

Paycheck Protection Program – Loan Forgiveness Guidelines

The Paycheck Protection Program allows for forgiveness on all or part of the loan amount if the proceeds were used as directed in the regulation and for the Covered Period beginning from the date of disbursement of loan proceeds.

Borrower/Employer

In this summary, the Borrower and the Employer are one and the same entity.

Covered Period

A PPP borrower may now submit a loan forgiveness application any time on or before the maturity date of the loan – including before the end of the Covered Period, assuming all PPP loan proceeds were used.

The Loan Forgiveness Covered Period, which is the time frame to utilize the borrowed funds, has been extended from an eight-week (56 calendar days) period to a 24-week period (168 days) that begins on the date of disbursement of the PPP loan. For example, if the employer received the PPP loan proceeds on Monday, April 20, the first day of the Covered Period is April 20. Borrowers who received their PPP loan before June 5, 2020 can elect to use the initial 8-week period.

If the PPP borrower fails to apply for loan forgiveness within 10 months after the last day of the Covered Period, or if the SBA determines that the loan is not eligible for forgiveness, the PPP loan is no longer eligible for deferment and the borrower must begin paying principal and interest.

Alternative Covered Period

For administrative convenience, employers with a bi-weekly (or more frequent) payroll schedule may elect to calculate eligible payroll costs using the eight-week (56-day) or 24-week (168 day) period that begins on the first day of their first pay period following their PPP Loan Disbursement Date (the “Alternative Covered Period”). For example, if the employer received its PPP loan proceeds on Monday, April 20, elects to use the 8-week period, and the first day of its first pay period following its PPP loan disbursement is Sunday, April 26, the first day of the Alternative Covered Period is April 26 and the last day of the Alternative Covered Period is Saturday, June 20.

Borrowers who elect to use the Alternative Covered Period must apply the Alternative Covered Period wherever there is a reference in the Loan Forgiveness Application to “the Covered Period or the Alternative Covered Period.” *However, borrowers must apply the Covered Period (not the Alternative Covered Period) wherever there is a reference in the application to “the Covered Period” only.*

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Loan Forgiveness Requirements*

For the full forgiveness, borrowers must utilize the loan proceeds as outlined below:

- **At least 60%** must have been used for payroll costs, including salary, wages, and tips up to \$100,000 of annualized pay per employee
 - For the 24-week period, a maximum of \$46,154 per individual may be used; or for 8 weeks, a maximum of \$15,385 per individual as well as covered benefits for employees, but not owners.
 - Payroll costs also include health care expenses, retirement contributions, and state taxes imposed on employee payroll paid by the employer (such as unemployment premiums) that were paid during the Covered Period or Alternative Covered Period.
- **No more than 40%** must be used for non-payroll costs incurred and paid in the Covered Period or Alternative Covered Period as outlined below:
 - Interest on mortgage obligations if the mortgage was taken out before February 15, 2020
 - Rent under lease agreements in force before February 15, 2020
 - Utilities for which service began before February 15, 2020
- If an employer is unable to rehire the same employees, or similarly qualified employees, the borrower will not have a reduction in the forgiveness amount allowed.
- Employers must maintain salaries within 25% for any employee that made less than \$100,000 annualized in 2019.
- Employers have until December 31, 2020 to restore their full-time employment and salary levels for any changes made between February 15, 2020 and April 26, 2020:
 - A reduction in forgiveness amount will be required if this requirement is not met
 - Exemptions include:
 - Borrowers that certify they have documented in good faith that their reduction in business activity during the Covered Period stems directly or indirectly from compliance with COVID requirements or guidance are exempt from any reduction in their forgiveness amount stemming from a reduction in FTE employees during the Covered Period;
 - This is interpreted to include both direct and indirect compliance with COVID requirements or guidance, because a significant amount of the reduction in business activity stemming from COVID requirements or guidance is the result of state and local government shutdown orders.
- Any EIDL included in the PPP loan application should be included and documented on the Loan Forgiveness Application, and will be deducted from the forgiveness amount.
- The amount of loan forgiveness requested for owner-employees and self-employed individuals for an 8-week Covered Period is capped on their payroll compensation and can be no more than the lesser of 8/52 of 2019 compensation or \$15,385; or for a 24-week Covered Period, \$20,833 (2.5/12) per individual in total across all businesses.
 - Owner-employees are capped by the amount of their 2019 employee cash compensation and employer retirement and health care contributions made on their behalf.

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- C-corporation owner-employees are capped by the amount of their 2019 employee cash compensation and retirement and health insurance contributions.
- S-corporation owner-employees are capped by the amount of their 2019 employee cash compensation and employer retirement contributions made on their behalf, but employer health insurance contributions made on their behalf cannot be separately added because those payments are already included in their employee cash compensation.
- Schedule C filers are capped by the amount of their owner compensation replacement, calculated based on 2019 net profit.
- General Partners are capped by the amount of their 2019 net earnings from self-employment (reduced by claimed Section 179 expense deduction, unreimbursed partnership expenses, and depletion from oil and gas properties) multiplied by 0.9235.
- For self-employed individuals, including Schedule C or F filers and general partners, retirement and health insurance contributions are included in their net self-employment income and therefore cannot be separately added to their payroll calculation.

If proceeds are not used as listed above, a reduction in the forgiveness amount will be required.

Deferral Period

- If a borrower submits a loan forgiveness application within 10 months after the end of their Covered Period, they will not have to make any payments of principal and interest before the date that the SBA remits payment, or notifies the lender of pending remittance, to forgive their loan.
 - Interest will continue to accrue during the deferment period.
- If a borrower does not submit a loan forgiveness application within 10 months after the end of the Covered Period, the borrower must begin making principal and interest payments.
 - Example: If the PPP loan was disbursed on June 25, 2020, the 24-week period ends on December 10, 2020. If the borrower doesn't submit a loan forgiveness application to the lender by October 10, 2021, the borrower must begin making payments on or after October 10, 2021.

What counts as payroll costs?

- Salary, wages, tips, commission (capped at \$100,000 per year)
 - Payroll costs are considered paid on the day that paychecks are distributed, or the employer originates an ACH credit transaction
 - Payroll costs incurred, but not paid during the last pay period of the Covered Period (or Alternative Covered Period) are eligible for forgiveness if paid on or before the next regular payroll date
 - If an employee's total compensation does not exceed \$100,000 on an annualized basis, the employee's hazard pay and bonuses are eligible for loan forgiveness because they constitute a supplement to salary or wages

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- Count payroll costs that were incurred and paid only once
- Employee benefits including costs for vacation, parental, family, medical, or sick leave
 - Sick and family leave wages for which a credit is allowed under the Families First Coronavirus Response Act is not eligible to be included in payroll forgivable costs (<https://www.irs.gov/newsroom/covid-19-related-tax-credits-for-paid-sick-and-paid-family-leave-overview>)
- Allowance for separation or dismissal
- Payments required for the provisions of group health care benefits including insurance premiums, and payment of retirement benefits
- State and local taxes assessed on compensation
- For a sole proprietor or independent contractor: wages, commissions, income, or net earnings from self-employment, capped at \$100,000 on an annualized basis for each employee

What counts as non-payroll costs?

- Mortgage interest on any real or personal property incurred before February 15, 2020
 - Not including any prepayment penalty or principal
- Covered rent obligations: business or rent or lease payments pursuant to lease agreements for real or personal property in force before February 15, 2020
- Covered utility payments: business payments for the which service began before February 15, 2020
 - Electricity
 - Gas
 - Water
 - Transportation
 - Telephone
 - Internet access

An eligible nonpayroll cost must be paid during the Covered Period or incurred during the Cover Period and paid on or before the next regular billing date, even if the billing date is after the Covered Period.

Example:

- A borrower's Covered Period begins on June 1 and ends on July 26. The borrower pays its May and June electricity bill during the Covered Period and pays its July electricity bill on August 10, which is the next billing date. The borrower may seek loan forgiveness for its May and June electricity bills, because they were paid during the Covered Period. In addition, the borrower may seek loan forgiveness for the portion of its July electricity bill through July 26 -- the end of the Covered Period -- because it was incurred during the Covered Period and paid on the next regular billing date.

Eligible nonpayroll costs cannot exceed 40% of the total forgiveness amount. Count nonpayroll costs that were both paid and incurred only once.

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What documentation will be required for Forgiveness?

Application

- SBA Loan Forgiveness Application (*Form 3508 6/20*); or
- SBA EZ Loan Forgiveness Application (*Form 3508EZ 6/20*)

We will reach out to you to help you determine which application you qualify to use, and will send you a partially pre-filled version of that application with information about your business.

Payroll

Documentation verifying the eligible cash compensation and non-cash benefit payments from the Covered Period or the Alternative Covered Period consisting of each of the following:

- Bank statements, third party payroll service provider reports documenting the amount of cash compensation paid to employees
- Tax forms (or equivalent third party payroll service provider reports) for the period that overlaps with the Covered Period or Alternative Covered Period:
 - Payroll tax filings reported, or that will be reported to the IRS (Form 941); and
 - State quarterly business and individual employee wage reporting and unemployment insurance tax filings reported, or that will be reported, to the relevant state
- Payment receipts, cancelled checks or account statements documenting the amount of any employer contributions to employee health insurance and retirement plans that the borrower included in the forgiveness amount

FTE (full-time equivalency)

Documentation showing the following information: (the borrower can choose which of the three options listed below they want to use for comparison)

- The average number of FTE employees on payroll per month employed by the borrower between February 15, 2019 and June 30, 2019;
- The average number of FTE employees on payroll per month employed by the borrower between January 1, 2020 and February 29, 2020; or
- In the case of a seasonal employer, the average number of FTE employees on payroll per month employed by the borrower between February 15, 2019 and June 30, 2019; between January 1, 2020 and February 29, 2020; or any consecutive 12-week period between May 1, 2019 and September 15, 2019

The selected time period must be the same time period selected for purposes of completing PPP Schedule A, line 11. Documents may include payroll tax filings reported, or that will be reported, to the IRS (typically, Form 941) and state quarterly business and unemployment insurance tax filings reported, or that will be reported, to the relevant state. Documents submitted may cover periods longer than the specific time period.

FTE Reduction Exception

FTE reduction exceptions are allowed for the following reasons:

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- Employer made a good faith, written offer to rehire an employee during the Covered Period or the Alternative Covered Period which was rejected by the employee;
- Any employees who during the Covered Period or the Alternative Covered Period:
 - Were fired for cause
 - Voluntarily resigned
 - Voluntarily requested and received a reduction of their hours

Non-payroll expenses

Documentation verifying existence of the obligations/services prior to February 15, 2020 and eligible payments from the Covered Period.

- Business mortgage interest payments: Copy of lender amortization schedule and receipts or cancelled checks verifying eligible payments from the Covered Period; or lender account statements from February 2020 and the months of the Covered Period through one month after the end of the Covered Period verifying interest amounts and eligible payments
- Business rent or lease payments: Copy of current lease agreement and receipts or cancelled checks verifying eligible payments from the Covered Period; or lessor account statements from February 2020 and from the Covered Period through one month after the end of the Covered Period verifying eligible payments
- Business utility payments from February 2020 and those paid during the Covered Period and receipts, cancelled checks, or account statements verifying those eligible payments

Calculating the Payroll Period for Forgiveness

As mentioned above, borrowers may seek forgiveness for payroll costs during the “Covered Period” or “Alternative Covered Period”.

- Payroll costs are considered paid on the day that paychecks are distributed or the borrower originates an ACH credit transaction
- Payroll costs incurred during the borrower’s last pay period of the Covered or Alternative Covered Period are eligible for forgiveness if paid on or before the next regular payroll date; otherwise payroll costs must be paid during the Covered or Alternate Covered Period
- Payroll costs are generally incurred the day the employee’s pay is earned (i.e. the day the employee worked)
- For employees who are not performing work but are still on the borrower’s payroll, payroll costs are incurred based on the schedule established by the borrower (typically each day that the employee would have performed work)
- A borrower with a bi-weekly (or more frequent) payroll cycle may elect to use an Alternative Covered Period that begins on the first day of the first payroll cycle in the Covered Period and continues for the following weeks
 - If payroll costs are incurred during this Alternative Covered Period but paid after the end of the Alternative Covered Period, such payroll costs will be eligible for forgiveness if they are paid no later than the first regular payroll date thereafter

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- Examples:
 - A borrower has a bi-weekly payroll schedule. The borrower's eight-week Covered Period begins on June 1 and ends on July 26. The first day of the borrower's first payroll cycle that starts in the Covered Period is June 7. The borrower may elect an Alternative Covered Period for payroll cost purposes start on June 7 and end 55 days later (total of 56 days) on August 1. Payroll costs during the Alternative Covered Period are eligible for forgiveness. In addition, payroll costs incurred during this Alternative Covered Period are eligible for forgiveness as long as they are paid on or before the first regular payroll date occurring after August 1.
 - ❖ Payroll costs that were both paid and incurred during the Covered Period (or Alternative Covered Period) may only be counted once

*Requirements as of 06/22/2020. SBA Paycheck Protection Program rules are subject to change and may impact the loan forgiveness guidelines provided to borrowers. For the most current PPP loan forgiveness information, please visit CreditHuman.com/Preparing-for-Loan-Forgiveness or www.SBA.gov.