



I've got my PPP loan, **now what?**

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Written by Barron Guss

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Over the past few days, I have been asked this question numerous times by business owners. When I began to reflect on what prompted these types of questions, it occurred to me that there was a deep misunderstanding about the genesis of the PPP loans and their purpose. With the preceding in mind, I've decided to offer a little guidance on "now what?"

The PPP loan is first and foremost an SBA loan to your business. It's unique in that there are no personal guarantees or financial statements involved. The term is for 24 months at an interest rate of 1%. The only restrictions are that the proceeds must be used to cover payroll costs such as wages, health benefits, etc., and you may also use a portion of the proceeds to pay rent, utilities, loan interest and mortgage interest.

Based on the preceding, this should be relatively simple, but start contemplating the thought of forgiveness and the wheels start falling off the bus.

In the Beginning

About four weeks ago, the news media began flooding our senses with COVID-19, the effects of the illness and the mandated closures. Everywhere you turned you heard about businesses that were being forced to shut their doors and workers losing their jobs.

Anticipating that the worst was yet to come, the President of the United States, as well as Congress, went to work and quickly put into place an emergency relief package to cover three escalating areas of need: medical treatment and testing, emergency leave and care (FFCRA), and economic relief (CARES Act).

The PPP—Payroll Protection Program—is the cornerstone of the CARES Act. When the program was first announced, business owners hurried to be the "first in line" to receive their share of the monies with little thought about how they were to be used and the overlying topic here—forgiveness.





The PPP program - Getting money into the hands of Americans.

The PPP program was created to solve one basic problem - how to quickly get money into the hands of Americans. Since most Americans were working, it made the most sense to use employers and their existing payroll systems as the conduit to make this happen.

As odd as this may sound, the SBA and bank loan process is almost incidental and should be viewed metaphorically as no more than the “existing plumbing” (across the nation) that was able to flow money from the US Treasury into the hands of your employees. Although this may have not been the most logical design, and surely has caused its fair share of confusion, emergency aid has found its way into the hands of employers and it’s now up to you to distribute it to your employees over the next eight weeks.

The Ground Rules

The PPP loan application basically asked for two things - how many people did you employ and how much was your monthly payroll prior to the crisis and downturn? Of course, there’s the nitty-gritty of the formulas and sampling periods, but for the purposes of discussion, let’s get right to the intent of Congress:

“We are going to give you this handful of money. We need you to quickly and responsibly distribute it to your employees to keep them financially whole for the next 8-weeks (until we can figure this thing out). We also understand the future is uncertain for you as a business owner, so in the loan formula we have accounted for you to use a portion of money for your rent, utilities and even to keep up with the interest on your loans.”

The Devil is in the Details



- As the loan applicant, you certified in good faith that you would use the proceeds of the loan to retain workers and maintain payroll, pay rent, eligible mortgage payment (loan interest) and utilities. Additionally, if you knowingly used the monies for "unauthorized purposes", you can be held liable for charges of fraud.
- In addition, 8 weeks following the loan inception, you agreed to provide the Lender documentation to verify that you used the loan proceeds in accordance with the intent for which the loan was granted.
- Finally, you further certified that the "information (you) provided in all supporting documents and forms is true and accurate," opening yourself up to fines, penalties and even time in prison!

The following certification(s) are directly from the PPP application.

_____ *The funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments, as specified under the Paycheck Protection Program Rule; I understand that if the funds are knowingly used for unauthorized purposes, the federal government may hold me legally liable, such as for charges of fraud.*

_____ *The Applicant will provide to the Lender documentation verifying the number of full-time equivalent employees on the Applicant's payroll as well as the dollar amounts of payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities for the eight-week period following this loan.*

_____ *I further certify that the information provided in this application and the information provided in all supporting documents and forms is true and accurate in all material respects. I understand that knowingly making a false statement to obtain a guaranteed loan from SBA is punishable under the law, including under 18 USC 1001 and 3571 by imprisonment of not more than five years and/or a fine of up to \$250,000; under 15 USC 645 by imprisonment of not more than two years and/or a fine of not more than \$5,000; and, if submitted to a federally insured institution, under 18 USC 1014 by imprisonment of not more than thirty years and/or a fine of not more than \$1,000,000.*

There's no doubt that there could have been a less confusing way for government to provide aid rather than to involve 1,680,000 businesses in the process of making a loan that was not actually intended to be a loan. But make no mistake, it's a loan and it needs to be repaid... or forgiven.

Loan Forgiveness

**Disclaimer*

As of the time of this writing - The Treasury and the SBA have not yet issued regulations and guidelines for PPP loans and forgiveness. The information here is based on interpretation of the law and should not be considered definitive or legal advice. It is anticipated that the SBA/Treasury will release their first round of regulations soon.

So, you would have to be living under a rock if this was the first time you heard about the 75/25 rule. The law basically states that if you use 75% of the proceeds of the loan for “payroll costs,” and you maintain your employee headcount, you can then use up to 25% of the loan amount towards “covered mortgage interest payments, covered rent payments, and covered utilities.”



Without trying to oversimplify the requirements, if you followed these rules for the 8-week period following the date of the loan origination, you can then apply for 100% loan forgiveness.

Examples of loans

A typical example of a forgiven loan:

Initial loan amount \$100K - 10 Full Time Employees

Wages - 10 FTE earning \$1000 per week for 8 weeks = \$80,000

Health Benefits - \$500 ppm x 10 employees for two months = \$10,000

Total "Payroll Costs" for the covered period = \$90,000 / 90% of the loan amount

Total "Rent, Utilities and Interest" for the covered period = \$10,000 / 10% of the loan proceeds

In this example, the amount for "Payroll Costs" are more than 75% of the loan amount and the portion used for "Rent, Utilities and Interest" were less than 25% of the loan amount and, therefore, the entire loan may be forgiven.



A typical example of a partially non-forgiven loan:

Initial loan amount \$100K - 10 Full Time Employees

Wages - 6 FTE earning \$1000 per week for 8 weeks = \$48,000

Health Benefits - \$500 ppm x 6 employees for two months = \$6,000

Total "Payroll Costs" for the covered period = \$54,000 / 54% of the loan amount

Total "Rent, Utilities and Interest" for the covered period = \$10,000 / 10% of the loan proceeds

In this example, the employee head count has been reduced from 10 full time employees to 6 and the amount attributed to "Payroll Costs" has also dropped below the 75% threshold to 54%. The "Rent, Utilities and Interest" appear to be within guidelines, but because the payroll cost have been reduced, there will need to be a new 25% cap calculated for the *RUI - divide \$54,000 by 75% to get \$72,000. Next, calculate what is 25% of \$72,000 = \$18,000 as our new cap for *RUI.

Keep in mind a major point of non-forgiveness in this example is the reduction of employee headcount. If these numbers were to be reported after June 30, 2020, a large part of this loan would not be forgivable.

Partially non-forgiven loan example (cont'd):

The law is not yet entirely clear on what the reduction (penalty) would be, but it does allow that if the discrepancy was to be discovered prior to June 30, 2020, there would be a possible "fix." The "fix" would be to rehire four workers and to quickly adjust the compensation of the entire 10-person workforce (for the 8-week period) up to minimally 75% of the loan amount or, in this case, \$75,000, prior to June 30, 2020.

Other means of reduction of forgiveness

There are multiple ways to suffer a reduction in the total loan forgiveness under the PPP program. As illustrated above, a business must maintain a 75/25 ratio of “payroll costs” to “rent and utilities.” Another way is to reduce headcount and, finally, to reduce any single employee’s wages by more than 25% within the 8-week period.

Each of these scenarios has its own method of calculation and potential penalty associated with it. Although there is some basic guidance in the law, there are still gray areas that need to be further defined. Hopefully, the forthcoming regulations will bring clarity.

[Check out my Supplemental eBook for more examples of loan reduction computations.](#)

More questions than answers

So, as stated above, the law is somewhat well-defined regarding qualification, use of proceeds, repayment, forgiveness and what even constitutes fraud under the program. But like any law that was rushed into enactment, this one, too, creates as many questions as it does answers.

- Q:** A question that keeps coming up is whether a business can postpone the use of the monies to a later date and still have the loan forgiven?
- A:** *Unfortunately, the answer is no. It's no secret that most business owners were counting on the PPP loans to finance their business through the crisis. In a normal world this would make sense. For a non-essential business like a restaurant that needs to operate at near full capacity to be profitable, the owner would understandably want to use the PPP monies later in the period, or past the June 30 date. It makes business sense to bring back staff when there would be the actual potential to have some customers in their establishment post “stay at home” orders.*
- Q:** Many business owners are concerned that their employees may have found other employment or may not be willing to return to work, since many are waiting for their unemployment benefits to arrive, especially since the Federal Government announced the additional \$600 per week benefit.
- A:** *The law does not dictate that your workforce, during the 8-week period, needs to consist of those whom you employed prior to the shutdown. The Treasury has just released an “interim final rule” guidance that specifies as long as the borrower makes a good faith, written offer to rehire the laid-off employee and documents the employee’s rejection, the loan forgiveness shall not be reduced. Unfortunately, the final guidance has not been released and a conservative practice would be to aim toward making new hires to maintain the number of positions you had in place prior to February 15, 2020.*

Q: If you haven't yet pondered this one, some business owners are looking at the PPP monies as an inexpensive line of credit and, at 1%, this seems logical.

A: *It can be, but keep in mind that from the onset, business owners have incorrectly categorized the PPP loans as a line of credit when, in fact, they are nothing more than a mechanism to get "welfare" into the hands of Americans who have lost their jobs. You can definitely hold onto these funds and use them to "finance" your business, but you need to keep in mind that the use of these funds is *currently restricted to "payroll costs, rent, utilities and mortgage interest." If you think this is a strategy that you may want to employ, it's best that you keep these PPP monies in a separate and auditable account, where the use of the funds can be easily tracked. Please remember that misuse of the PPP monies can result in fines and prison time.*

**Although the PPP loan is issued under SBA 7a guidelines, the law is unclear of whether the loan proceeds can be used for any purposes other than what is stated within the PPP certifications and Sec. 1102. of Paycheck Protection Plan within the CARES Act.*

So, Now What?

Here we are back at the start with the question, "I just received my funding, and what do I do next?" The whole context of this narrative has been that the PPP monies are to be used to do two things, maintain jobs and provide paychecks. There are simply too many built-in penalties and restrictions in the PPP program to be "creative" in its uses. Your primary objective should be to get this money out of your hands and into those of your employees.



No doubt you are familiar with the game of Hot Potato, where the object of the game is that when you are thrown the potato, you need to hand it off as quickly as possible so when the countdown ends (in this case June 30, 2020), you have nothing left in your hands or, in this case, bank account.

Your countdown starts as soon as the loan is funded, and the money hits your bank.

- The first thing to do is ask your banker to move the monies into a separate account for these purposes.
- You should essentially rehire your staff or replacements in order to quickly get to the same headcount that you had for the sampling period you have chosen.

- Establish a budget for the wages and salaries you plan on paying over the next 8-week period and make sure that you will be able to maintain the headcount and not have any of the covered employees or positions realize a decrease in compensation of more than 25%. You should have a clear understanding of what benchmarks you are trying to maintain.
- It's also important to note that for any of your employees who earn more than \$100K per year, you will be including in the payroll, during the 8-week period, the maximum that can be claimed for forgiveness is \$15,384. If you want to compensate their full salary amount beyond the \$100k cap, you may do so by making a separate earnings entry and maintaining meticulous records. It's important to note, the amount above \$100K can not be included for loan forgiveness.

Keep in mind that you can also budget into the 8-week calculations your rent, utilities and mortgage interest for the next 8-week period.

In conclusion – if I still have your attention...

If all of this feels somewhat overwhelming, you are not alone. As soon as the regulations are released, there should be more clarity. The suspicion is that many of the hurdle-like restrictions will be eased in order to make it easier for businesses to comply and, most importantly, survive past this crisis and into the future. In the meantime, if you have one, reach out to your banker, accountant or CPA. They are keeping abreast of the latest changes and should be able to guide you, as they know your individual circumstances best.

For simplicityHR clients, please continue to visit our [COVID-19 Resource Page](#) for the most current resources or [log into HR Symphony](#) to download your PPP loan compliance documents under Action Items.



From the Remote Desk of Barron Guss

To our clients and members of our business community,

COVID-19 has changed the physiological, psychological, and financial landscape of the world almost overnight. Each of us has been affected and no one has been spared.

The constant flow and volume of information regarding this crisis can be overwhelming and difficult for all of us to understand. We have done our best to simplify and explain all the information found in this guide, and I hope that you find our expertise useful and insightful.

We have taken to heart our responsibility to serve our clients and our community for the last 50 years, and while tomorrow's business landscape may look and feel different, our commitment will remain the same; to be with you today, tomorrow and the next 50 years.

Sincerely,

A handwritten signature in black ink that reads "Barron L. Guss".

Barron L. Guss
President and CEO

About Us

simplicityHR by ALTRES serves as the human resources “back office” for more than 2,200 local businesses. We provide expert payroll processing, HR administration, workers’ compensation coverage and claims management, health care plans and exceptional employee benefits packages, as well as training for managers and staff.

