

# Paycheck Protection Program Loan Use and Forgiveness Update

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# DISCLAIMER

*Please note that the information provided below is subject to change with additional guidance interpreting the rules governing the Payment Protection Program from the U.S. Department of Treasury or Small Business Administration.*



# PPP Loan Changes



## Recent Changes to PPP

- PPP Flexibility Act – June 5, 2020
- SBA Revisions to Loan Forgiveness Application – June 16, 2020
- SBA Revisions to Loan Forgiveness Interim Final Rule – June 22, 2020

## PPP Loan Terms

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## Change to Loan Terms

- For Loans Made After June 5<sup>th</sup>, Maturity Date Increase From 2 Years to 5 Years
- For Loans Made On Or Before June 5<sup>th</sup>, the Borrower and Lender Can Agree to Extend Maturity to 5 Years

## PPP Loan Terms

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## Change to Loan Terms

- Percentage of Use of Loan Proceeds for Eligible Payroll Costs Reduced from 75% to 60%
- Percentage of Use of Loan Proceeds for Eligible Non-Payroll Costs Increased from 25% to 40%
- No Change to Definition of Payroll and Non-Payroll Costs Including any Referenced to Floorplan Interest

# PPP Loan Terms

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## Change to Loan Terms

- For Loans Received after June 5<sup>th</sup>, Covered Period (“Forgiveness Period”) for Forgiveness Increases from 8 to 24 Weeks
- For Loans Received on or before June 5<sup>th</sup>, Forgiveness Period can be Either 8 or 24 Weeks at the Choice of Borrower

# PPP Loan Terms

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## Change to Loan Terms

- Forgiveness Period Still Begins on Either (i) the Date of Loan Disbursement; or (ii) First Payroll Following Loan Disbursement (“Alternate Covered Period” or “Alternate Forgiveness Period”)
- Forgiveness Period Still Includes Payroll and Non-Payroll Expenses Paid or Incurred During the Forgiveness or Alternate Forgiveness Period

# PPP Loan Forgiveness



## Change to Forgiveness Rules

- Qualifying Payroll Costs for an Owner-Employee is still limited to the lesser of (a) annualized salary and wages of \$100,000 over the 8 week test period (\$15,385); or (b) the owner-employee's average salary and wages in 2019 over an 8 week equivalent.
- Qualifying Payroll Costs for an Owner-Employee Using the 24 Week Forgiveness Period is the lesser of (a) salary and wages of 2.5 months equivalent of \$100,000 (\$20,833); or (b) 2.5 months of the owner-employee's average salary and wages in 2019.



# PPP Loan Forgiveness

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## Change to Forgiveness Rules

- Demonstrating that Pay or Full-Time Equivalent Positions have been Restored in Order to Avoid Reduction in Forgiveness Amount is Calculated at the Time of the Forgiveness Application.
- Borrower Does Not Have to Wait Until June 30<sup>th</sup> or December 31<sup>st</sup> (end of the Covered Loan Period).

# PPP Loan Forgiveness



## Change to Forgiveness Rules

Existing Rule: Any Reduction in Employee Salary/Wages During Forgiveness Period as Compared to 1<sup>st</sup> Quarter of 2020, of More Than 25% Results in Reduction in Forgiveness Amount

### Clarification:

- Salary Reduction above 25% is Deducted from Forgiveness Amount by Multiplying Amount of Reduction above 25% by the Number of Weeks in the Forgiveness Period (either 8 or 24).
- Choosing the 24 Week Forgiveness Period will Result in a Larger Reduction from the Forgiveness Amount if an Employee's Salary or Wages were Reduced by more than 25%.

# PPP Loan Forgiveness



## Change to Forgiveness Rules

### Existing Exemptions to Reduction of Forgiveness Amount Under FTE Test:

1. Employee rejects written offer to rehire for same position at same salary/wages;
2. Employee terminated for cause;
3. Employee voluntary resigned;
4. Employee requested and received a reduction in hours; and
5. A reduction in FTE count occurring between 2/15/20 – 4/26/20 is restored by 6/30/20.

# PPP Loan Forgiveness

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## Change to Forgiveness Rules

Two New Exemptions to Reduction of Forgiveness Amount Resulting from FTE Test:

1. Inability to Hire Similarly Qualified Employees for Unfilled Positions; and
2. Inability to Operate at Same Level of “Business Activity” during Forgiveness Period as prior to February 15, 2020, Due to Federal, State and Local Standards for Handling the Coronavirus

# PPP Loan Forgiveness

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## Change to Forgiveness Rules

- 1. Inability to Hire Similarly Qualified Employees for Unfilled Positions**
  - Business must provide documentation of attempt to hire similarly qualified employee for the unfilled position
  - This could include advertisements for the position, applications received, notes taken during an interview and any rejection letter sent to the applicant.

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## Change to Forgiveness Rules

2. Inability to Operate at Same Level of “Business Activity” during Forgiveness Period as prior to February 15, 2020, Due to Federal, State and Local Guidelines for Handling Covid-19

- “Business activity” is presumed to mean vehicle and service-related sales revenue not profit/loss.
- If sales revenue at the dealership declines during the Forgiveness Period as compared to prior to February 15<sup>th</sup> then exception should apply.
- Business should include in forgiveness application copies of Federal, State and Local mandates which either directly or indirectly prevented employees and/or customers from coming to the dealership.
- Business should also consider whether an overall reduction in sales revenue can be shown over the longer 24 week Forgiveness Period or whether that can only be shown over the shorter 8 week Forgiveness Period.

# PPP Loan Forgiveness



## Change to Forgiveness Application

- Added “EZ Application” Form Which is Much Shorter and Requires Less Information
- Eligibility Requirements for EZ Application Form:
  1. No Reduction in Pay to Any Employee of More than 25% Under Payroll Test; AND
  2. No reduction in number of employees or average paid hours between 1/1/20 and end of Forgiveness Period under FTE test (ignoring reduction resulting from (i) inability to rehire employee or someone of similar qualifications; and (ii) reduction in hours that was either sought by the employee or employee refused an offer to restore hours); OR
  3. Business was unable to operate during the Forgiveness Period at the same level of business activity as before February 15, 2020.

## Contact Information

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## Q & A

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- **Questions?**