

Paycheck Protection Program Forgiveness

The loan forgiveness program is a work in progress by the SBA and U.S. Treasury. We have yet to see final rules and SBA adds additional FAQs to their website almost daily. Information provided ~~is subject to~~ will quite possibly change.

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Considerations

- Employees already working, possibly reduced hours
- Rehire
 - No work available to perform and paying employees to stay at home. Possibility of a second layoff in 8 weeks when the PPP funds runs out.
 - Work gradually comes back to a point where employees have work to perform at the end of the 8 weeks.
- Not spend the PPP funds and hold for a financial cushion, or use funds for other purposes.

Certifications Made

ii. Current economic uncertainty makes this loan request necessary to support the ongoing operations of the applicant.

iii. The funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments; I understand that if the funds are knowingly used for unauthorized purposes, the Federal Government may hold me legally liable such as for charges of fraud.

Using the Funds for Other Purposes

If you use PPP funds for unauthorized purposes, SBA will direct you to repay those amounts. If you knowingly use the funds for unauthorized purposes, you will be subject to additional liability such as charges for fraud.

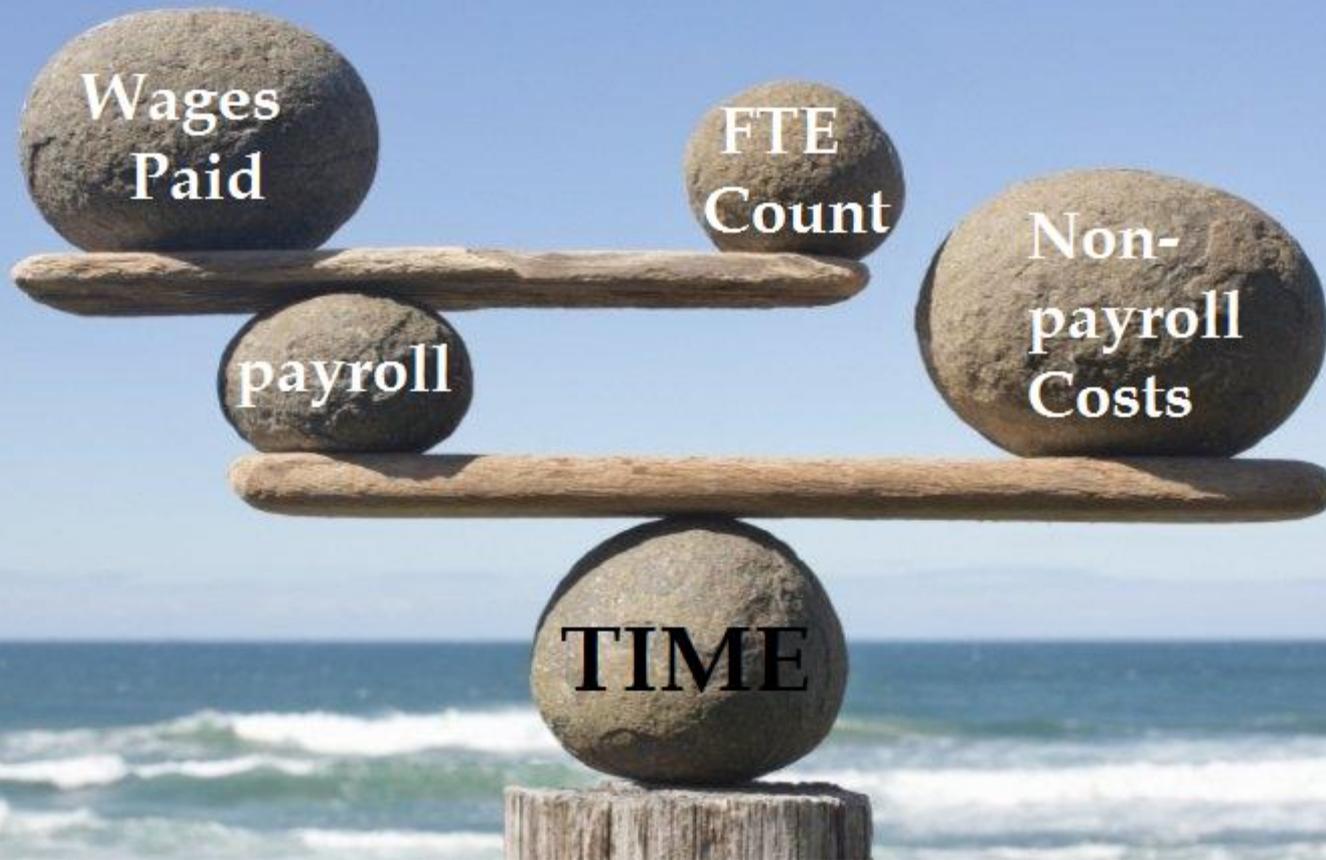
If one of your shareholders, members, or partners uses PPP funds for unauthorized purposes, SBA will have recourse against the shareholder, member, or partner for the unauthorized use.

Give Back the Funds

Any borrower that applied for a PPP loan prior to the issuance of this guidance and repays the loan in full by **May 18, 2020** will be deemed by SBA to have made the required certification in good faith.

The date has now passed, so you are all in to spend the funds as the loan intends.

The Balancing Act



Determine your spending deadline

The **eight-week** period begins on the date the lender makes the first disbursement of the PPP loan to the borrower.

Received funds Thursday, April 30th

Spending deadline June 24th

Count 55 days starting the day after the funds are deposited into your account.

Alternative Payroll Period

Biweekly or weekly payroll schedule borrowers can elect to calculate their eligible payroll costs by using the eight week period that begins on the first day of their first pay period following the receipt of their funds.

For the last pay period during the alternative payroll period, the wages will be paid after the eight-weeks, which is OK.

This alternative period is for 'payroll costs' ONLY.

MAY 2020

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
					1	2
3	4	5	6	7 PPP Deposit	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

The calendar for May 2020 features several key annotations: a red arrow points from the 10th to the 15th, labeled "Pay Day"; another red arrow points from the 24th to the 29th, also labeled "Pay Day"; and the text "PPP Deposit" is written in blue on the 7th. The calendar grid shows days from Sunday to Saturday, with days 1-9 highlighted in light blue, 10-23 in yellow, and 24-30 in white.

Non-payroll Cost Period

These costs must be paid during the original eight-week period **or** incurred during that period and paid on or before the next regular billing date, even if the billing date is after the eight-week Covered Period.

This appears to mean that if you receive the funds on May 15, and you owe 2 months of back rent/utilities, that payment would count towards forgiveness.

Non-payroll costs

- Rent
- Interest on mortgage obligations
- Interest on any other debt obligations (business auto loan)
- Utilities
 - Electric
 - Gas
 - Water
 - Transportation Utility Fees
 - Telephone (cell phone?)
 - Internet access

Existence prior to February 15, 2020

Payroll Cost Inclusions

- Wages, salaries, overtime, PTO, vacation, commission
- Bonus
- Severance pay
- Payment of cash tips
- Housing stipend or allowance
- Employer cost of health insurance*
- Employer contribution to employee's retirement plan*
- Employer state or local payroll tax expense*
(unemployment tax)

Payroll Costs Exclusions

- The exclusion of compensation in excess of \$100,000 annually applies only to cash compensation, not to non-cash benefits. For eight-weeks, the maximum is \$15,385.
- Benefits for self-employed owners are excluded (employer health care expense, retirement contributions, and state unemployment tax).
- Employee with a principal residence outside of the U.S.
- Wages paid under the FFCRA (Sick and EFMLA)
- Reimbursements
- 1099/Independent Contractor payments

Payroll Costs Exclusions Owners

The amount paid to owners, general partners, or self-employed individuals is capped at the **lesser** of;

- 15,385 (the eight-week equivalent of \$100,000), or
- the eight-week equivalent of their compensation for 2019.

Use of Funds

- No more than 25% spent on non-payroll costs
- At least 75% on payroll costs

Anything more than 25% spent on non-payroll costs or less than 75% on payroll costs will not be forgiven.

Tip; forecast your non-payroll costs and if less than 25% of total loan amount, spend the difference on payroll costs.

Full-Time Equivalent Employees

Restore the 100% workforce to pre-COVID-19 levels

Lookback period is either;

- February 15, 2019 to June 30, 2019
- January 1, 2020 to February 29, 2020

The 2019 period is suggested for seasonal employers

Choose the period that has less.

FTEE

How to count has been defined by SBA

How to count a FTE:

Salaried = 1 (exceptions?)

Hourly = Divide hours paid (except for OT) in a period of time by 40 hours for each week in that period of time.

Example, biweekly payroll with 2 salaried employees and 13 employees that were paid 842 hours excluding OT.

$842 / 80 \text{ hours} = 10.53$

Round 10.53 to 10.5 (nearest tenth) + 2 salaried = 12.5 FTEE

FTEE Simplified Method

1. Assign 1.0 for employees who work 40 hours or more per week
2. Assign 0.5 for employees who work fewer than 40 hours
3. Add up the numbers

Example, biweekly payroll with 2 salaried employees and 13 employees that all work 35 hours per week.

$$13 \times 0.50 \text{ hours} = 6.50$$

$$6.5 + 2 \text{ salaried} = 8.5 \text{ FTEE}$$

Spa Workers Making More On Unemployment Upset To Receive Small Business Loan

APRIL 23, 2020 By Tristan Justice

One small business owner in Washington state thought her employees would be thrilled at the news her company became one of the lucky few to receive federal assistance from the Paycheck Protection Program (PPP).

Jamie Black-Lewis, who operates two spas in the state received two loans for her shuttered businesses, totalling \$177,000 and \$43,800, according to CNBC, while thousands of other closed enterprises were out of luck as funds for the federal relief program exhausted by the end of last week.

“It was a firestorm of hatred about the situation” Black-Lewis told CNBC.

“I couldn’t believe it. On what planet am I competing with unemployment?”

Black-Lewis told CNBC.

That has led to many low-wage workers bringing in more money on unemployment than they would working their regular jobs, such as those working at Black-Lewis’ spas.

FTE Reduction Exception

Borrower must have made a good faith, written offer of rehire. Employee's rejection of that offer must be documented by the borrower. That employee will not count towards lookback count.

Separated employees who reject offers of re-employment may forfeit eligibility for continued unemployment compensation.

Borrower must inform the state unemployment insurance office of rejected offer within 30 days.

More FTE Reduction Exceptions

- Employees who were terminated for cause
- Voluntary resignations
- Death

Any FTE reductions in these cases do not reduce the loan forgiveness.

FTE Not Met?

Loan forgiveness will be prorated based on the reduction in FTE count.

Example if you had 10 FTEs in the lookback period and you only have 9 FTEs during the loan period, then 10% of the loan will NOT be forgiven. There was a 10% reduction in staff.

Reduction in Wage/Salary

Forgiveness is reduced by the amount of any reduction in total salary or wage amount for each and every employee excluding those who earn more than \$15,385 that is greater than 25% compared to the 1st Quarter 2020.

This is NOT necessarily a reduction based on hours worked. Reduction in hours is OK (sort of).

Example, if an hourly employees rate of pay is reduced from \$20 per hour to \$15 per hour, that is OK.

Or, a Salaried employee's weekly amount reduced from \$2,000 to \$1,500, that is also OK.

Reduction in Wage Exceeded?

Loan forgiveness will be reduced by amount over 25% reduction

Employee A is was paid \$20,000 in 1st Quarter.

Annualized, that is \$80,000

Paid \$8,000 during the 8 week period

Annualized, that is \$52,000

35% reduction, therefore 10% is over the 25% limit

10% of \$80,000 is \$8,000 (which is annualized)

$\$8,000 / 52 \text{ weeks} \times 8 \text{ weeks} = \$1,231$ **NOT Forgiven**

Buzzer Beater/Hail Mary pass

If you bring back the workforce to the pre-COVID-19 FTE level by June 30th, 2020, then the FTE Not Met is forgiven.

If you return the wages back to 100% of pre-COVID-19 wage level, then the reduction in wages is forgiven.

Don't expect to rehire everyone on June 29th, then terminate them on July 1st to be acceptable.

Bonus Content

- Pay with check – don't use a credit card
- Documentation is important
- Change your payroll account to the separate PPP funds account? Don't do it.

Forgiveness

- Apply through the issuing lender
- Documentation of expense payments; bills/checks/agreements
- Documentation of number of employees and wages paid
 - Payroll registers
 - Payroll tax returns
- Certification
- Lender will have up to 60 days to issue a decision
- All loans in excess of \$2 million and 'other loans as appropriate' will be reviewed by SBA/Treasury
- SIX year record retention period!

The IRS

- Forgiven debt is normally taxable, but PPP loan will be excluded.
- On April 30, the IRS Ruled out tax deductions for wages and rent paid with forgivable PPP loans.
([Notice 2020-32](#))
- Senators and Congressmen are pushing back that it should be a deductible expense. The CARES Act expressly states that the PPP loan forgiveness amount is not to be treated as taxable income. Not taking the deduction creates taxable income.

Non-forgiven Portion

- 2 year term
- 1⁰% fixed interest rate
- Zero loan fees
- Zero prepayment fee
- 6 month payment deferral

Additional Resources

<https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf>

<https://www.sba.gov/document/sba-form--paycheck-protection-program-loan-forgiveness-application>

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