

## CARES Act

### Paycheck Protection Program (PPP) Loan Forgiveness FAQ<sup>1</sup>

April 7, 2020

<b>1. How is the forgiveness amount calculated?</b>	Forgiveness is equal to the sum of the following costs incurred and payments made during the 8-week period beginning on the date of origination of the loan (“ <b>8-week Covered Period</b> ”), proportionate to maintaining employees and wages: <ul style="list-style-type: none"><li>• “Payroll Costs” (as further defined below)</li><li>• Interest payments on any mortgage obligation incurred before 2/15/20</li><li>• Rent payments on real or personal property leases entered into prior to 2/15/20</li><li>• Utility payments on services started prior to February 15, 2020</li></ul>
<b>2. What constitutes “Payroll Costs”?</b>	<ul style="list-style-type: none"><li>• Salary, wage, commission, or similar compensation (not in excess of an annualized salary of \$100,000);</li><li>• Cash tip or equivalent;</li><li>• Vacation, parental, family, medical, or sick leave;</li><li>• Payment required for the provision of group health care benefits, including insurance premiums;</li><li>• Payment of any retirement benefit;</li><li>• Payment of state or local taxes assessed on the compensation of employees.</li></ul>
<b>3. What is excluded from “Payroll Costs”?</b>	<ul style="list-style-type: none"><li>• Compensation of an employee whose principal place of residence is outside the United States;</li><li>• Compensation paid to an employee in excess of an annual salary of \$100,000 (with annual salary up to \$100,000 to such employee included);</li><li>• Federal employment taxes;</li><li>• Qualified sick and family leave wages for which a credit is allowed under the Families First Coronavirus Response Act.</li></ul>

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<sup>1</sup> This FAQ does not constitute legal advice and is subject to change based upon the issuance of new guidance and/or change in laws.



<p><b>4. What is the maximum amount of forgivable non-Payroll Costs?</b></p>	<p>Payroll Costs must make up no less than <b>75%</b> of the expenditure; the remaining up to <b>25%</b> can be spent on non-Payroll Costs, including rent, utilities and mortgage interest (see question #1 above).</p>
<p><b>5. When does the 8-week forgiveness period start?</b></p>	<p>The 8-week Covered Period begins on the date the PPP loan is disbursed to the entity.</p>
<p><b>6. Do reductions in staffing affect the amount of loan forgiveness?</b></p>	<p>Yes. The amount forgiven is reduced proportionally by any reduction in employees retained compared to a previous period using the following formula:</p> $\text{Loan Forgiveness Amount} \times \frac{\text{Average \# of full-time employees (FTEs) per month during 8-week Covered Period}}{\text{Average \# of FTEs per month employed from 2/15/19 – 6/30/19 OR 1/1/20 – 2/29/20 (at borrower's election)}}$ <p><i>Here is an example:</i></p> <ol style="list-style-type: none"> <li>1. Loan Forgiveness Amount = <b>\$100,000</b> (Payroll Costs (\$75,000) + Mortgage (\$5,000) + Rent (\$15,000) + Utilities (\$5,000) = \$100,000)</li> <li>2. Average FTEs per month during 8-Week Cover Period = <b>30</b></li> <li>3. Average FTEs per month from 2/15/19 – 6/30/19 = <b>50</b>; <b>OR</b></li> <li>4. Average FTEs per month from 1/1/20 – 2/29/20 = <b>40</b></li> </ol> <p>Since 40 FTEs is more favorable to the borrower than 50, #4 is selected as the denominator in above formula.</p> <p><b>TOTAL = \$75,000 forgiveness, or 75% after reductions (\$100,000 x <math>\frac{30}{40}</math> = \$75,000)</b></p>
<p><b>7. Can I reduce the number of employees and still be eligible for forgiveness?</b></p>	<p>Yes, however, per the equation in Question #6 directly above, a reduction will result in less than 100% debt forgiveness.</p>
<p><b>8. Do reductions in compensation affect the amount of loan forgiveness?</b></p>	<p>Yes. Any reduction during the 8-Week Covered Period in excess of <b>25%</b> of total salary paid to an employee in the most recent full quarter before the covered period will result in a dollar-for-dollar reduction (for the amount in excess of 25%) in loan forgiveness.</p>



	<ul style="list-style-type: none"><li>• A reduction in the salary of an employee who makes more than \$100,000 annually will <u>not</u> cause a reduction in the forgiveness amount, regardless of whether such reduction is in excess of 25%.</li><li>• Employee salaries reduced between 2/15/20 and 4/26/20 must be restored by 6/30/2020 in order to avoid a reduction in the amount eligible for forgiveness.</li></ul>
<b>9. What if I already laid off employees?</b>	If you reduced the number of your employees between February 15, 2020 and April 26, 2020, those reductions will not decrease the amount of loan forgiveness you receive if you rehire those employees by June 30, 2020 (the deadline set by the CARES Act).
<b>10. Some employees I need to rehire are no longer available, do I get credit for filling position with a new employee?</b>	Yes. There is no requirement to rehire the same employees. Hiring full-time equivalent employees is sufficient.
<b>11. Can I defer payments on my PPP loan?</b>	You will not have to make any payments for six months following the date of disbursement of the loan. However, interest will continue to accrue during this six-month deferment.
<b>12. Am I responsible for interest on the forgiven loan amount?</b>	No. You are not responsible for any accrued interest on the portion of the loan that is forgiven.
<b>13. Do I have to pay fees on the loan?</b>	No. You will not have to pay any fees on the loan.
<b>14. How do I apply to get forgiveness on my PPP loan?</b>	You must prepare and submit an application with your lender who is responsible for its review and processing.
<b>15. What documents do I need to apply for loan forgiveness?</b>	You will need to provide: <ul style="list-style-type: none"><li>• Documentation verifying the number of employees on payroll and pay rates, including IRS payroll tax filings and State income, payroll and unemployment insurance filings;</li><li>• Documentation verifying payments on covered mortgage obligations, lease obligations, and utilities;</li><li>• A certification that the documentation is true and correct and that the amount that is being forgiven was used in accordance with the program's guidelines for use;</li><li>• Any other documentation the SBA determines necessary.</li></ul>
<b>16. When will the debt forgiveness be applied to the loan?</b>	The forgiveness should be applied to the loan during the initial deferral period.
<b>17. When will I learn the loan has been forgiven?</b>	The lender must issue a decision regarding loan forgiveness within 60 days after receiving your application for loan forgiveness, during which time interest continues to accrue.

<b>18. What happens with any balance that remains after the portion is forgiven?</b>	Any balance remaining on the loan will be amortized over what remains of the original 2-year term once the 6 month deferral period has ended.
<b>19. What is the interest rate on the remaining balance, if any?</b>	The PPP loan features a 2-year term with interest capped at 1% and a 100% loan guarantee by the SBA.
<b>20. Do I have to provide collateral or a personal guaranty?</b>	No. There are no collateral requirements and the SBA’s personal guaranty requirement is waived.
<b>21. Can I count my own salary towards loan forgiveness if I am a sole proprietor or independent contractor?</b>	Yes. If you are an individual who operates under a sole proprietorship or as an independent contractor, you may include wage, commissions, income, or net earnings from self-employment or similar compensation as Payroll Costs.
<b>22. Can I include payments to 1099 and independent contractor workers for purposes of loan forgiveness?</b>	No. Independent contractors have the ability to apply for a PPP loan on their own, so they do not count for purposes of a borrower’s PPP loan calculation.
<b>23. What happens if I misuse the PPP loan funds?</b>	The SBA will direct you to repay misused amounts. If you knowingly use the funds for unauthorized purposes, you will be subject to additional liability such as charges for fraud. The SBA will also have recourse against a shareholder, member, or partner of borrower for the unauthorized use.
<b>24. Are forgiven amounts considered cancellation of indebtedness income for federal tax purposes?</b>	No. Unlike normal circumstance where canceled debt is taxable, cancellation of indebtedness income will not apply to loan forgiveness.
<b>25. Is the PPP “first-come, first-served”?</b>	Yes.
<b>26. Is there a deadline to file for a PPP loan?</b>	Yes. Presently, all PPP loans must be made on or before June 30, 2020 or until the funds made available for PPP are exhausted. Since the loans are on a “first-come-first-served basis”, borrowers should consider reaching out to a lending bank as soon as possible.
<b>27. Where can I apply for a PPP loan?</b>	You can apply through any existing SBA lender or through any federally insured depository institution, federally insured credit union, and Farm Credit System institution that is participating. Other regulated lenders will be available to make these loans once they are approved and enrolled in the program. You should consult with your local lender as to whether it is participating. Visit <a href="https://www.sba.gov/">https://www.sba.gov/</a> for a list of SBA lenders.