



SBA RELEASES PPP FORGIVENESS APPLICATION

The SBA released what is likely to be the first of several reiterations of the much anticipated PPP Forgiveness Application. The majority of the calculation is exactly what we expected to see, and as a bonus, it includes a few new positions. As has been the case with all past PPP directives, this first version of the application leaves us with many unanswered questions. The good news is we have some direction to refine the PPP planning strategy and insight into the thought process of the SBA and Treasury.

Without further ado, following are the highlights of the Loan Forgiveness Application (SBA Form 3508) release dated 5/20:

The overall framework is very similar to the presumed guidance and language that borrowers have been operating under since April 3, 2020:

- Eligible expenses must be paid during an 8 week (56 day) period which include:
 - Payroll Costs (must be at least 75% of forgivable amount):
 - Wages paid to employees – capped at an average of \$100,000 annual wage per employee
 - Employer contributions for employee health insurance, including contributions to a self-insured, employer sponsor-sponsored group health plan.
 - Employer contributions to employee retirement plans.
 - Employer paid state and local taxes assessed on employee compensation (e.g. state unemployment insurance tax)
 - Non Payroll Costs (can be up to 25% of forgivable amount):
 - Payments of interest on any business mortgage obligation on real or personal property incurred before February 15, 2020
 - Business rent or lease payments pursuant to lease agreements for real or personal property in force before February 15, 2020
 - Utility payments – payments for a service for the distribution of electricity, gas, water, transportation, telephone or internet access for which service began before February 15, 2020.

- Reduction in forgiveness for decreased Full-Time Equivalency (FTE) when compared to historical periods
- Reduction in forgiveness for salary/wage reductions of 25% or greater

Important Clarifications and Changes:

- **Change – “Covered Period”:** Established an “Alternative Payroll Covered Period” which allows Borrowers with a biweekly or more frequent payroll schedule to elect to calculate eligible payroll costs (only payroll costs) using the 56 day period that BEGINS on the date of their first pay period following the receipt of the PPP loan funds. Based on the language, it appears this may be highly advantageous to some borrowers allowing additional payroll cycles to be included in the calculation.
- **Clarification – Pay dates:** Based on the language of the application it can be interpreted there are three distinct payroll dollars eligible for forgiveness:
 1. Wages paid during the covered period
 2. Wages incurred and paid during the covered period
 3. Wages incurred (accrued) during the covered period, but not paid during the covered period, if paid by the next scheduled pay cycle following the close of the 56 day window.

This interpretation may allow a borrower to include up to 10 weeks of payroll during the 56 day period if they pay biweekly. This would be a big benefit and we are hopeful this interpretation will be confirmed by the SBA. Borrowers should be cautiously optimistic and proceed with the understanding that this could be revised at a later date.

- **Clarification – Mortgage interest:** Cannot be prepaid. (The application does not explicitly state that other expenses cannot be prepaid).
- **Change – FTE Calculation:** FTE is based on a 40 hour full time employee rather than a 30 hour full time employee. Adds a simplified method for FTE calculation – Employee who works 40 hours or more = 1 FTE; Employee who works less than 40 hours = .5 FTE
- **Change/Clarification – FTE Exclusions:** Can exclude employees from FTE calculation if they meet one of the following exemptions:
 - Good-faith written offer to rehire was rejected by employee
 - Fired for cause (new)
 - Voluntarily resigned (new)
 - Voluntarily requested reduction in hours (new)
- **Clarification – FTE Reduction Safe Harbor:** If FTE count is restored to 2/15/20 levels by 6/30/2020 then no reduction calculated for FTEs.
- **Clarification – Wage Reduction Safe Harbor:** If average annual salary or wage is restored to 2/15/20 level by 6/30/20, then no wage reduction to forgiveness will be calculated.
- **Clarification – Documentation for Submission:**
 - Substantiation of payroll costs (payroll reports, federal and state payroll tax returns)
 - Documentation of health insurance and retirement contributions by employer
 - Documentation of average number of FTEs for each relevant period
 - Mortgage Interest statements
 - Lease Agreements

- Utility statements, cancelled checks, proof of payment
- **Change – Documentation to maintain for a period of six years:**
 - Payroll information supporting amounts paid to all employees
 - Payroll information supporting wage reductions
 - Payroll information supporting \$100K annualization
 - Written job offers/rejections in support of FTE reduction exemption
 - Dismissals for cause
 - Voluntary resignations
 - Written request for hours reductions
 - Support for FTE safe harbor calculation
 - Loan Application supporting documents
 - Documentation of certifications including the necessity of the loan request and borrower’s material compliance with PPP compliance.

It is important to recognize that this is the SBA’s “first pass” at the Forgiveness Application. In addition to anticipated revisions by the SBA, the Heros Act proposed by Congress includes provisions and language that if passed into law would make significant changes to this forgiveness application as well. We will continue to update you with new information and guidance as it is released. It is important to understand how this guidance and proposed legislation will impact your unique situation, and operate with an appropriate strategy.

Your Somerset advisor will assist you in calculating the anticipated forgivable portion of your loan and will provide recommendations to assure that all eligible amounts are considered. If you are new to Somerset, and would like one of our advisors to reach out to you, please contact us at 317.472.2200. As always, we are here and ready to help.