

# GUIDE TO PPP LOAN FORGIVENESS



Under the Paycheck Protection Program (PPP) created by the CARES Act, loans may be forgiven if borrowers use the proceeds to maintain their payrolls and pay other specified expenses.

Congress recently changed the rules regarding loan forgiveness. The Treasury Department and Small Business Administration are responsible for updating the application form and instructions for loan forgiveness. You can find the most up-to-date information [here](#).

PPP borrowers must apply for loan forgiveness with the lender that processed the loan. This guide is designed to help borrowers understand the process by which their loan forgiveness amount will be calculated and the overall approach of the loan forgiveness process.

# HOW MUCH will be forgiven?

The process to calculate the amount of loan forgiveness requires three steps:

1. Determine the maximum amount of possible loan forgiveness based on the borrower's expenditures during the 24 weeks after the loan is made;
2. Determine the amount, if any, by which the maximum loan forgiveness will be reduced because of reduced employment or reduced salaries and wages; and
3. Apply the 60% rule that requires that at least 60% of eligible loan forgiveness expenses go towards payroll costs.

## 1

### Determine the maximum amount of possible loan forgiveness

#### 1A. Expenses Qualifying for Loan Forgiveness:

The following expenses incurred or paid by the borrower during the 24 weeks following loan origination (see below for determining the 24-week period) are eligible for forgiveness:

- Payroll Expenses, defined as:
  - Compensation (not exceeding \$46,154 per employee) in the form of:
    - gross salary, gross wages, gross commissions, and gross tips,
    - vacation, parental, family, medical, or sick leave (other than leave for which the employer was reimbursed under the Families First Coronavirus Response Act), and
    - allowance for separation or dismissal;
  - Employer contribution for employee group health care coverage;
  - Employer contribution for employee retirement plans; and
  - Payment of state and local taxes assessed on compensation of employees.

**Note:** For an independent contractor or sole proprietor, payroll costs only include wages, commissions, income, or net earnings from self-employment, or similar compensation.

- Non-Payroll Expenses, defined as:
  - Mortgage interest payments for the business on real or personal property (debt incurred before February 15, 2020);
  - Rent or lease payments for the business on real or personal property (lease in force before February 15, 2020); and
  - Utility payments for the business for electricity, gas, water, transportation, telephone, or internet access (service began before February 15, 2020).

**Note:** For an independent contractor or sole proprietor, you must have claimed or be entitled to claim a deduction for these expenses on your 2019 Form 1040 Schedule C in order to claim them as expenses eligible for PPP loan forgiveness in 2020

#### 1B. Identifying Your 24-Week Period:

The 24-week period during which expenses must be incurred or paid:

- The 24 weeks (168 days) beginning on the day the PPP loan was disbursed or
- For borrowers with a biweekly (or more frequent) payroll schedule, the 24 weeks (168 days) beginning on the first day of the first pay period following the PPP loan disbursement.

**Tip:** If you are using an online date calculator, remember to count the date of the disbursement of the loan as part of the 168 days. For example, if the loan was disbursed on April 20, the last day of the 168 days would be October 4).

## 2

### Determine the amount, if any, by which the maximum loan forgiveness will be reduced

#### 2A. Determine loan forgiveness reduction based on a reduction in salaries or wages of more than 25%:

For employees who earned \$100,000 or less in 2019 (or were not employed by the borrower in 2019), the borrower's loan forgiveness will be reduced for each employee whose average pay (salary or hourly wage) during the 24-week period is less than 75% of their average pay from the full quarter prior to the 24-week period (for most borrowers: January 1 to March 31, 2020). The amount of the reduction in loan forgiveness is based on the amount of the reduction in pay.

**Safe Harbor:** Borrowers can avoid having their loan forgiveness amount reduced if they restore an employee's pay. Specifically, if by not later than December 31, 2020, the employee's annual salary or hourly wage is equal to or greater than their annual salary or hourly wage on February 15, 2020, the borrower's loan forgiveness is not reduced.

#### 2B. Determine loan forgiveness reduction based on a reduction in the average number of employees.

The borrower's loan forgiveness will be reduced if the average number of weekly full-time equivalent employees (FTEs) during the 24-week period is less than the average number of FTEs during the borrower's chosen reference period. Borrowers can choose between the following reference periods:

- February 15 to June 30, 2019,
- January 1 to February 29, 2020, or
- In the case of a seasonal employer a consecutive 12-week period between May 1 and September 15, 2019

**Exceptions:** Borrowers will not be penalized for any FTE reductions if either of the following occurred:

- The borrower is unable to rehire individuals who were employees on February 15, 2020 and unable to hire similarly qualified employees for unfilled positions before December 31, 2020
- The borrower is able to document the inability to return to their February 15, 2020 level of business activity due to compliance with social distancing or other customer safety requirements

**Safe Harbor:** There is no reduction in the forgivable loan amount for borrowers who reduced their FTEs during the period beginning on February 15 and ending on April 26, 2020, but who by no later than December 31, 2020 restored the FTEs to the level that existed on February 15.

## 3

### Apply the 60% Rule

A borrower's maximum loan amount could also be reduced if the borrower's eligible non-payroll expenses exceed 40% of the total eligible expenses. The maximum eligible loan forgiveness is payroll expenses divided by 0.60.

**Example:** If your payroll expenses for the 24-week period equal \$60,000, your loan forgiveness cannot exceed \$100,000. Any more than \$100,000 would mean your non-payroll expenses represent more than 40 percent of the total forgiveness amount

## LOAN FORGIVENESS AMOUNT

Borrowers' loan forgiveness will equal the smallest of the following:

1. Your PPP loan amount
2. The maximum loan forgiveness amount from Step 1 less any reductions from Step 2
3. The maximum loan forgiveness amount where eligible payroll expenses equals or exceeds 60% of the total forgiveness (i.e. your eligible payroll expenses  $\div$  0.60)

# What happens to loan amounts NOT FORGIVEN?

For any loan amounts not forgiven, the original loan terms—two-year maximum loan at 1% interest rate with payments deferred until the date on which the amount of forgiveness is remitted to the lender—will apply. (For loans made after June 4, 2020 the loan term is five years).

# What are the record keeping REQUIREMENTS?

Borrowers will be required to submit certain documentation with their loan forgiveness application:

## Payroll Documents:

- Bank account statement or third-party payroll service provider reports documenting cash compensation paid to employees,
- Tax forms or equivalent third-party payroll service provider reports for periods overlapping with the 24-week period for: (1) payroll tax filings (typically Form 941), and (2) state quarterly wage reporting and unemployment insurance tax filings, and
- Payment receipts, cancelled checks, or account statements documenting payment of employer contributions to employee health insurance and retirement plan.

## Full-Time Employees (FTEs):

- Documentation showing the number of FTEs for the reference period from Step 2. Documents may include payroll tax filings (typically Form 941) and state quarterly wage reporting and unemployment insurance tax filings.

## Nonpayroll Expenses:

- Business mortgage interest payments: amortization schedule and cancelled checks or lender account statements from February 2020 and covering the 24-week period.
- Business rent and lease payments: Copy of current lease and receipts or cancelled checks or lessor account statements from February 2020 and covering the 24-week period.
- Business utility payments: Copy of invoices from February 2020 and the 24-week period and receipts, cancelled checks, or account statements

## OPTION TO USE 8 WEEKS

Borrowers that received a loan before June 5, 2020 may elect to use the original week period after origination for purposes of determining forgiveness.

## ABILITY TO DEFER EMPLOYER PAYROLL TAXES

PPP borrowers may now also delay payment of the employer portion of payroll taxes through the end of the year.