

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

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**How is the forgiveness amount calculated within your loan proceeds?** Forgiveness is based on the sum of the following eligible payroll or non-payroll costs incurred and payments made during the 8-week period beginning on the date of origination of the PPP loan (“**8-week Covered Period**”).

**What constitutes PPP forgivable payroll costs** (Payroll costs must represent no less than 75% of the PPP loan amount):

- Salary, wage, commission, or similar compensation (not in excess of an annualized salary of \$100,000).
- Cash tip or equivalent.
- Vacation, parental, family, medical, or sick leave.
- Payment required for the provision of group health care benefits, including insurance premiums.
- Payment of any retirement benefit.
- Payment of state or local taxes assessed on the compensation of employees.

**What constitute PPP forgivable non-payroll costs** (non-payroll costs cannot exceed 25% of the PPP loan amount):

- Interest payments on any mortgage obligation incurred before 2/15/20 is a liability of the Applicant and is a mortgage on real or personal property. Note: This does not include any prepayment or payment of principal.
- Rent payments on real or personal property leases must be a liability of the Applicant that was obligated under a leasing agreement in force prior to 2/15/20
- Utility payments on services started prior to February 15, 2020 and include electricity, gas, water, telephone, or internet service

**What is excluded from “Forgivable Payroll Costs”?**

- Compensation of an employee whose principal place of residence is outside the United States.
- 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).
- Federal employment taxes.
- Qualified sick and family leave wages for which a credit is allowed under the Families First Coronavirus Response Act.

**When does the 8-week forgiveness period start?**

The 8-week Covered Period begins on the date the PPP loan is disbursed to the entity. Early submission of your loan forgiveness support documentation to your lender is encouraged upon completion of your 8-week coverage period. Minimally borrowers must submit requests for forgiveness to the Lender no later than June 30, 2021. Lenders will have 60 days to approve or

<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.

decline the request once received from the Borrower.

### **What will reduce the loan amount eligible for Debt Forgiveness?**

The amount eligible for debt forgiveness will be reduced when a borrower reduces its number of employees or tipped workers or the salaries or wages of employees.

### **How is the reduction in debt Forgiveness Calculated?**

Debt forgiveness is reduced proportional to the reduction in the average number of employees per month during the covered period, when compared to a specified period prior to the effects of COVID-19.

Use the following formula:

- Loan Amount **X** Average # of full-time employees (FTEs) per month during 8-week Covered Period
- Average # of FTEs per month employed from 2/15/19 – 6/30/19 **OR** 1/1/20 – 2/29/20 (at borrower's election)

#### ***Here is an example:***

1. PPP Loan Amount = **\$100,000**
2. Average FTEs per month during 8-Week Cover Period = **30**
3. Average FTEs per month from 2/15/19 – 6/30/19 = **50; OR**
4. Average FTEs per month from 1/1/20 – 2/29/20 = **40**

Since 40 FTEs is more favorable to the borrower than 50, #4 average can be selected as the denominator for the formula.

TOTAL = **\$75,000 forgiveness**, or 75% after reductions (**\$100,000 x 30/40 = \$75,000**)

### **If you had to reduce the number of your employees are you still eligible for forgiveness?**

Yes, however, per the example directly above, a reduction will result in less than 100% debt forgiveness.

### **Does reductions in compensation affect the amount of loan forgiveness?**

Yes. Any reduction during the 8-Week Covered Period in excess of **25%** 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.

- A reduction in the salary of an employee who makes more than \$100,000 annually will not cause a reduction in the forgiveness amount, regardless of whether such reduction is in excess of 25%.
- 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.

### **What if you already laid off employees?**

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).

**Some employees you need to rehire are no longer available, do you get credit for filling a position with a new employee?**

Yes. There is no requirement to rehire the same employees. Hiring full-time equivalent employees is enough.

**Can I defer payments on my PPP loan?**

You will not have to make any payments for **six months following the date of loan disbursement**. However, interest will continue to accrue during this six- month deferment.

**Are you responsible for interest on the forgiven loan amount?**

No. You are not responsible for any accrued interest on the portion of the loan that is forgiven.

**Do you have to pay fees on the loan?**

No. You will not have to pay any fees on the loan.

**How do you apply to get forgiveness on my PPP loan?**

You must prepare and submit an application with your lender who is responsible for its review and processing.

**What documents do I need to apply for loan forgiveness?**

You will need to provide:

- Documentation verifying the number of employees on payroll and pay rates, including IRS payroll tax filings and State income, payroll and unemployment insurance filings.
- Documentation verifying payments on covered mortgage obligations, lease obligations, and utilities.
- 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.
- Any other documentation the SBA determines necessary.

**When will the debt forgiveness be applied to the loan?**

The forgiveness should be applied to the loan during the initial deferral period.

**When will you learn the dollar value of the loan that has been forgiven?**

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.

**What happens with any balance that remains after the portion is forgiven?**

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.

**What is the interest rate on the remaining balance, if any?**

The PPP loan features a 2-year term with interest capped at 1% and a 100% loan guarantee by the SBA.

**Do you have to provide collateral or a personal guarantee?**

No. There are no collateral requirements and the SBA's personal guarantee requirement is waived.

**Can you count my own salary towards loan forgiveness if I am a sole proprietor or independent contractor?**

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.

**Can you include payments to 1099 and independent contractor workers for purposes of loan forgiveness?**

No. Independent contractors can apply for a PPP loan on their own, so they do not count for purposes of a borrower's PPP loan calculation.

**What happens if you misuse the PPP loan funds?**

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.

**Are forgiven PPP dollars considered cancellation of indebtedness income for federal tax purposes?**

No. Unlike normal circumstances where canceled debt is taxable, cancellation of indebtedness income will not apply to loan forgiveness.

**Is the PPP "first-come, first-served"?**

Yes. You should always consult with your local lender as to whether it is participating. Visit <https://www.sba.gov/> for a list of SBA lenders.