This article presents general guidelines for Georgia nonprofit organizations as of the date written and should not be construed as legal advice. Always consult an attorney to address your particular situation.

Loan Forgiveness under Paycheck Protection Program
June 24, 2020
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Small nonprofits that have received money under the CARES Act Paycheck Protection Program ("PPP") will want to take advantage of the loan forgiveness provisions. The provisions were recently changed by the PPP Flexibility Act. This article attempts to outline the latest information on the factors a small nonprofit should consider to maximize its loan forgiveness based on The CARES Act, the PPP Flexibility Act, and the guidance provided by Treasury and the Small Business Administration ("SBA") through a series of Interim Final Regulations ("IFRs") and FAQs. In addition, this article will discuss the Loan Forgiveness Applications (Form 3508 and Form 3508EZ) and Instructions[1] as of June 24, 2020.

Before diving into the details about how to spend the PPP loan to maximize forgiveness, note that if you also received an Economic Injury Disaster Loan (EIDL) advance after submitting your PPP application, the amount of PPP forgiveness is reduced by the amount of that advance. For instance, if you received an EIDL advance of $4,000 and a PPP loan of $35,500, your total PPP loan forgiveness amount is $31,500. You will have to repay the $4,000 at 1% interest within two years. If your nonprofit received an EIDL advance prior to submitting its PPP application, the nonprofit's PPP amount was likely reduced.

Considerations for Maximizing Loan Forgiveness

In order to be eligible for full loan forgiveness, the borrower must meet certain expenditure thresholds during its applicable "Covered Period" (defined below):

1) 60% of the PPP loan must be used for payroll costs, and
2) Any funds not used to pay payroll costs (up to 40%) can only be used to pay mortgage interest, rent, utilities and other debt interest ("approved non-payroll costs").

If a borrower fails to meet the requirements of #1, then a portion of the loan won't be forgiven.

[1] The link above to Form 3508 includes the instructions. The instructions for Form 3508EZ are found here.

There was some question as to whether none of the loan would be forgiven if that threshold was not met, and that is not the case. If a borrower does not spend 60% of the loan on payroll costs, then whatever portion of that 60% was spent on payroll costs will be forgiven and the rest will be converted to a loan at 1% interest. For the “up to 40%” of the loan that is used on approved non-payroll costs, the same proportion of the 60% that is forgivable vs. not forgivable will be applied to the 40% as well. The portion that is not forgivable will be converted to a loan at 1% interest.

For example, Borrower A:

- Receives $100,000 PPP payment
  - For full forgiveness, must spend at least 60% on payroll costs ($60,000)
  - Up to 40% ($40,000) may be spent on approved non-payroll costs
- Borrower A only spends $54,000 on payroll costs
  - 54,000/60,000 = 90% of required amount spent on payroll
- This 90% is ALSO applied to the 40% for approved non-payroll costs
  - 90% x $40,000 = $36,000
- Total maximum loan forgiveness is $54,000 + $36,000 = $90,000
  - $10,000 will be converted to a loan at 1% interest.

Thus, the amount a borrower spends on payroll will affect the amount of forgiveness for both payroll costs and approved non-payroll costs.

Covered Period for Spending the PPP Loan

In meeting the thresholds for spending the PPP loan that are identified above, the funds must be spent within a certain “Covered Period” in order for loan forgiveness to apply. Originally, the Covered Period for a PPP loan was 8 weeks from the date of receipt of the loan proceeds. However, the Covered Period for all new PPP loans after June 5, 2020 will be 24 weeks from the date of receipt of loan proceeds or until December 31, 2020 (whichever comes first). Borrowers with existing loans (loans received prior to June 5, 2020) can choose to extend their Covered Periods to 24 weeks. Nonprofits will have as much as 24 weeks (or until the end of 2020) to spend the money, and still have that money eligible for forgiveness.

Eligible Costs for Forgiveness

Another important factor is what costs are eligible for forgiveness. The CARES Act specifically stated that only “costs incurred and paid” during the Covered Period would be forgivable. The IFRs and both the Loan Forgiveness Applications and Instructions changed this complex requirement and made it more manageable for borrowers. Now the rule covers costs incurred **OR** costs paid during the Covered Period. The IFRs provide detail on these costs for both categories: payroll costs and approved non-payroll costs. See the applicable section below for more details on these eligible costs.

Four Considerations for Loan Forgiveness

As stated above, in order to be eligible for full loan forgiveness, the borrower must meet certain expenditure thresholds (1 and 2 below). Even if a nonprofit meets the eligibility requirements for full loan forgiveness, the amount of loan forgiveness may be reduced if certain thresholds (3 and 4 below) are not maintained. These four considerations for loan forgiveness all intersect.

1) 60% of the PPP loan must be used for payroll costs
2) Any funds not used to pay payroll costs (up to 40%) can only be used to pay approved non-payroll costs
3) Reductions in FTEs may affect forgiveness
4) Salary reductions may affect forgiveness

1) 60% or More of the Loan Must be Used for Payroll Costs

For forgiveness of the loan, at least 60% of the loan must be spent on payroll costs. These costs include:

- Salary, wage, commission, or similar compensation for U.S. residents (does NOT include independent contractors or non-U.S. residents),
- Payment for vacation, parental, family, medical, or sick leave (but not if covered by the Families First Coronavirus Response Act or FFCRA),
- Allowance for dismissal or separation,
- Employer contributions for employee health insurance, including employer contributions to a self-insured, employer-sponsored group health plan but excluding any pre-tax or after-tax contributions by employees,
- Payment of any retirement benefit, and
- Payment of state or local tax assessed on the compensation of the employee.

However, for employees who normally are paid over $100,000 a year in cash salary/wages, PPP funds may only be used for salary/wages for such employees up to an annualized salary or compensation of $100,000. This limit does not include the non- cash benefits the employees receive.

Note that PPP funds cannot be used to cover the employer's share of payroll taxes on wages paid during the covered period. The SBA provided the following example:

<u>SBA Example</u>: If employee earned $4,000 per month in gross wages, from which $500 in federal taxes was withheld, then employer could count $4,000 in payroll costs. The employee would receive $3,500, and $500 would be paid to the federal government. However, the employer-side federal payroll taxes imposed on the $4,000 in wages would be excluded from payroll costs under the statute.

Payroll Costs can be based on "Covered Period" or "Alternative Covered Period"

As stated above, the Covered Period begins the date the borrower first receives its loan money and lasts for either eight weeks (56-days) or twenty-four weeks (168 days) but no later than December 31, 2020. One issue the Covered Period raised is whether a borrower must change its payroll process to make sure it incurs and pays its payroll to match the Covered Period. The Loan Forgiveness Applications now allow borrowers with a biweekly (or more frequent) payroll cycle to elect to calculate payroll costs using a covered period that begins on the first day of their first pay period immediately after the borrower receives the loan money (the "Alternate Payroll Covered Period"). Both Loan Forgiveness Application Instructions have the following examples:

> Eight Week Example: If a borrower "received its PPP loan proceeds on Monday, April 20, and the first day of its first pay period following its PPP loan disbursement is Sunday, April 26, the first day of the Alternative Payroll Covered Period is April 26 and the last day of the Alternative Payroll Covered Period is eight weeks later on Saturday, June 20."
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> Twenty-Four Week Example: If a borrower "received its PPP loan proceeds on Monday, April 20, and the first day of its first pay period following its PPP loan disbursement is Sunday, April 26, the first day of the Alternative Payroll Covered Period is April 26 and the last day of the Alternative Payroll Covered Period is 24 weeks later on Saturday, October 10th."

If borrower chooses to use an Alternative Payroll Covered Period, it must use it for all payroll costs. However, this Alternative Payroll Covered Period ONLY applies to payroll costs.

Next, payroll costs paid during the Covered Period (or Alternative Payroll Covered Period) are eligible for forgiveness whether or not the costs were incurred during that period. Payroll costs are considered paid as of "the day paychecks are distributed or the borrower originates an ACH credit transaction". Thus, if pay day is two days after the Covered Period (or Alternative Payroll Covered Period) begins, then the full amount of the gross pay for that pay day is included as eligible costs.

Any payroll costs incurred but not paid during the borrower's last pay period of the Covered Period (or Alternative Payroll Covered Period) are also eligible for forgiveness if paid on or before the next regular payroll date. If a borrower has an insured group health plan, insurance premiums paid or incurred during the Covered Period (or Alternative Payroll

Covered Period) qualify as "payroll costs," as long as the premiums are paid during the applicable period or by the next premium due date after the end of the applicable period. Only the portion of the premiums paid by the borrower for coverage during the applicable Covered Period (or Alternative Payroll Covered Period) is included.

Forgiveness is not provided for expenses for group health benefits or retirement benefits accelerated from periods outside the Covered Period or Alternative Payroll Covered Period. Finally, payroll costs that were both paid and incurred are only eligible once for forgiveness.

All payroll costs, including health insurance costs, must be paid before borrower submits its Loan Forgiveness Application.

2) Amount of Loan Not Used for Payroll (Up To 40%) Can Only Be Used for Mortgage Interest, Rent, Utilities and Other Debt Obligation Interest

The second consideration regarding use of the PPP loan funds in a manner that will obtain full forgiveness is the requirement that any funds not used to pay payroll costs (up to 40%) can only be used to pay mortgage interest, rent, utilities and interest on other debt obligations. *All of these obligations must have been in existence as of February 15, 2020*. The goal of the PPP loan is to keep employees employed and paid and to help the nonprofit pay some of the specific expenses it already had in place. For example, your nonprofit cannot obtain additional or different internet service in May, 2020 and use PPP loan funds to cover that cost. What if your nonprofit refinanced its mortgage or renegotiated its lease after February 15, 2020? If a lease that existed prior to February 15, 2020 and expires on or after February 15, 2020 is renewed, it is treated as equivalent to the old lease. Similarly, if a mortgage loan on real or personal property that existed prior to February 15, 2020, is refinanced on or after February 15, 2020, the refinanced mortgage loan is treated as equivalent to the original mortgage loan.

While funds may be used to pay interest on mortgage obligations, funds may not be used for any prepayment or payment of principal on mortgage obligations. And while funds may be used to pay rent payments, "rent" is not clearly defined in the CARES Act, PPP Flexibility Act, IFRs or FAQs.

Utility payments that may be included are limited to payments on electric, gas, water, transportation, telephone and internet access, and again, service had to begin before February 15, 2020. The entire electricity bill payment is eligible for loan forgiveness (even if charges are invoiced separately), including supply charges, distribution charges, and other charges such as gross receipts taxes. "Transportation" has a very limited definition and relates to fees assessed by state and local governments associated with local transportation.

For "other debt obligations," interest on unsecured credit is not eligible for loan forgiveness because the loan is not secured by real or personal property. Although interest on unsecured credit incurred before February 15, 2020 is a permissible use of PPP loan proceeds, this expense is not eligible for forgiveness.

Both Loan Forgiveness Applications and Instructions note that interest on personal property (such as a company car loan) is included in nonpayroll costs that can be forgiven.

Non-payroll costs, including mortgage interest, rent obligations, utilities, and interest on other debt obligations, must be **either** paid **or** incurred during the Covered Period (Alternative Payroll Covered Period does NOT apply) and, if incurred, then paid on or before the next regular billing date (even if the billing date is after the Covered Period) to be eligible for forgiveness. These costs must be paid before submitting either Loan Forgiveness Application.

3) Reductions in FTEs May Affect Forgiveness

The goal of the PPP is to keep people employed and earning the same wages as before the COVID-19 crisis. As a result, loan forgiveness will be reduced if full-time employee equivalent ("FTE") count is reduced. This is a specific calculation.

a) X = your average number of FTES during your covered period
b) Y = your average number of FTEs from your choice of EITHER "Reference Period":
    i. February 15, 2019 – June 30, 2019 OR
    ii. January 1, 2020 – February 29, 2020
c) Your fraction is X/Y. Multiply your PPP loan amount by that fraction to determine your loan forgiveness reduction. (for example, if X = 8, Y = 10, and PPP loan amount is $60,000; then 8/10 x $60,000 = 48,000 and $48,000 may be forgiven)

According to the full Loan Forgiveness Application Form 3508, borrowers calculate FTEs by entering for each employee the average number of hours paid per week during the Covered Period/Alternative Payroll Covered Period, dividing by 40, and rounding the total to the nearest tenth. The maximum for each employee is capped at 1.0. For example, an employee who works on average 30 hours in a week would be treated as 0.8 FTE. This is different from the methodology that was expected to be applied prior to the release of the full Loan Forgiveness Application Form 3508. In the May 22 IFRs, Treasury and the SBA also provided another option for calculating FTEs when considering part-time employees. Borrowers may use the approach stated above or, for any part-time employees, borrowers may simply list each part-time employee as .5 FTE. Whichever approach a borrower chooses, it must use the same approach for both the Covered Period (or Alternative Payroll Covered Period) and the Reference Period borrower chose.

The full Loan Forgiveness Application Form 3508 and its Instructions identify three exceptions to FTE reductions affecting forgiveness. The loss of FTEs in any of the following situations will not affect loan forgiveness if borrower has clear documentation evidencing these situations[2]:

1. If borrower was unable to rehire any positions for which the borrower made a good-faith, written offer to rehire an individual who was an employee on February 15, 2020 (for the same salary/wages and same number of hours) **and** borrower was unable to hire similarly qualified employees for unfilled positions on or before December 31, 2020;
2. If borrower made a good faith, written offer to restore any reduction in hours at the same salary or wages during the Covered Period or the Alternative Covered Period and the employee rejected the offer[3]; or
3. If during the Covered Period or Alternative Covered Period, any employees (a) were fired for cause, (b) voluntarily resigned, or (c) voluntarily requested and received a reduction of their hours.

These exceptions only apply if the position was not filled by a new employee.

In addition, there are two safe harbors which exempt certain borrowers from any loan forgiveness reductions based upon a reduction in FTE employee levels:

1. Borrower, in good faith, documents its inability to operate between February 15, 2020 and the end of the its Covered Period at the same level of activity it operated at before February 15, 2020 due the need to comply with requirements/guidance from HHS, CDC or OSHA between March 1 and December 31, 2020 related to maintaining sanitation standards, social distancing, or any other worker or customer safety requirement related to COVID–19. (For instance, an afterschool program that can only accommodate half the children it had before March 1, 2020 due to social distancing requirements will not lose loan forgiveness due to not having the same number of FTEs as it had on February 15, 2020.)[4]

2. Borrower reduced its FTE levels during the period between February 15, 2020 and April 26, 2020 **and** borrower restored its FTE levels by no later than December 31, 2020 to the levels in borrower's pay period that included February 15, 2020.

Your nonprofit need not employ the same people or the same number of full-time and part-time positions. You just need to meet the FTE number and pay them the same or similar wages. (Wages are discussed below.) If your facilities are still closed and employees cannot telework, you can use PPP money to pay these employees even if they are not working.

[2] Such documentation should be kept for six years in case of audit.

[3] Borrower must clearly document the rejection and also inform the unemployment insurance office of the rejection of the offer for reemployment within 30 days of the rejection.

[4] Borrower should have documentation including copies of applicable COVID Requirements or Guidance for each business location and relevant borrower financial records to prove this safe harbor.

4) Salary Reductions May Affect Forgiveness

If employees' wage levels are reduced during your Covered Period or Alternative Covered Period by more than 25% of the employees' wage levels paid in the first quarter of 2020, the amount of the PPP loan that can be forgiven is reduced by the amount of the wage level reduction. Note that if your nonprofit paid out annual bonuses in the first quarter of 2020, it will be necessary to carefully look at the cash salary/wages comparison between first quarter 2020 and your Covered Period or Alternative Covered Period to make certain cash wages/salaries are not more than 25% lower due to that paid bonus.

There are two safe harbors:

a. If your nonprofit reduced wage/salary levels between February 15 and April 26, 2020 (presumably due to COVID-19), loan forgiveness will not be affected as long as your nonprofit eliminates the reduction by no later than December 31, 2020.

b. If your nonprofit reduced wage/salary levels in excess of 25% for an employee, loan forgiveness will not be affected as long as your nonprofit eliminates the reduction by no later than December 31, 2020. Thus, if an employee's average annual salary/wages as of December 31, 2020 is equal to or greater than the annual salary/wages as of February 15, 2020, then no reduction to forgiveness will apply.

One question is whether your PPP loan will be forgiven if you pay employees more money in the form of wages or bonuses? You can, of course, pay employees higher wages during your Covered Period or Alternative Covered Period, especially if the employees would have normally received tips and are not receiving them due to closure. Further, if your nonprofit normally provides bonuses during this time of the year, you can pay such bonuses. A special one-time bonus or a bonus paid earlier than usual would also qualify for forgiveness. However, also keep in mind the $100,000 annual cash wages cap when paying employees higher wages or bonuses using PPP funds.

Further note that the full Loan Forgiveness Application Form 3508 analyzes salary/wages separately for each employee. The first step is to determine if each employee's pay was reduced by more than 25%. The full Form 3508 Loan Forgiveness Application's Schedule A Worksheet provides a step-by-step process for calculating each employee's salary/wage reduction. The calculation compares the average annual salary/wage by employee during the Covered Period/Alternative Payroll Covered Period to the average annual salary/wage during the period from January 1, 2020 through March 31, 2020. If the difference is greater than 25%, then the worksheet asks whether a safe harbor applies for each employee. The Schedule A Worksheet does not require that this calculation be done for employees normally paid over $100,000 annually as their salaries/wages must be reduced in order to obtain forgiveness.

If no safe harbor applies for an employee, borrower's loan forgiveness will be reduced by the amount of each employee's salary/wage reduction beyond the 25% reduction. This forgiveness reduction will apply for each week of the borrower's Covered Period or Alternative Covered Period. If the borrower chose the twenty-four-week covered period, the amount that the employee's salary is more than the 25% reduction will apply for all twenty-four weeks as opposed to only eight weeks if the borrower chose the eight-week covered period.

For example:

- Employee's weekly salary on February 15, 2020 was $1,000.
- Salary was later reduced and remained at $700 through and including December 31, 2020. That is a 30% reduction.
- A 25% reduction would have been $750, so the loss of loan forgiveness is $50 ($750-$700 = $50).
- If the chosen Covered Period is 24 weeks, then the loss of loan forgiveness is $1,200 ($50 x 24 = $1200). If the chosen Covered Period is 8 weeks, then the loss of loan forgiveness is $400 ($50 x 8 = $400).
- The loss of loan forgiveness amount ($1200 or $400) will be converted to a loan at 1% interest.

<u>Loan Forgiveness Applications and Instructions</u>

Borrowers will complete one of two different Loan Forgiveness Applications: Form 3508 and the shorter Form 3508EZ. Form 3508EZ is only two pages with the first page essentially the Calculation Form and the second page the certifications page. The Instructions for this Form provide a checklist, and if the borrower meets one of the three requirements in the checklist, it can use this Form 3508EZ. The first requirement doesn't apply to nonprofit organizations. The other two requirements are:

1) Borrower did not reduce annual salary or hourly wages of any employee by more than 25% during the Covered Period or the Alternative Payroll Covered Period compared to the period between January 1, 2020 and March 31, 2020 (doesn't apply to employees earning over $100,000 a year) **AND** borrower did not reduce the number of employees or the average paid hours of employees between January 1, 2020 and the end of the Covered Period (or meets FTE reduction exception #1 or #2 above); and
2) Borrower did not reduce annual salary or hourly wages of any employee by more than 25% during the Covered Period or the Alternative Payroll Covered Period compared to the period between January 1, 2020 and March 31, 2020 (doesn't apply to employees earning over $100,000 a year) **AND** borrower, in good faith, documents its inability to operate between February 15, 2020 and the end of the its Covered Period at the same level of activity it operated at before February 15, 2020 due the need to comply with requirements/guidance from HHS, CDC or OSHA between March 1 and December 31,

2020 related to maintaining sanitation standards, social distancing, or any other worker or customer safety requirement related to COVID–19.

Borrowers that are not eligible to complete Form 3508EZ will complete Form 3508. The Form 3508 includes two required parts that must be submitted to the lender (1) the PPP Loan Forgiveness Calculation Form and (2) the PPP Schedule A. The Form 3508 also includes a Schedule A Worksheet that must be used in order to complete Schedule A. The Calculation Form, Schedule A and the Schedule A Worksheet along with the instructions for each provide step-by-step instructions for how to perform the calculations for PPP loan forgiveness. The Form 3508 also includes an optional demographic information form. Finally, it clearly identifies what documentation must be submitted with PPP Schedule A and what documents must be maintained by the borrower in its files for six years in case of audit.

Other Important Aspects of both Loan Forgiveness Applications

- There is a specific box that must be checked by borrowers that receive loans in excess of $2 million dollars.
- Both applications make it clear that the SBA will deduct EIDL Advance amounts from the forgiveness amount remitted to the Lender. In fact, Forms 3508 and 3508EZ ask specifically for the amount of any EIDL Advance.
- Both applications include specific certifications such as how the dollar amount of forgiveness was spent, that if the monies were used for unauthorized purposes various consequences could occur, and that the borrower has accurately verified the payments for the eligible payroll and approved non-payroll costs for which the borrower is requesting forgiveness. See each Loan Forgiveness Application for the full list of certifications.
- The SBA may direct a lender to disapprove a borrower's Loan Forgiveness Application if the SBA determines that the Borrower was ineligible for the PPP loan.

Loan Forgiveness Process

Once a borrower submits its Loan Forgiveness Application and all supporting documentation, the borrower's lender or the lender servicing the loan must make a decision regarding loan forgiveness and submit it to the SBA within 60 days. The SBA then has 90 days to review and may: (a) provide the money to the lender or (b) tell the lender how much will be forgiven (if not the full amount or even any amount) and either ask the lender to obtain additional information from the borrower or reach out directly to the borrower for additional information. Failure to respond to SBA's inquiry may result in a determination that the borrower was ineligible to receive the loan amount or loan forgiveness amount claimed by the borrower. The SBA will consider the additional information provided and make a final determination. There will be an appeals process established in future regulations should loan forgiveness be denied.

Other Considerations

Importance of Documentation

Nonprofits seeking loan forgiveness should keep careful and meticulous documentation. First, be sure to document the reasons for applying for the PPP loan. This approach supports and clarifies the certification in the PPP loan application that "current economic uncertainty makes this loan request necessary to support ongoing operations of the Applicant." You should create a file and store all information about how your nonprofit made the decision to apply for a PPP loan including, for instance, board resolutions, summary of calls and discussions, pre-loan financial statements and projections, any need to lay off or furlough workers or cut salaries, any discussions about strength of cash reserves, etc.

The SBA will review all loans of $2 million or more to determine if the borrower "lacked an adequate basis for the required certification concerning the necessity of the loan request." With the uproar over large businesses that had plenty of money and reserves applying for and receiving funds, SBA/Treasury added FAQs ##31, 37 and 39 addressing the requirement that a nonprofit must lack liquidity in order to receive PPP funds. Specifically, businesses must "tak[e] into account their current business activity and their ability to access other sources of liquidity sufficient to support their ongoing operations in a manner that is not significantly detrimental to the business." If the SBA determines that a borrower "lack[s] an adequate basis for the required certification concerning the necessity of the loan request," then the loan will be required to be repaid and no forgiveness will be provided.

On the other hand, borrowers that received PPP loans of less than $2 million fall under the safe harbor that the Treasury and the SBA announced on May 13, 2020 in FAQ #46. This latest FAQ states, "Any borrower that, together with its affiliates, received PPP loans with an original principal amount of less than $2 million will be deemed to have made the required certification concerning the necessity of the loan request in good faith." However, both the Loan Forgiveness Applications still require acknowledgement by the borrower that the SBA may evaluate borrower's eligibility and could find the borrower ineligible.

It is important to keep the PPP loan separate from the rest of the nonprofit's funds. It can be in a separate, segregated account or it can be treated like a restricted fund. All expenditures must be clearly documented in your financial accounting software (such as QuickBooks) clearly showing what expenses the funds covered. The more documentation the organization has, the better. This documentation must be submitted to your lender and the SBA in order for the loan to be forgiven.

At the end of borrower's Covered Period and after payment of any additional appropriate costs incurred during the Covered Period, your nonprofit should be ready to provide your lender the following detailed documentation:

1) The number of FTEs on payroll and their pay rates, wages/salaries paid, and other associated payroll costs paid during the applicable covered period;
2) Any evidence of employees not willing to accept a rehire offer;
3) Any evidence of any employees who (a) were fired for cause, (b) voluntarily resigned, or (c) voluntarily requested and received a reduction of their hour during the Covered Period or Alternative Covered Period;
4) Any evidence of salary reductions, furloughs or layoffs during the February 15- April 26, 2020 time period and reinstatement of salaries/wages and employees by December 31st;
5) Payments of other covered costs including mortgage interest, rent, specific utilities, and interest on other debt obligations along with evidence that such arrangements existed before February 15, 2020;
6) Certification from an officer of the nonprofit that the documentation is true and correct and that forgiveness amounts requested were used to retain employees and make other forgiveness-eligible payments; and
7) Any other documentation the SBA may require.

This information and the application may be submitted electronically including an E-signature, following certain standards your Lender can provide.

Portion of Loan Not Forgiven

Should a portion of your nonprofit's PPP loan not be forgiven, that portion is a loan at a 1% interest rate. For PPP loans granted prior to June 5, 2020, they must be paid back within two years of receipt. For loans granted June 5, 2020 or after, borrowers will have five years to repay. Also, lenders and borrowers of pre-June 5, 2020 loans may mutually agree to extend existing PPP loans to five years.

The payments of any principal, interest, and fees will not be due until the date the SBA remits any forgiveness monies to the lender. This provides clarity because upon such payment, the lender and borrower will have a better understanding of any loan amounts actually due from the PPP loan. Further, if a borrower does not apply for loan forgiveness within ten months after the last day of its Covered Period, then the borrower will owe the full amount of the principal, interest and fees, and deferral for such payments will immediately cease.

Payroll Tax Deferral

Nonprofits that receive PPP loans may also elect to take advantage of a special payroll tax deferment included in the CARES Act. However, nonprofits should be aware that this is **ONLY** a deferral and such payments will ultimately still be due. Further, failure to pay them when due can result in personal liability for board members and executives who knowingly fail to pay them.

If you have additional questions about loan forgiveness, contact your attorney or accountant.