

Webinar – PPP Loan Forgiveness: Important Updates from the IRS and SBA

December 2020

Participating Specialists

Welcome



Adrienne Sipe
Director
SBA Lending

Meet your panelists



Chad Boyd

CPA
Tax Partner



Paul Berryhill

CPA
Tax Partner



Adrienne Sipe

Director
SBA Lending



Opening Remarks



Todd Jones

Executive Vice President, Specialty Banking
First Horizon Bank

PPP Loan Forgiveness After the PPP Flexibility Act



Paul Berryhill

Tax Partner

Reynolds Bone & Griesbeck



Chad Boyd

Tax Partner

Reynolds Bone & Griesbeck

Highlights of the PPP Flexibility Act

 *The PPP Flexibility Act provided the following:*

Covered Period

Applicants are now allowed 24 weeks to use PPP funds. If PPP loan was received before June 5th, applicants may elect the shorter 8-week period.

60% Required Use for Payroll

Previously set at 75%, the minimum amount used for payroll was adjusted to 60%

\$100K+ Salary Cap

Expanded to \$46,153
(\$100K / 52 weeks x 24 weeks)

Deferment Period

Changed from 6 months to the date the forgiveness amount is determined

Owner Compensation

Capped at \$20,832
(8 weeks x 2.5 months)

Forgiveness Timing

Practically speaking, applicants need to file for forgiveness no later than 10 months following the end of their covered period.

However, application for forgiveness may be filed any time prior to maturity.

Expanded Guidance Issued by IRS and SBA



Paul Berryhill
Tax Partner
Reynolds Bone & Griesbeck



Chad Boyd
Tax Partner
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Wage Reduction Safe Harbor

 *SBA has provided the following safe harbor:*

Restoration:

Restore annual salary or hourly wage to February 15, 2020 levels no later than the date of your loan forgiveness application or December 31, 2020, whichever is earlier.

FTE Reduction Safe Harbors

 *SBA added two FTE Business Safe Harbors:*

Unable to Operate

Unable to operate between February 15, 2020, and the end of the Covered Period at the same level of business activity as before February 15, 2020, due to compliance with requirements established or guidance issued between March 1, 2020 and December 31, 2020, by the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention, or the Occupational Safety and Health Administration, related to the maintenance of standards for sanitation, social distancing, or any other worker or customer safety requirement related to COVID-19.

Restoration

The Borrower reduced its FTE employee levels in the period beginning February 15, 2020, and ending April 26, 2020,

AND

The Borrower then restored its FTE employee levels by no later than December 31, 2020 to its FTE employee levels in the Borrower's pay period that included February 15, 2020.

FTE Reduction Exceptions

 *SBA has provided three FTE exceptions:*

Offer to Rehire

Offer to rehire an individual who was an employee on February 15, 2020, and unable to hire similarly qualified employee on or before December 31, 2020

Offer to Restore

Offer to restore any reduction in hours, at the same salary or wages, during the covered period or the ACPC and the employee rejected the offer

Cause/Voluntary

Employees who during the covered period or the APCP (a) were fired for cause, (b) voluntarily resigned, or (c) voluntarily requested and received a reduction of their hours

SBA Review of Loans Above the \$2M Safe Harbor

 SBA Issues FAQ #46 (May 2020):

Excerpt from FAQ #46

Published May 13, 2020

“...If SBA determines in the course of its review that a Borrower lacked an adequate basis for the required certification concerning the necessity of the loan request, SBA will seek repayment of the outstanding PPP loan balance and will inform the lender that the borrower is not eligible for loan forgiveness. If the Borrower repays the loan after receiving notification from SBA, SBA will not pursue administrative enforcement or referrals to other agencies based on its determination with respect to the certification concerning necessity of the loan request. SBA’s determination concerning the certification regarding the necessity of the loan request will not affect SBA’s loan guarantee.”

SBA Review of Loans Above the \$2M Safe Harbor

SBA Develops Loan Necessity Questionnaires (October 2020):

Form

Form 3509 (Businesses)

Form 3510 (Not-for-Profits)

- Must be completed within 10 business days of receipt from the lender
- Includes business activity assessment
- Includes liquidity assessment
- Includes Borrower certifications

Assessments are robust and may take time to complete.

We recommend impacted Borrowers review the form and begin preparation in advance of any lender request. ***However, you should not submit it until it is requested by your lender.***

Highlights of SBA FAQ #53 (Published December 9th)

- A request to complete the Loan Necessity Questionnaire (LNQ) does not mean the SBA is challenging the Borrower's certification
- SBA's assessment will be based on the totality of the Borrower's circumstances through a multi-factor analysis
- SBA will assess whether the Borrower had adequate basis for making the required good-faith certification
- The certification is required to have been made in good faith at the time of the loan application, even if subsequent developments resulted in the loan no longer being necessary
- SBA may take into account the borrower's circumstances and actions both before and after the borrower's certification to the extent necessary to determine if certification was made in good faith at the time of the loan application
- If additional information is requested, Borrower's may provide a written narrative explaining the circumstances that provided the basis for their good-faith certification

IRS Releases Anticipated Guidance Regarding PPP Loans and Expense Deductibility

 *IRS Issue Internal Revenue Service (IRS) released Revenue Ruling 2020-27 and Revenue Procedure 2020-51:*

Revenue Ruling 2020-27

- The expense disallowance applies whether or not any amount of tax-exempt income, in the form of covered loan forgiveness and to which the eligible expenses are allocable, is received or accrued
- Expenses incurred in 2020 expected to effect PPP loan forgiveness in 2021 are non-deductible expenses in 2020

Revenue Procedure 2020-51

- Provides a safe harbor for PPP Borrowers that have their loan forgiveness denied or who choose not to request loan forgiveness
- Provides a path for taxpayers to retroactively deduct some or all of the expenses that they previously did not deduct because they expected to have their PPP loan forgiven

Examples of Current Taxation Guidance with Reasonable Expectation of Loan Forgiveness

Application for loan forgiveness is submitted in 2020 and forgiveness is granted in 2020

- Cancellation of debt is not considered taxable income in either tax year
- Expenses incurred in 2020 to create forgiveness are NOT deductible on the 2020 tax return (tax liability would be due in April 2021)
- PPP loan is not reported on the December 31, 2020 balance sheet as it has been forgiven

Application for loan forgiveness is submitted in 2020 and forgiveness is granted in 2021

- Cancellation of debt is not considered taxable income in either tax year
- Expenses incurred in 2020 to create forgiveness are NOT deductible on the 2020 tax return (tax liability would be due in April 2021)
- Tax year 2021 taxable income is not impacted by the actual forgiveness
- PPP loan is reported on the December 31, 2020 balance sheet

Application for loan forgiveness is submitted in 2021 and forgiveness is granted in 2021

- Cancellation of debt is not considered taxable income in either tax year
- Expenses incurred in 2020 to create forgiveness are NOT deductible on the 2020 tax return (tax liability would be due in April 2021)
- Tax year 2021 taxable income is not impacted by the application for or actual forgiveness
- PPP loan is reported on the December 31, 2020 balance sheet

Pending Legislation



Paul Berryhill
Tax Partner
Reynolds Bone & Griesbeck



Chad Boyd
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Pending Legislation – Paycheck Protection Program

 *A \$908 billion bi-partisan supported Bill is currently being negotiated:*

Key PPP Impactful Provisions included in the Framework

- PPP Round 2 – \$288 billion funded to PPP, expected to be available to a qualified group of 2nd time applicants
- Qualified Group – small businesses with up to 300 employees that have sustained a 30% revenue loss in any quarter of 2020
- Deductibility of expenses incurred to effect PPP loan forgiveness
- Forgivable expenses would include supplier costs, investments in facility modifications and personal protective equipment needed to operate safely
- Simplifies the forgiveness process for those with PPP loans of \$150,000 or less

Q&A



Adrienne Sipe
Director
SBA Lending

Can you clarify the status of PPP forgiveness if I also have an EIDL loan?



Chad Boyd
RBG



Paul Berryhill
RBG

Is EIDL treated as a loan or income?



Chad Boyd
RBG



Paul Berryhill
RBG

For more details, visit the U.S. Treasury [website](#)

Does the receipt of EIDL advance from other related entities *(that didn't receive PPP)* reduce the forgiveness amount for a related entity that did receive PPP stimulus?



Chad Boyd
RBG



Paul Berryhill
RBG

How is repayment affected if the business closed after December 1st due to COVID-19?



Chad Boyd
RBG



Paul Berryhill
RBG

For more details, visit the U.S. Treasury [website](#)

Has a decision been made on whether small loans are automatically forgiven?



Chad Boyd
RBG



Paul Berryhill
RBG

Can monthly medical insurance payments for a self-employed, independent contractor be included as payroll cost?



Chad Boyd
RBG



Paul Berryhill
RBG

**Can I elect for a 24-week coverage period
even if all of the funding was spent in less time?**

**If yes, do I need to provide documentation
for the full 24 weeks or simply for the
period in which the funds were spent?**



Chad Boyd
RBG



Paul Berryhill
RBG

How do I have my 24-week covered period end on week 22, which is Sept 30, 2020?



Chad Boyd
RBG



Paul Berryhill
RBG

For more details, visit the U.S. Treasury [website](#)

Do I need to apply for loan forgiveness if the PPP loan is less than \$10,000?



Chad Boyd
RBG



Paul Berryhill
RBG

For more details, visit the U.S. Treasury [website](#)

**I'd like to use the EZ forgiveness application
but a company is restricted if hourly compensation
of its employees was reduced by more than 25%.**

**If an employee changed from a job where they
received tips to a role with a fixed hourly rate
and no tips, is that treated as a reduction?**



Chad Boyd
RBG



Paul Berryhill
RBG

**I heard a PPP loan will not be forgiven if the business
also received Economic Disaster loan (EIDL) money.
Is that true?**



Chad Boyd
RBG



Paul Berryhill
RBG

Why would someone choose an 8-week vs. 24-week covered period?



Chad Boyd
RBG



Paul Berryhill
RBG

**I was originally on the 8-week loan program
and
my payroll for the 24 weeks is greater than the PPP loan.**

Can I just use my payroll amounts for forgiveness?



Chad Boyd
RBG



Paul Berryhill
RBG

**If I only need to show documentation to support my loan amount
and
payroll costs covered the entire loan amount, is payroll
documentation the only information I have to show?**

**If payroll doesn't cover the loan amount, should I simply
select the next category, such as utilities, to cover the loan?**



Chad Boyd
RBG



Paul Berryhill
RBG

Is my position compromised in any way by taking distributions prior to year end or prior to applying for forgiveness?



Chad Boyd
RBG



Paul Berryhill
RBG

Where do I find more information about PPP Loan Forgiveness?

firsthorizon.com/forgive or iberiabank.com/forgive



Adrienne Sipe
First Horizon Bank

Closing Remarks



Todd Jones

Executive Vice President, Specialty Banking
First Horizon Bank

Thank you for attending the First Horizon/IBERIABANK PPP Loan Forgiveness Webinar

A recording of this presentation will be available on the
First Horizon and IBERIABANK websites the week of December 21.

CONTACT INFO

For tax assistance,
consider engaging
the services of our
panelists:



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