



The Math on PPP Loan Forgiveness – Part III



As of July 1, 2020

*INFORMATION SUBJECT TO CHANGE BASED ON FURTHER GUIDANCE PROVIDED BY
SBA OR OTHER FEDERAL AGENCIES.*



Rule Sources

- Coronavirus Aid, Relief, and Economic Security (CARES) Act
 - <https://www.congress.gov/116/bills/hr748/BILLS-116hr748enr.xml>
- FAQs provided by SBA
 - <https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf>
- PPP Loan Forgiveness Application (updated June 17, 2020)
 - <https://home.treasury.gov/system/files/136/3245-0407-SBA-Form-3508-PPP-Forgiveness-Application.>
- Interim Final Rules (updated regularly)
 - <https://home.treasury.gov/policy-issues/cares/assistance-for-small-businesses>
- PPP Flexibility Act of 2020 – signed into Law June 5th 2020
 - <https://www.congress.gov/bill/116th-congress/house-bill/7010/text>

Housekeeping Items

- Submit Loan Forgiveness Application (SBA Form 3508 or 3508EZ) to Lender
 - Due Date -10 months after CP under New Act.
 - Submit the PPP Loan Forgiveness Calculation Form
 - Submit PPP Schedule A and Substantiation
 - Lender has 60 days to review and make a decision; SBA has another 90 days after that. Total of 5 months.
- Determine if you qualify for EZ form or need to file the Long Form.
- Begin to gather substantiation needed now.
- PPP Schedule A Worksheet is not required to be submitted but must be completed regardless.
- PPP Borrower Transparency starts at \$150,000 or more.

3508EZ Form (must check one box)

1. Self-employed with no employees, OR
2. Borrower did not reduce salary/wages of any EE by more than 25% AND did not reduce the number of EE's or avg. paid hours 1/1/20 – end of CP. (FTE Exceptions apply), OR
3. Borrower did not reduce salary/wages of any EE by more than 25% AND borrower was unable to operate at the same level due to compliance with Sec'y. Health and Human Services, CDC, OSHA guidelines.

Documentation Requirements

- The loan forgiveness application instructions (updated June 17, 2020) details documents required to be submitted.
- Interim Final Rule has a section highlighting requirements as well.
- The more complete your submitted forgiveness application is, the less burdensome it will be for lenders to review.

New Legislation

PPP Flexibility Act of 2020 amends forgiveness provisions of the CARES Act by:

- Extending repayment period from 2 to 5 years (mutual agreement required for loans prior to June 5, 2020).
- Repayment Period begins on date forgiveness is determined and remitted to lender instead of 6 month deferral.
 - no later than 10 months after the CP ends if you fail to apply for forgiveness.
- 1% interest stays.

New Legislation

PPP Flexibility Act of 2020 amends forgiveness provisions of the CARES Act by:

- Extends Covered Period to 24 weeks, but provides for an election to keep the Original 8-week period for borrowers with loans prior to June 5th.
- Adds new exemptions to the FTE requirement and replaces original 6/30 FTE replenishment date with 12/31/20 (can apply early).
- IFR clarifies that borrower's forgiveness will be proportional to 60% of loan proceeds used for payroll costs and MAY use up to 40% for non-payroll costs.

New Legislation

Things to consider:

- 56 days just got stretched to 168 days.
- Sal/Hrly Wage levels maintained for 168 days.
- Plan to extend your 2020 Business Tax return waiting on Forgivable Amount to be confirmed.

Latest IFR Revision

- Purpose was to implement the PPP Flexibility Act of 2020 changes into the Interim Final Rule originally released.
- Clarifies a borrower may submit a loan forgiveness application **before** the end of the covered period.
- Increases the cash compensation cap eligible for owner-employees for borrowers that do not elect an 8-week covered period.
- Confirms S/C – Corp shareholders are owner-employees.

What are the most common questions we're getting now?

8 Weeks vs. 24 Weeks

- For some businesses electing to keep the 8-week CP should not be ruled out if:
 - Your PPP funds have been spent on eligible costs during 8 weeks and,
 - You qualify to file the EZ Form, OR
 - You had zero to minimal salary/hourly wage reductions and satisfy FTE Reduction Safe Harbor 2, OR
 - You had salary/hourly wage reductions preventing you from filing EZ form but you experienced zero to minimal FTE reductions.
- Otherwise, you may need more time to achieve full forgiveness.

I need more than 8, but not 24 weeks

- IFR clarifies you may submit an application before the end of the covered period IF:
 - Borrower has used all of the loan proceeds for which they are requesting forgiveness
 - Borrower must account for any salary / wage reduction in excess of 25% for the full covered period
- If you don't satisfy an FTE safe harbor, you must go to term with your Covered Period to complete the FTE portion of the application
 - Prove it - FTE counts during CP are required (Tables 1 & 2), unless
 - You don't have to prove it - You get a "bye" to put a 1.0 on Line 13 of PPP Schedule A Worksheet

Other Common Questions

- How do I prorate payroll caps if I apply before the end of my 24-week period?
- What is the definition of Affiliate for purposes of checking the \$2M box?
- Can I pay 2019 accrued retirement contribution during my covered period and it qualify as an eligible payroll cost?
- Where are the 30 FAQ's on Loan Forgiveness I've heard about?
- Are the non-Compensation Payroll Costs for Owner-Employees included in the overall Caps for S & C-Corp shareholders?

Forgiveness Amount

Forgiveness Amount is defined as the LESSER OF:

- PPP Loan Amount,
- Eligible Payroll Costs / 60%, OR
- Total Eligible Payroll and Non-Payroll Costs reduced by the Total Salary/Hourly Wage Reduction multiplied by the FTE Reduction Quotient

Covered Period

- Covered Period: Day 1 = same as PPP Loan Disbursement Date; runs for 168 or 56 days. Ex. Begins on a Monday, ends on a Sunday.
- Alternative Payroll Covered Period:

Borrowers with Bi-Weekly (or more frequent) payroll schedules may elect to adjust their Covered Period to begin on the first day of their next Pay Period.

 - Borrowers who make this election must apply the Alternative Period in calculations where referenced.
 - If elected, applies to Salary and FTE calculations.
 - Does not apply to Non-Payroll Costs. Creates two separate measurement periods.

Eligibility

- Payroll Costs
 - Eligible for forgiveness for PR costs paid AND PR costs incurred during the Covered Period.
 - Payroll costs are “paid” on the date paychecks are distributed or the borrower originates an ACH credit transaction.
 - Payroll Costs are “incurred” on the day the E/E’s pay is earned.
 - Wages earned through final day of covered period can be paid after covered period on or before the next regular payroll date.

Eligibility

- Non-Payroll Costs (cannot exceed 40% of the total forgiveness amount)
 - Covered Rent, mortgage interest and Utility payments must be paid during covered period (even if incurred prior to...)
- **OR,**
 - Incurred during covered period and paid before the next regular billing date
- Count Payroll and Non-Payroll Costs BOTH Paid and incurred only once.

Payroll Cost Eligibility

- Day 1 – Payroll paid on or after Day 1 that includes wages earned prior to Day 1 is eligible.
- Day 168 or 56 – Include hours worked through this day even if paid after, but no later than next pay period.
- Cash Compensation Capped as pro-rated (\$100,000 annualized)
 - \$15,385 for 8 weeks
 - \$46,154 for 24 weeks (except owners)
 - SE Income for Partners and LLC members included in Payroll Cost for Partnerships.

Payroll Cost Eligibility

- Non-Cash Compensation PR Costs allowed for:
 - ER contributions for EE health insurance
 - ER contributions to EE retirement plans
 - ER state and local taxes assessed on EE comp.

Owner-Employees – Schedule A Line 9

Includes Shareholders of S-Corps and C-Corps.

Owner-Employees forgiveness requested is capped by \$100,000 Annualized Salary at LESSER OF:

- CP actual of \$15,385 (8/52 weeks) OR \$20,833 (2.5 / 12 months – for 24 week CP) OR
- Equivalent Period of actual 2019 *Cash compensation*
 - Do NOT include S-Co Owner-employees ER Health Insurance separate from Comp.
 - DO include S & C Corp Owner-employees ER retirement contributions separate from Comp.
 - Whether HI and Retirement for Owner -employees are included in the overall Cap is still uncertain.
 - Latest IFR implies the overall Cap may be the “new rule” which include the Benefits. AICPA interprets this way.
 - Following the application instructions leads you to believe Benefits are separate from Cash Compensation Caps.
- *Owner-Employees* will not enter into the calculation of the FTE reduction or reduction in wages.
- It is not clear if attribution rules apply here for related parties on payroll.
- Total Cap applies in total “across all businesses.”

Self-Employed and Partners

- Schedule C filers are capped by the amount of their *Owner Compensation Replacement*, calculated based on 2019 net profit – not to exceed \$15,385 (8 wk) or \$20,833 (2.5 months if electing 24 wk CP)
 - Wages and benefits paid for other employees count – See IFR Issued 4/14/20
- General partners (including LLC Members) are capped (not to exceed amounts above) by the amount of their 2019 net earnings from self-employment less Sec. 179 deduction, unreimbursed partnership expenses and depletion multiplied by 0.9235.
- No additional forgiveness is provided for retirement or health insurance contributions for self-employed individuals and GP's.

PPP Schedule A Worksheet

- **Table 1** – Lists E/E's who were employed during Covered period AND paid < \$100K annualized rate for ALL pay periods in 2019 OR were NOT employed at any point in 2019.
 - Removes fears about salary reductions (in addition to FTE reduction) for former EE's not paid during Covered period.
 - Very Borrower Friendly. Only a reduction of annualized salary or pay rates.
 - Average FTE – each single EE capped at 1.0 for 40 hour week.
 - Salary / Hourly Wage Reduction - > 25% only
 - See Instructions for PPP Sch. A Worksheet Pg. 4-5 Steps 1-3 to determine reduction for each employee listed.

PPP Schedule A Worksheet

- **Table 2** – Lists E/E's who were employed during Covered period AND paid > \$100K annualized rate for ANY pay period in 2019.
 - List Cash Compensation paid or incurred during covered period or Alternative Period; capped at \$15,385 (8 wk) or \$46,154 (24 wk) per E/E.
 - Average FTE – capped at 1.0 for 40 hour week.
 - Salary / Hourly Wage Reduction – N/A.

Salary/Hourly Wage Reduction

To ensure that borrowers are not doubly penalized, the salary/hourly wage reduction applies ONLY to the portion of the decline in employee salary and wages that is NOT attributable to the FTE Reduction.

- Ex. In IFR – E/E drops from 40 hours to 20 hours per week. Pay rate stays the same. Because the drop in pay is entirely attributable to the FTE reduction, borrower is not required to conduct a wage reduction calculation for that E/E.

IF YOU DID NOT REDUCE PAY RATES BY MORE THAN 25% THIS REDUCTION WILL NOT APPLY.

Salary/Hourly Wage Reduction Safe Harbor

1. Applies only if annual salary OR hourly wage rate is reduced from 2/15/20 – 4/26/20 and,
2. That rate is restored by earlier of 12/31/20 or date of forgiveness application; by employee.
3. Must complete the PPP Schedule A worksheet to determine based on instructions provided.

If no Salary/Hourly wage reductions, review EZ Form instructions to see if you qualify.

Salary/Hourly Wage Reduction

If the borrower applies for forgiveness before the end of the covered period, it must account for the salary reduction for the full 8- or 24-week covered period.

See examples in IFR – Pg. 18 / 34.

FTE Reductions

BEFORE YOU DO ANY MATH REGARDING FTE'S IT'S IMPORTANT TO DETERMINE IF YOU QUALIFY FOR ANY OF THE FTE REDUCTION SAFE HARBORS OR EXCEPTIONS.

Safe Harbor = Total Overall Exemption from all FTE Reductions – 1.0 automatic

Exceptions = Proportional cure of the borrower's loan forgiveness. Added to Table 1 "Average FTE" totals.

No FTE Reduction Safe Harbor

If you have NOT reduced the number of employees or the average paid hours of your employees between 1/1/20 and the end of the Covered Period:

1. Check the box on PPP Schedule A
2. Automatic 1.0 on Line 13 PPP Schedule A for FTE Reduction Quotient.
3. Consider Filing EZ form

FTE Reduction Safe Harbor #1 (EZ)

- Must Certify an inability to operate between 2/15/20 and end of CP **at the same level** as before 2/15/20 due to compliance with requirements established by:
 - Secretary of Health and Human Services
 - Centers for Disease Control
 - Occupational Safety and Health Administration
- Relevant borrower financial records needed to substantiate.

FTE Reduction Safe Harbor #1 (EZ)

Compliance with COVID requirements can stem directly or indirectly from those Agencies (IFR Pg. 23 clarifies)

- Includes State and Local government shutdown orders that are based in part from the 3 Federal agencies.
- Orders all Non-Essential businesses to shut down stores.

Beauty Products Example indicates local rule compliance as non-essential business.

If you pass, then check the box on PPP Schedule A.

Borrower meets Safe Harbor 1; Granted an automatic 1.0 for FTE Reduction Quotient Line 13 Schedule A.

FTE Reduction Safe Harbor #2

RESTORATION SAFE HARBOR

1. If the FTEs drop from 2/15/20 – 4/26/20 and,
2. The reduction is restored to 2/15/20 levels **by earlier of** (not later than) 12/31/20 or the date the forgiveness application is submitted.

Then check the box on PPP Schedule A.

Borrower meets Safe Harbor 2; Granted an automatic 1.0 for FTE Reduction Quotient Line 13 Schedule A.

FTE Reduction Exceptions

Borrower's loan forgiveness is NOT reduced by FTE reductions in the following cases:

- Unable to rehire individuals who were employees on 2/15/20 and unable to replace those job(s) with similarly qualified E/E(s) before 12/31/20.
- Positions for which Borrower made good-faith written offers to restore any reduction in hours at the same pay rate and the E/E rejected the offer.
- Any E/E fired for cause
- Any E/E who voluntarily resigned
- Any E/E who voluntarily requested a reduction in hours.

Written Documentation will be required. Duty to Inform State Unemployment.

Include FTE Reduction Exceptions in Box 2 total on Table 1 – PPP Sch. A Worksheet.

FTE Reduction Quotient

DEFINED: Total Average FTEs (Tables 1 + 2)/ Average FTE during borrower's chosen reference period (not to exceed 1.0)

Average FTEs (for each employee) per week for Covered period. Enter on PPP Schedule A Worksheet (Tables 1 & 2).

Then, choose your reference period; The Lesser of:

The avg. FTEs per week – 2/15/19 – 6/30/19 OR

The avg. FTEs per week – 1/1/20 – 2/29/20

Enter on Line 11 of PPP Schedule A.

Forgiveness Example #1

FACTS...For example

Line 1	Amount Used for Payroll Costs -	\$ 71,000
Ln 2-4	Amount used for other eligible Costs -	\$ 24,000
Ln 5	Total Salary/Hourly Wage Reduction	<u>\$ (2,500)</u>
Ln 6	Add Lines 1-4; subtract Ln. 5	\$ 92,500
Ln 7	FTE Reduction Quotient	0.9

Forgiveness Example #1

Example continued...

Forgiveness Amount is the LESSER OF:

Line 8 – Modified Total = $\$92,500 \times 0.9 = \$83,250$

Line 9 – PPP Loan Amount = $\$100,000$, or

Line 10 – PR Costs = $\$71,000 / 60\% = \$118,333$

Borrower owes $\$16,750$ back to Lender.

Forgiveness Example #2

FACTS...For example

Line 1	Amount Used for Payroll Costs -	\$ 100,000
Ln 2-4	Amount used for other eligible Costs -	\$ 25,000
Ln 5	Total Salary/Hourly Wage Reduction	<u>\$ (0)</u>
Ln 6	Add Lines 1-4; subtract Ln. 5	\$ 125,000
Ln 7	FTE Reduction Quotient	0.8

Forgiveness Example #2

Example continued...

Forgiveness Amount is the LESSER OF:

Line 8 – Modified Total = $\$125,000 \times 0.8 = \$100,000$

Line 9 – PPP Loan Amount = $\$100,000$, or

Line 10 – PR Costs = $\$100,000 / 60\% = \$166,667$

Borrower owes \$0 back to Lender.



Call us at 813.875.7774 with questions.