

My Paycheck Protection Loan has Funded! What Now?

What we Know

How long do I have to use the funds to be eligible for the forgiveness?

Currently, you have eight weeks from the time the loan is funded.

What are Covered Uses?

- **Payroll Costs (which must be 75% of the expenditures)**
 - Salaries, Wages, Commissions, Tips (capped on a prorated basis to 100,000 for each employee)
 - Benefits including Health Insurance and Retirement Benefits (not subject to the 100,000 cap but does not include benefits to owners)
 - State Unemployment Taxes
- **Non-Payroll Costs**
 - Utilities (Gas, Water, Electricity, Telephone, transportation utility fees, Internet)
 - Rent
 - Interest on Mortgage Obligations, incurred before February 15, 2020

If I Utilize the funds at least 75% for payroll and only for covered uses am I guaranteed forgiveness?

No, your forgiveness amount will be reduced if you reduce headcount or employee wages. This reduction can be eliminated if the headcount and wages are reinstated by June 30th.

Can I prepay my expenses or accrue expenses to maximize the forgiveness benefit?

Expenses must be incurred and paid. However, new guidance allows for accrual of payroll incurred at the end of the covered period if paid on the next payroll.

Is the loan forgiveness taxable and the covered expenses deductible?

No, the loan forgiveness is not taxable income. However, the covered expenses are currently considered nondeductible by the Internal Revenue Service

Thorough Documentation of the borrower's analysis of economic need is a MUST!

What we are Watching

Will the requirement for the usage to be 75% payroll costs be reduced?

Several Senators have proposed relaxing the payroll requirement to 50% in order to assist smaller business with lower payroll expenses.

Will the IRS notice to disallow the deductibility of covered expenses be overturned?

There is significant lobbying activity to allow the deductibility of covered expenses.

Will the covered Period be extended?

There is also lobbying to extend the covered period.

- Waiting until the economy is fully reopened to start the covered period.
- New Guidance has allowed for the election of an Alternative start date commencing on the first date of the first pay period after the Loan Distribution Date

Should I pay the funds back?

In an Interim rule it has been declared that all borrowers must assess their economic need in order to support ongoing business for the funding. If a company pays back the loan by the safe harbor date (currently May 18th) they will be considered having made the certification in good faith.

Additional Guidance is needed to better define economic need. The safe harbor was extended for the SBA to issue guidance. However very little guidance has been released and the deadline has expired.

Loans under \$2 million are deemed to have made the certification in good faith.

Will the now expired safe harbor date be extended again?

This is a possibility as there is no clear guidance regarding the certification.

