;
3. Maintain records for up to six (6) years



# Required Documentation

per OMB Control Number 3245-0407



# Required Documentation

## Payroll:

- Bank account statements or 3<sup>rd</sup> party payroll provider reports documenting cash compensation paid
- Tax Forms for the Covered/Alternative Payroll Covered Period
  - Form 941
  - State quarterly business & individual wage and unemployment insurance filings
- Payment receipts, cancelled checks, or account statements documenting employer contributions to employee's health insurance and retirement plans



# Required Documentation

**Nonpayroll:** (prior to 2/15/20 and for covered period)

- **Mortgage Interest:** Business mortgage interest payments for real property must be documented either with
  - A) A copy of lender amortization schedule and receipts, or
  - B) Cancelled checks, or
  - C) Lender statements

for the period from February 2020 and the months of the Covered Period thru 1 month after the end of Covered Period.



# Required Documentation

**Nonpayroll:** (prior to 2/15/20 and for covered period)

- **Business rent or lease payments:**

Documentation must include either:

- A) Copy of lease agreement and receipts/cancelled checks, or
- B) Lessor account statements

for the period from February 2020 and the months of the Covered Period thru 1 month after the end of Covered Period.



# Required Documentation

**Nonpayroll:** (prior to 2/15/20 and for covered period)

- **Business utility payments:** Utility costs, ostensibly defined via Internal Revenue Code, for business purposes.

Documentation must include:

- A) Copy of invoices from February 2020 thru the Covered Period and
- B) Receipts, cancelled checks or account statements verifying those eligible payments.

For the period from February 2020 and the months of the Covered Period thru 1 month after the end of Covered Period.



# Required Documentation

## **Retain (but not submit) for 6 years after loan forgiveness:**

- Documentation supporting Schedule A Worksheet Table 1 including Salary/Hourly Wage Reduction calculation;
- Documentation supporting Schedule A Worksheet Table 2 (employees over \$100,000)
- Documentation regarding employee job offers, refusals, firings for cause, voluntary resignations and written requests for reduction in work schedule.
- Documentation supporting Schedule A Worksheet “FTE Reduction Safe Harbor”



# Required Documentation

Federal Register/Vol. 85, No. 76/ Monday April 20, 2020/ Rules and Regulations

## **Sole Proprietorship – Schedule C**

You must document the following:

1. In operation on February 15, 2020;
  - 2020 Invoice; - Bank Statement; - Book of Record (proof of business)
2. Verify self-employment income (IRS Form 1099-Misc);
3. Principal place of business was in the United States;
4. Form 1040 Schedule C for 2019





# Lender Responsibility

1. Confirm receipt of borrower certification in Loan Forgiveness Form;
2. Confirm receipt of Required Documentation;
3. Confirm borrower's calculations on the Loan Forgiveness Application;
4. Confirm that the Borrower made the calculation on Line 10 of the Loan Forgiveness Calculation Form properly.



# Demonstration & Process



# Demonstration & Process

## Your Forgiveness Online Application

- Login to the Fidelity Bank portal from links or emails

Paycheck Protection Fidelity BANK

FAQs About Us Register Login

Apply for  
**PAYCHECK PROTECTION LOAN FORGIVENESS**  
All Online!  
Qualify for Available Forgiveness of You

Get Started Now!

Help us locate your Paycheck Protection loan with us.

My name as applicant  
*(must be a signer on the checking account and authorized to borrow on behalf of the business)*

First

Last

Business TIN (EIN ) Sole Proprietors and Self-Employed Use SS#

Search For My Account



# Demonstration & Process

## Your Forgiveness Online Application

- Your existing business and loan information will be displayed and you will be offered the choice of the EZ or Standard application.

The screenshot shows a web interface for a forgiveness application. At the top, there is a dark blue header with a white grid icon on the left and a white list icon on the right. The left side of the header contains the business name "Jones Tire Shop" and its address: "329 Brandywine Dr, Austin TX 78745". Below the address, it says "Entity: S-Corporation" and "Phone: 555-555-5555". The right side of the header displays "Forgiveness Application: In-progress", "Application Number: 34408", "SBA PPP Loan Number: 555555", and "Loan Amount: \$38,200".

Below the header is a light blue warning banner with a white exclamation mark icon. The text reads: "Your forgiveness application is missing some required information that is needed before you can submit it for processing. Red dots next to the tabs below indicate an issue that needs attention." To the right of this text is a white "Save" button. Below the warning banner, there is a small blue icon and the text: "You can save your progress at any time."

At the bottom of the header, there are two tabs: "Overview" (with an information icon) and "Application" (with a refresh icon). The "Application" tab is currently selected.

The main content area is titled "Loan Forgiveness" in bold. Below the title, there is a paragraph of text: "According to the SBA, Paycheck Protection Loans will be fully forgiven if the funds were used for payroll costs, interest on mortgages, rent, and utilities (due to likely high subscription, at least 60% of the forgiven amount must have been used for payroll)." Below this paragraph is another paragraph: "Forgiveness is based on the employer maintaining or quickly rehiring employees and maintaining salary levels. Forgiveness will be reduced if full-time headcount declines, or if salaries and wages decrease. The loan forgiveness form and instructions include several measures to reduce compliance burdens and simplify the process for borrowers, including:"

- Options for borrowers to calculate payroll costs using an "alternative payroll covered period" that aligns with borrowers' regular payroll cycles,
- Flexibility to include eligible payroll and non-payroll expenses paid or incurred during the eight-week period after receiving their PPP loan,
- Step-by-step instructions on how to perform the calculations required by the CARES Act to confirm eligibility for loan forgiveness,
- Borrower-friendly implementation of statutory exemptions from loan forgiveness reduction based on rehiring by December 31,



# Demonstration & Process

## Your Forgiveness Online Application

- You can go directly to complete the required Forgiveness form, or
- Have the software walk you through the form preparation.

The screenshot shows a web application interface for a forgiveness application. At the top, there is a dark blue header with a grid icon on the left and a hamburger menu icon on the right. The left side of the header contains the business name "Jones Tire Shop" and its address: "329 Brandywine Dr, Austin TX 78745". Below the address, it lists "Entity: S-Corporation" and "Phone: 555-555-5555". The right side of the header displays application details: "Forgiveness Application: In-progress", "Application Number: 34408", "SBA PPP Loan Number: 555555", and "Loan Amount: \$38,200".

Below the header is a dark blue warning banner with a white triangle icon containing an exclamation mark. The text reads: "Your forgiveness application is missing some required information that is needed before you can submit it for processing. Red dots next to the tabs below indicate an issue that needs attention." To the right of this text is a "Save" button. Below the warning banner, there is a small informational icon and the text: "You can save your progress at any time."

The main content area has a light gray background and features a horizontal navigation bar with several tabs: "Overview" (with an information icon), "Application" (with a refresh icon), "General" (with a list icon and a red dot), "Covered Period" (with a calendar icon and a red dot), "Forgiveness Calculation" (with a grid icon and a red dot), "Documentation" (with a document icon and a red dot), and "Certifications" (with a checkmark icon and a red dot). Below these tabs are two more options: "Demographics" (with a list icon) and "Submit" (with a submit icon).

Below the navigation bar is a section titled "Guided Walkthrough" with two radio button options:

- Manual Input:** I have my own or will prepare worksheets and schedules outside this software process. I will key in my results into Schedule A and the Forgiveness Application.
- Walk Me Through:** I would like to use the software to walk me through the worksheets and calculations.



# Demonstration & Process

You will upload documents that match the forgiveness amounts you submitted and submit your application.

Overview Application General Covered Period Forgiveness Calculation Documentation Certifications Demographics

Submit

### Submit Supporting Documentation

You will need to upload documentation for the categories listed below.

Payroll Mortgage Interest Rent or Lease Payments Business Utility Payments

Bank account statements or 3rd party payroll provider reports documenting cash compensation paid.

File Name	Size (bytes)
<input checked="" type="checkbox"/> Putnam.jpg.png	229,992

Tax forms for the Covered/Alternative payroll covered period if needed. (Form 941 or equivalent payroll records).

File Name	Size (bytes)
No documents	

State quarterly business & Individual wage and unemployment insurance filings.

File Name	Size (bytes)
No documents	

Payment receipts, cancelled checks, or account statements for employer health insurance contributions.

File Name	Size (bytes)
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# Process and Timelines

13 CFR Part 120 SBA Docket Number SBA-2020-0033



# Forgiveness/Payback Timeline

- The loan will remain active until forgiveness occurs;
- Fidelity Bank will have 60 days to make a forgiveness recommendation;
- The Bank must submit the PPP Loan Forgiveness Calculation Form and PPP Schedule A;
- The SBA will have 90 days to fund forgiveness;
- *You have up to 10 months after the end of your covered period to apply for forgiveness. After that time payments are required.*
- *New PPP loans approved after June 5<sup>th</sup> will have a loan length extended from 2 to 5 years . The outstanding balance will continue to accrue interest at 1% for the remainder of the 5 year period. Loans before June 5th can have their length extended to 5 years, if the borrower and lender agree to it.*





# Process and Timelines

- Although the SBA will audit any PPP loan over \$2 million, it reserves the right to review any PPP loan at any time. Such reviews will include:
- Whether a borrower was eligible for a PPP Loan;
- Whether a borrower calculated the loan amount correctly and used proceeds for allowable uses;
- Whether a borrower was entitled to forgiveness in the amount claimed;
- Borrowers agree to maintain records for six (6) years.



# Unemployment Compensation Concerns Related to Payroll Protection Program

**Presented by:**

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# Current Benefit Amounts

- PA UC claimants separated due to COVID-19 currently receive:
  - Regular state UC benefits (50% of earnings in highest calendar quarter of base year, to a maximum of \$572); and
  - Federal Pandemic Unemployment Compensation Benefits in the amount of \$600 (currently scheduled to end on July 25<sup>th</sup>).
- As a practical matter, UC claimants making approximately \$60,000 or less currently make more on UC than they did when working.



# Partial Benefit Credit

- In PA, a UC claimant can work a limited part-time schedule, and still collect benefits.
- The Office of Unemployment Compensation makes this calculation using a Partial Benefit Credit, which is calculated at 30% of a claimant's Weekly Benefit Rate.



## Example A:

- Claimant has a Weekly Benefit Rate (WBR) of \$200, which means she has a Partial Benefit Credit (PBC) of \$60. Claimant has part-time earnings (PTE) of \$170 / week.
- The benefit calculation is as follows:
  - $\$200 \text{ WBR} + \$60 \text{ PBC} = \$260$
  - $\$260 - \$170 \text{ PTE} = \$90 \text{ weekly state benefit amount}$
- As long as the claimant earns at least \$1 in state benefits, she will receive the \$600 in Federal Pandemic Unemployment Compensation.



## Example B:

- Claimant has a Weekly Benefit Rate (WBR) of \$200, which means she has a Partial Benefit Credit (PBC) of \$60. Claimant has part-time earnings (PTE) of \$270 / week.
- The benefit calculation is as follows:
  - $\$200 \text{ WBR} + \$60 \text{ PBC} = \$260$
  - $\$260 - \$270 \text{ PTE} = \$0 \text{ weekly state benefit amount}$
- Because the claimant will not earn at least \$1 in state benefits, she will not qualify for Federal Pandemic Unemployment Compensation.



# Why is Understanding the Partial Benefit Credit Important?

- Flexibility!
  - It may be possible to recall a furloughed employee back to part-time work, while the employee still qualifies for a partial UC benefit.
  - If an employer's PPP period has ended, and the employer does not have full-time work available, a part-time assignment / partial UC benefit may also be an option to avoid a layoff.
- One Small Catch: You may not be able to calculate a claimant's partial benefit credit with certainty.



# Recalling Employees to Work

- Given the high level of UC benefits, some employees are hesitant to return to work.
- Per SBA guidance, an employee who declines a recall to work will not count against PPP forgiveness if:
  - The employer makes a good faith, written offer of rehire at the same salary/wages and hours of work; and
  - The employer documents the employee's decision to decline in the employee's file.





# What Does This Mean for UC?

- If an employer offers work, and an employee refuses to return to work, an employer should also complete Form UC-1921W, Refusal of Suitable Work.
  - The Form can be completed and submitted online at the Office of Unemployment Compensation Website.
- Form UC-1921W should be submitted within 7 days of the employee's refusal of a job offer.



# Form UC-1921W

- In addition to providing basic information about the claimant, the employer will need to answer four primary questions:
  - Did the claimant refuse to accept a referral to employment?
  - Did you offer the claimant a specific job that the claimant refused?
  - What reason did the claimant give for refusing the job offer or referral to employment?
  - What were the duties of the job that was offered / referred?



# The Other Side of the Equation

- Until now, we have primarily been addressing how employers should call employees back to work at the end of the PPP period.
- BUT some employers that have already reached the end of their PPP periods may need to lay off / furlough employees due to continued revenue shortfalls.
- In this regard, two of the modifications that PA made to the UC Law after the passage of the FFCRA are particularly valuable:
  - The waiting week has been waived; and
  - Work search requirements have been waived.



# Employer Questionnaire

- To help employees who lose employment due to COVID-19, we recommend filling out the reason for separation on the Unemployment Paperwork as follows:

*“Employee [laid off / had hours reduced] due to coronavirus [shutdown / loss of business]. Employer is not contesting this application for unemployment.”*



# Required Notification of UC Benefit Information

- To qualify for federal unemployment insurance under the CARES Act, PA passed Act 9 of 2020, which amended the UC Law to require employers to provide mandatory notification to separating employees about their potential ability to collect UC Benefits.
- The Office of Unemployment Compensation subsequently amended PA Form UC-1609 to provide the required notification (the form is available online from the Office of Unemployment Compensation).
- Employers should provide a completed copy of Form UC-1609 to each separating employee.



# Automatic Relief From Charges

- Some good news:
  - Employers who have paid the 2020 solvency fee will receive automatic relief from charges for employees whose UC claims are due to the COVID-19 outbreak or public health officials' efforts to contain and prevent the spread of COVID-19.
  - Reimbursable employers who did not pay the solvency fee will still be eligible for a 50% reimbursement for payments on benefit claims between March 13, 2020 and December 31, 2020.



**Questions?**