

# Now That I Have My Paycheck Protection Program Money, What Can I Do with It?

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## ***Q. Assuming I properly received PPP funds, what can I spend it on?***

A. The allowable uses of PPP loan funds are as follows:

- 75% of the PPP loan funds must be used for payroll costs for U.S. resident employees (salaries are capped at \$100,000 per employee),
- The remaining 25% may be spent on:
  - Costs related to the continuation of group health care benefits during periods of paid sick, medical or family leave (other than qualified family or sick leave wages for which a credit is allowed under Sections 7001 or 7003 of the Families First Coronavirus Response Act), and insurance premiums
  - Payment of interest on any mortgage obligation (but not on any prepayment of principal)
  - Rent
  - Utilities
  - Interest on any other debt incurred before Feb. 15, 2020

## ***Q. If a use is allowable, does that mean my loan is forgiven?***

A. Not necessarily. Debt forgiveness hinges on a number of factors and a more limited set of uses. See the related questions below.

## ***Q. What if I use the loan, in whole or in part, for a purpose that is not an allowable purpose?***

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A. You should not use the loan for purposes that are not allowable uses. It creates the possibility that you could face civil and criminal penalties for fraud if the government believes you knowingly used the loan for uses that are not allowable.

***Q. What are the terms of my PPP loan?***

A. PPP loans have a term of two years, bear interest at 1% per annum and require no principal payments for the first six months, although interest accrues.

***Q. What uses are allowable in order to receive debt forgiveness?***

A. The following amounts incurred and paid during the eight-week period beginning on the date on which you first received an installment of PPP money:

- You must spend 75% of your PPP loans on payroll costs
- Payroll costs for U.S.-resident employees, consist of
  - Salary, wage, commission or similar compensation (up to \$100,000 per employee)
  - Cash tips or equivalent
  - Payment for vacation, parental, family, medical, or sick leave (other than qualified family or sick leave wages for which a credit is allowed under Sections 7001 or 7003 of the Families First Coronavirus Response Act) Allowance for dismissal or separation
  - Payment required for the provision of group health care benefits, including insurance premiums
  - Payment of any retirement benefit
  - Payment of state or local tax assessed on the compensation of employees
- Payment of interest on a mortgage entered into prior to Feb. 15, 2020 (but not on principal prepayments),
- Any rent payment under a rental agreement or lease entered into prior to Feb. 15, 2020
- Utilities (for which service commenced prior to Feb. 15, 2020, consisting of:
  - Electricity
  - Gas
  - Water
  - Transportation<sup>1</sup>
  - Telephone

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- Internet access

***Q. If I use my PPP loan only for forgivable purposes, will it all be forgiven?***

A. Not necessarily. If, during the eight-week period from when you receive your first installment of your PPP loan, your full-time equivalent (FTE) count is lower than (i) your average FTE count during the period Feb. 15, 2019 through June 30, 2019, or<sup>2</sup> (ii) your average FTE count during the period Jan. 1, 2020 through Feb. 29, 2020, then your forgiveness may be adversely impacted unless you rehire a sufficient number of employees for any changes you made between February 15, 2020 and April 26, 2020 to equal the average FTEs of your chosen measurement period before June 30, 2020. Also, for employees who made less than \$100,000 in 2019, if you reduce salaries during the eight-week period by more than 25% (as compared to the last full fiscal quarter prior to the eight-week period), your forgiveness may be reduced by the amount of salary reduction in excess of 25%, unless the salary is restored for any changes you made between February 15, 2020 and April 26, 2020 by June 30, 2020. Also see the question below.

***Q. What is this 75% rule I keep hearing about?***

A. In order to be eligible for forgiveness, and consistent with requirements for the use of PPP loan proceeds, you must have spent 75% of your PPP loan on payroll costs, and not more than 25% of the amount you are requesting for forgiveness can be for things other than payroll cost. Absent additional guidance, if you did not spend 75% of the PPP loans on payroll costs, you may not be eligible for forgiveness.

***Q. What happens if my whole loan is not forgiven?***

A. The remaining amount is converted to a term loan bearing 1% interest. The interest accrued during the first six months of the loan that accrued on that amount also will be owed.

***Q. If my whole loan is forgiven, what about the accrued interest?***

A. The interest is also forgiven.

***Q. What will I need to file or report to obtain the forgiveness?***

A. You will need to apply with your bank after the end of the eight-week period (or after June 30, 2020 if you are relying on the hire back provisions). The SBA and/or Treasury Department will specify the application form in future guidance. You will be required to submit items such as Form 941 tax filings, payroll runs and checks, or records of wires showing your payments for each forgivable expense you plan to submit. We are therefore recommending that you keep the loan proceeds in a segregated account to facilitate confirming the use of the PPP loan proceeds.

***Q. Are these the final rules on forgiveness?***

A. No. Further guidance from the SBA and/or the Treasury Department on forgiveness is forthcoming and may include changes or further details on these rules in addition to clarifying the forgiveness application process.

***Q. Will I owe taxes on the amount of my PPP loan that is forgiven?***

A. No. The forgiveness of a PPP loan is not treated as a taxable cancellation of debt for U.S. federal income tax purposes.

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1 The meaning of transportation is unclear. The current thinking is it means transportation of waste (removal). This may be clarified in future guidance.

2 The borrower can choose which period it wants to use.

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National Law Review, Volume X, Number 118

Source URL: <https://natlawreview.com/article/now-i-have-my-paycheck-protection-program-money-what-can-i-do-it>