



## PPP: What to Expect During the Next Eight Weeks

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## **Paycheck Protection Program:**

What to Expect During the Next Eight Weeks

*The information contained within this presentation is provided for informational purposes only and is not intended to substitute for obtaining accounting, tax, or financial advice from a professional accountant with knowledge of your unique and specific situation.*

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# AGENDA

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- **Overview & Timeline**
- **Forgiveness Qualifications**
- **The Unforgiven Portion**
- **AICPA Recommendations to Treasury**
- **Non-Tax-Deductible Expense Debate**
- **PPP + Other CARES Act Provisions**

# OVERVIEW & TIMELINE - FUNDING

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## Round 1:

- Approvals through April 16<sup>th</sup>
- 1.6 Million Loans
- \$349 Billion Lent

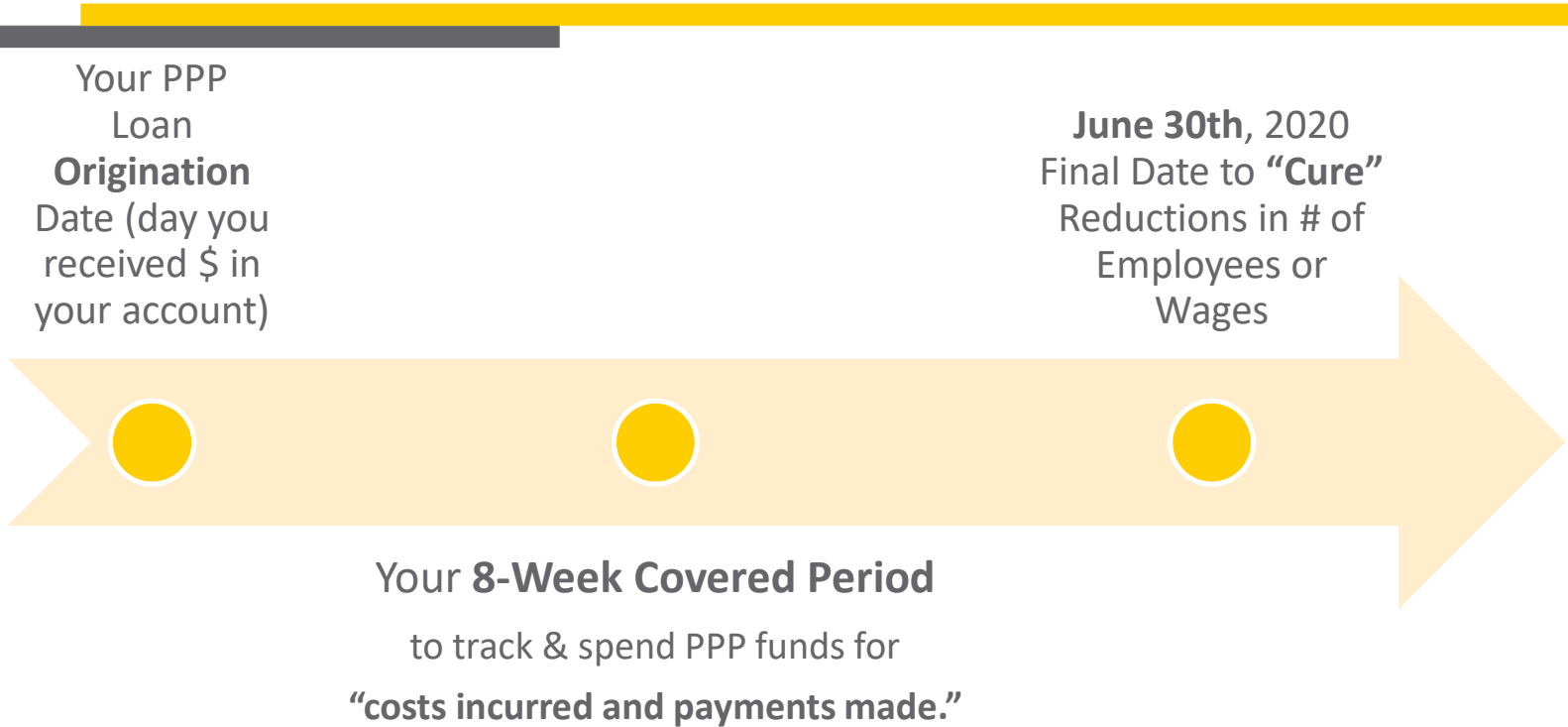
## Round 2:

- Opened April 27<sup>th</sup> - ongoing
- 2.4 Million Loans so far
- \$189 Billion Lent as of May 10<sup>th</sup>
- Program capped at \$310 Billion, loans are still available to companies, sole props, ICs with <500 employees for 2.5 months payroll, can become grants

# Should I return my loan?

- Time to self-assess need, must be able to certify “current economic uncertainty makes this loan request necessary to support ongoing operations”
- Names and amounts of loans will be released
- Likely there will be future scrutiny
- “No Questions Asked” → Possible through May 14<sup>th</sup>, 2020

# OVERVIEW & TIMELINE – POST-LOAN CONSIDERATIONS



# FORGIVENESS – WHAT QUALIFIES

## Payroll Costs

### Includes:

- Gross salary, wage, commission
- Cash tip or equivalent
- Vacation, parental, family, medical or sick leave
- Allowance for dismissal/separation/severance
- Payment of state & local tax on compensation
- Retirement benefits
- Group health benefits, including insurance premiums paid by employer

### Excludes:

- Wages that exceed \$100,000 when annualized (\$15,384.62 for 8-week covered period)
- Employee wages for employees with a principal residence outside the U.S.
- Qualified sick leave wages used to claim a credit under section 7001 of the Families First Coronavirus Response Act
- Qualified family leave wages used to claim a credit under section 7003 of the Families First Coronavirus Response Act

# FORGIVENESS – WHAT QUALIFIES (CONTINUED)

## Other Eligible Expenses

### Includes:

- Covered Mortgage Obligation - **Interest** on any indebtedness or debt instrument incurred in the ordinary course of business that is (1) a liability of the borrower, (2) is a mortgage on real or personal property, and (3) was incurred before 2/15/2020
- Covered Rent Obligation - Rent obligated under a leasing agreement in force before 2/15/2020
- Covered Utility Payment - Payment for a service for the distribution of electricity, gas, water, transportation, telephone, or internet access for which service began before 2/15/2020

### Excludes:

- Costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave including related insurance premiums
- Interest on any other debt obligations that were incurred before 2/15/2020



# FORGIVENESS - LIMITATIONS

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## There are 4 Tests That Limit Forgiveness

1. Limited to original loan principal\*
2. 75% on Payroll Costs
3. Change in FTEs
4. Salary Reductions

**\*\*\*Guidance has not been issued regarding the order the tests are applied\*\*\***

## FORGIVENESS – LIMITATIONS (CONTINUED)

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### **Test #1 – Original Loan Principal:**

- No tricks – Forgiveness limited to original loan principal

### **Test #2 – 75% on Payroll Costs**

- Divide Payroll Costs for the 8-weeks by 75% to determine the maximum loan amount eligible for forgiveness (limit to original loan principal)
- Difference between quotient and payroll costs can be used for other eligible expenses

# FORGIVENESS – LIMITATIONS (CONTINUED)

## Test #3 – Change in FTEs:

- Compare FTEs during 8-weeks post loan to two different periods (you can choose the best answer)
  - 2/15/2019 – 6/30/2019
  - 1/1/2020 – 2/29/2020
- Reduction = Potential Forgiveness \*  $[1 - (8\text{-week post loan FTEs} / \text{Other Period Chosen FTEs})]$
- How do I compute FTEs?
  - Still waiting but calculation will be based upon the average FTEs per pay period falling within the respective periods
- What if I attempt to rehire someone and they won't come back?
  - Treasury FAQs indicate you ignore that person in the calculations; still unclear how this will work mechanically.

# FORGIVENESS – LIMITATIONS (CONTINUED)

## Test #4 – Salary Reductions:

***\*\*\*This test requires the most guidance of all; below is one interpretation – All analysis is performed on an employee-by-employee basis\*\*\****

1. Review 2019 wages and identify employees who made less than \$100,000 (Medicare wages)
2. For employees identified in #1, was the employee employed on the date you obtained the loan?
3. If yes to #2, determine the average weekly wages for the employee for the last full quarter of wages (13 weeks) & multiply the average by 8.
4. Compare the amount in #3 to the wages earned during the 8-week post loan period and reduce your loan forgiveness for any decrease in wages exceeding 25%.

Query: Is a PPP recipient penalized for both the FTE and Salary Reduction tests or does an ordering rule apply?

## FORGIVENESS – THE CURE FOR TEST #'S 3 & 4

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**However, according to the law,**  
even if your forgiveness amount is reduced by  
a reduction in number  
of employees or wages  
**the reduction can still be “CURED” by June 30<sup>th</sup>**

# FORGIVENESS – THE CURE FOR TEST #'S 3 & 4 (CONTINUED)

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## **The CURE – By June 30, 2020:**

- Hire additional employees or re-hire old employees to get the number of FTEs to the required level
- Increase wages or give bonuses
- If an employer offers to hire someone back and the person refuses, that person can be added back to the FTE count
- As of now, the employer can hire for just one day (June 30th) and then fire

# THE UNFORGIVEN PORTION

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## **The UNFORGIVEN:**

- The unforgiven portion remains a loan
- Payments are deferred for 6 months, but interest will continue to accrue over this period
- Loan is due in 2 years (unforgiven amount over 18 months because of 6-month deferral)
- No pre-payment penalty, loans can be paid back before 2 years
- Interest rate is 1.00%

## FORGIVENESS QUALIFICATION

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***Some of the results and inconsistencies that do not appear to align with the intent of the CARES Act lead us to believe several things in the PPP program will be fixed with additional guidance.***



## AICPA RECOMMENDATIONS

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*The AICPA has made recommendations to Treasury to encourage a consistent and efficient approach to loan forgiveness that aligns with borrower operations and the intent of the PPP.*

# AICPA RECOMMENDATIONS

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## 1<sup>ST</sup> RECOMMENDATION

**Align beginning of 8-week covered period with beginning of a pay period, rather than the date loan proceeds are received.**

# AICPA RECOMMENDATIONS

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## 2<sup>nd</sup> RECOMMENDATION

**Begin the 8-week covered period when operating restrictions are lifted, rather than the date loan proceeds are received.**

# AICPA RECOMMENDATIONS



## 3<sup>RD</sup> RECOMMENDATION

### **Define Full-time Equivalents By:**

- Following the definition under the Affordable Care Act (ACA) of 30 hours
- Using a wage-based proxy for salaried and piecework employees
- Selecting a measure that is simple, accurate and can be easily applied across all employee types and time periods

# AICPA RECOMMENDATIONS



## 4<sup>TH</sup> RECOMMENDATION

**Base payroll reduction calculation on the average payroll per employee per week** rather than the total compensation per employee in an 8-week period versus the prior quarter.

- Currently, the 8-week covered period naturally has 33% less payroll than a 12-week quarter, exceeding the 25% threshold and causing a reduction in loan forgiveness

## AICPA RECOMMENDATIONS

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*We anticipate guidance will be issued on these matters and closely monitor Treasury for updates.*

# NON-DEDUCTIBLE EXPENSE DEBATE

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April 30<sup>th</sup>, 2020 IRS ISSUES NOTICE 2020-32

## **Expenses Forgiven Pursuant to PPP Rules are Not Tax Deductible**

- Undermines intent of CARES Act by working against companies' liquidity, employee retention, and recovery
- CARES Act explicitly states PPP loans that are forgiven are to be considered non-taxable income (while) Notice 2020-32 makes forgiven expenses taxable
- Because the payment of the qualifying expenses will be forgiven but not tax deductible, the liability for income taxes will likely need to be increased on a company's balance sheet

# NON-DEDUCTIBLE EXPENSE DEBATE (CONTINUED)

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April 30<sup>th</sup>, 2020 IRS ISSUES NOTICE 2020-32

## **IRS Position, Not the Law**

- If the notice is left unchanged, taxpayers justifiably may take positions against it and it will end up the subject of litigation
- Judges are not required to follow IRS' notices
- Senate Finance Committee and House Ways & Means Committee are already looking at ways to counteract the guidance with revisions in regulatory rulings, technical corrections in new legislation and the issuance of a proposed standalone bill to correct the issue.



# OTHER CONSIDERATIONS & INTERACTION WITH PPP

A business should also consider these other CARES Act incentives:

- **PAYROLL TAX DEFERRAL** of employer's portion of social security tax on wages paid between 3/27/2020 & 12/31/2020 is possible through the date the lender issues a decision on PPP loan forgiveness
  - 50% of deferral is due 12/31/2021;
  - Remainder of deferral is due 12/31/2022
- **EIDL LOANS** remain available for businesses with <500 employees with a \$10,000 emergency grant available but you can't take an EIDL for the same purposes as PPP loan (only option for EIDL if obtain PPP is working capital)
- **MAIN STREET LENDING** is a new lending program offered by Treasury to businesses with up to 15,000 employees that began May 1.

# OTHER CONSIDERATIONS & INTERACTION WITH PPP

A business should also consider these other CARES Act incentives (continued):

- **EMPLOYEE RETENTION CREDIT (ERC)** is not available if you obtain a PPP loan but serves as an alternative to the PPP by providing credits up to \$5,000 per employee.
- **QUALIFIED IMPROVEMENT PROPERTY** was fixed and can be depreciated over 15 years making it eligible for bonus depreciation; amended returns, cost segregation studies and/or accounting method changes should be considered (no interaction with PPP)
- **EXCESS BUSINESS LOSS LIMITATIONS DELAYED** providing the opportunity to amend 2018 tax returns to create net operating losses to potentially carryback to prior tax years (no interaction with PPP)
- **NET OPERATING LOSS CARRYBACKS** are again available and can be carried back to potentially higher tax years (no interaction with PPP)

# PPP: WHAT TO EXPECT FOR THE NEXT 8 WEEKS

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We welcome you to join our [blog](#) and visit our [COVID-19 Tax Resource Center](#) so we can keep you updated on any new PPP guidance issued by Treasury.

Thank you for joining us today!

We will now take questions...

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