



This information is based on what is currently known. We are monitoring updates to these guidelines and will keep you informed.

You can find past newsletters on PPP loans on the Blog page of our website. If you still have questions, please contact your Payroll Specialist.

About the Paycheck Protection Program (PPP)

The **Paycheck Protection Program (PPP)** is a program of government guaranteed loans and grants to provide funds to eligible small businesses so they can retain employees if “current economic uncertainty” of the COVID-19 pandemic makes such a loan for their business “necessary to support their ongoing operations,” and are willing to certify to the lender to that affect.

What are the terms of the loan?

The loan maturity date is two years from the date the loan was received. Principal and interest payments are deferred six months, but interest accrues during those 6 months at an annual rate of 1%. If borrowers meet certain criteria and apply for loan forgiveness, the loan will be forgiven, meaning the borrower does not need to pay back the loan or any interest.

Are businesses with other adequate resources to support their ongoing operations eligible for a PPP loan?

PPP loans are intended to provide relief to small businesses that might not have access to capital markets. Although the CARES Act suspends the ordinary requirement that borrowers must be unable to obtain credit elsewhere, borrowers

still should carefully review the required certification that “current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.”

How will the SBA review good-faith certification by borrowers regarding their need for the loan?

The SBA, in consultation with the Department of the Treasury, has issued guidance that any borrower that received a PPP loan for less than \$2 million will be deemed to have made the required certification because borrowers with loans below this threshold are generally less likely to have access to adequate sources of liquidity than borrowers that obtained larger loans.

All PPP loans over \$2 million, and other PPP loans as deemed necessary, will be subject to review by the SBA for compliance with program requirements before they can be forgiven.

Managing Your PPP Loan

To qualify for loan forgiveness, you must spend the loan funds within 8 weeks, and no later than June 30. Loan forgiveness is not automatic; you must apply for it.

When does the eight-week covered period of the PPP loan begin?

The 8-week period begins when you receive the funds.

If we return 100% of our PPP loan now, will we have to pay interest?

Yes. The deadline for returning the loan without penalty was May 14.

If a business has not been able to open yet, does the 8-week window move?

The 8-week period begins when you receive the funds, whether or not your business is open. Congress may make legislative changes to this requirement, but as of this writing, nothing has been approved.

My business is closed. Do I still need to pay employees who aren't working?

Yes, the purpose of the PPP loan is to pay workers. You must use at least 75% of the funds to pay employees, whether or not they are working.

What happens if some or all of a PPP Loan is not forgiven?

Any portion of a PPP loan that is not forgiven must be repaid in two years from the date of funding, at 1% interest. Payments would start after the initial 6-month deferment period. Payments would typically be in equal payments of principal and interest.

What is the deadline for spending the PPP loan funds?

The funds must be used by 6/30/20. Funds not used by this date for eligible expenses must be repaid.

Will nonprofit organizations be audited if they receive a PPP loan?

Guidance has not been provided at this time, though loans higher than \$2 million are expected to be audited.

If I can't open my business. would I be better repaying the PPP loan and taking tax credits to use when we can reopen?

Possibly. If you don't incur any compensation, you won't get any forgiveness. If not forgiven, the PPP is a low interest (1%) loan. Consult your CPA for guidance.

PPP Loan Forgiveness

Can any portion of the PPP loan be forgiven in the form of a government grant?

Yes. But only expenses for payroll and specified utilities can be forgiven.

Are there limitations on loan forgiveness?

Yes. The amount of loan forgiveness can be reduced if an employer:

- Reduces the number of full-time equivalent (FTE) employees during the covered period more than it would have during a comparable period in past years.
- Reduces compensation by 25% or more to employees who earn less than \$100,000 per year. This is on a per employee basis, not the aggregate payroll.

How Do I Get My Loan Forgiven?

Loans are not forgiven automatically. You must apply for loan forgiveness. Here is a link to the forgiveness application.

Does the interest on the loan qualify for forgiveness?

Yes. If the loan is forgiven, the interest is also forgiven.

What Expenses Are Eligible for Forgiveness and What Expenses Are Not

Payroll Expenses

At least 75% of the funds must be used for permitted payroll expenses for the loan to be forgiven. You may use 100% of the funds on payroll if you want.

If your payroll is higher because you hired more staff or gave raises, you can use the higher payroll in the calculation for forgiveness, but you cannot be forgiven for more than the original loan amount.

Payroll Expense	Eligible for Forgiveness?
Salaries	Yes, up to a maximum of \$15,385 per 8-week period for an individual
Commissions	Yes
Bonuses	Yes
Raises	Yes
“Hazard pay”	Yes
Vacation pay	Yes
Sick pay or medical pay	Yes
Sick pay covered by COVID-19	No
Compensation to pay salespeople who cannot earn commission due to “stay at home” mandates	Yes
Severance pay	Yes
Back pay for when business was closed in March, April, and May	Yes, but the pay date would be the current pay date (not backdated)
Payroll processing fees	No

Salaries paid to business owners (including partners and members), including weekly distributions, K-1s, health insurance, and SEP IRA contributions	Yes. If the PPP distributions are treated as self-employment income from an LLC or Partnership (but not an S corps), the distributions and the related benefits would be treated similar to salary.
Pay for new hires	Yes
Parental or family leave	Yes
Sick leave or family leave under the FFCRA	No
Compensation to non-residents	No
Employer's share of payroll tax	No
Cash compensation (including commissions and bonuses) for employees and self-employment income to partners/members in excess of an annual salary of \$100,000.	No Based on the most recent guidance, the maximum salary eligible for forgiveness for the 8-week period is \$15,385 (\$100,000 / 52 x 8).
Non-cash benefits including employer contributions to benefit plans, group health costs including insurance premiums and state and local taxes assessed on compensation for employees and partners/members in excess of an annual salary of \$100,00	Yes
Employees who are not working because the business is closed and who are collecting unemployment insurance	Yes, but the employee would not be eligible for unemployment insurance for those weeks you are paying them. If the employee's pay is reduced, they may be eligible for unemployment insurance, but that is a matter for the state's unemployment office, not for your payroll.
Business owner's draw	No

For PPP loan forgiveness, do payroll costs have to be incurred or paid?

Our understanding is that the costs have to be paid. This means the payroll costs go by the pay date (check date) and not the pay period.

Insurance and Benefits

Benefit Expenses	Eligible for Forgiveness?
Health insurance premiums paid by <u>employer</u>	Yes
Dental insurance paid by <u>employer</u>	Yes
Vision insurance paid by <u>employer</u>	Yes
Health, dental, vision, or other health insurance premiums paid by <u>employee</u>	No
Life insurance premiums	No
Disability insurance (short-term or long-term)	No
401K management fees	No
Employer-paid retirement benefits (401K and SIMPLE matching contributions)	Yes. These are not subject to the \$15,385 cap for employees making more than \$100,00.
Prepayment of likely profit-sharing plan contributions that ordinarily would not be made until next year	Maybe, if already earned and you are just depositing them earlier. There has not been clarification on this yet, so proceed with caution.
Workers' Compensation	No, this is not a benefit
Health costs for businesses that are self-insured	Yes

Taxes

Tax Expenses	Eligible for Forgiveness?
Federal income tax	No
State income tax	No
FICA	No
Medicare	No
State unemployment tax	Yes
Local income tax	No
Employer's income tax	No
Workers' compensation	No (this is insurance, not a tax)

Utilities

Utility Expenses	Eligible for Forgiveness?
Rent for leases on or before 2/15/2020	Yes
Rent for leases after 2/15/2020	No
Mortgage interest	Yes
Prepaid mortgage interest	No
Payments towards mortgage principal	No
Oil or gas heat	Yes
Water bills	Yes
Other debt (not mortgage interest)	No
Electricity	Yes
Internet	Yes
Telephone	Yes
Mobile phones	Yes
Postage	No, this is not a utility
Software subscriptions or licenses	No
A business owner's office expenses	Yes, if the owner typically deducts home-office utilities on their income tax returns.
Home office or utility expenses of an employee that the employer pays	No
Transportation	Yes. There have not been specific guidelines as to what is considered "transportation," but we assume this is paid travel time.

Timing of Payroll Expenses

If payroll is incurred during the 8-week covered period but the actual pay date is a few days after the end of the covered period, can PPP loan funds be used for that payroll and be forgiven?

Yes. While the guidance currently states that expenses must be incurred and paid, we believe you can use forgivable loan funds for the scenario you described but future SBA guidance may indicate otherwise. Be sure to document thoroughly. You can always prepay employees (double up payroll) to stay within the dates.

If the loan is funded on 5/1, and we have a pay day on the 5th covering 4/16 to 4/30, is this payroll going to be included in the analysis for forgiveness?

The guidance is not clear, and we hope additional guidance will be provided. In the meantime, we take the position the payroll had been incurred, and since it was paid in the covered period it should be included.

Can you pay the fiscal year 2020 retirement benefit if you usually pay it after the FY ends?

You can pay that portion of the benefit that has been incurred so far that year. We don't think you can pay it in advance, but you could pay based on the current amount of salary and matching amount earned so far. You may be able to justify paying the 2019 contribution, if not paid yet, but there is more uncertainty on that. Consult your CPA for guidance.

If we are currently deferring the Social Security payroll tax, do we stop when the loan is received or when it is forgiven?

Our understanding is that you must catch up the payroll taxes that were deferred when the loan is forgiven, but the guidance is not clear.

Headcount, Who Is an Employee, and FTE

The PPP loan application did not ask for FTE. It asked for number of employees. How will the FTE come into play?

Lenders asked for the number of employees to determine eligibility for the PPP loan. FTEs will be used in the process of determining the loan forgiveness calculation.

What Is “Full-Time” for Purposes of Calculating FTE?

There have not been specific guidelines from the SBA as to what is considered full-time. It is generally believed to be 30 hours per week, though it may be 40. Part-time and full-time employees count towards your FTE headcount. To calculate FTEs, divide the total number of hours worked by 30 hours or 40 hours.

Employee Headcount

Type of “Employee”	Count towards FTE Headcount?
Full-time workers earning less than \$100K per year	Yes
Full-time workers earning \$100K per year or more	No
Part-time employees	Yes
1099 workers	No
Contract workers	No
Temporary workers	Only if paid by W-2, not 1099.
Family members	Yes, as long as they are working in the business
Business owners	Yes, if they are W-2 employees.

What dates are used to determine FTE for the 8-week period?

The two pay periods for determining FTE are 2/15-6/30/2019 or 1/1-2/29/2020. These are the pay periods the SBA will be looking at to compare number of employees. You have to choose which pay period to use.

Layoffs/Furloughs and Headcount

Can I rehire employees I terminated/laid off/furloughed before I received the loan?

Yes. If you reinstate employees before June 30, 2020, you can count them in your FTE headcount for purposes of loan forgiveness.

What if a laid-off worker doesn’t return?

You do not need to hire back the same employees who were laid off. The calculation is based on the number of full-time equivalent employees (FTEs) not on specific individuals in specific roles. If you laid off employees due to COVID-19 issues, you can rehire an equivalent number of FTEs by June 30 (or, we believe, the end of the covered period) and qualify for loan forgiveness.

What happens if a worker is only contracted to work a portion of the eight-week covered period (i.e. schools which end in May or June)? Is there any guidance on whether or not to include them in the FTE calculation?

There is no specific guidance. If you did not lower their wage rate, we believe you can ignore them in your calculation, but the guidance is not clear.

If you lay someone off and hire another person in their place, can the new hire's pay be included in the calculation for forgiveness?

Yes.

If during the PPP loan period an employee voluntarily resigns, will this affect the FTE calculation?

Yes, if the employee is not replaced by someone else.

Are there special considerations for temporary agencies or companies that use temp workers for seasonal work?

For the PPP, "employees" refers to individuals employed by and receiving a W-2. Temporary employees hired through a contract with a temporary agency would not count toward a business's employee count or payroll costs. This includes 1099 workers.

The Compensation Cap

Is it true that employees with salaries >\$100,000 would not be included in the calculation for the loan forgiveness amount?

The \$100,000 cap applies to cash compensation, not to non-cash benefits such as employer contributions to defined benefit plans, group healthcare coverage premiums, state and local tax payments on employee compensation. Also, it is unclear how an individual who was employed for only part of the year should be handled. The guidance from the SBA is not clear, and most banks are indicating you should just look at the total compensation for the period. Based on the most recent guidance, the maximum salary eligible for forgiveness for the 8-week covered period is \$15,385 ($\$100,000 / 52 \times 8$).

If an employee was earning more than \$100,000 per year before the covered period, can you reduce their pay to the cap (\$15,385) during the covered period and use forgivable PPP loan funds for their compensation, or are employees earning more than \$100,000 excluded from payroll calculations?

You can pay any employee up to \$15,385 during the covered period, regardless of their pre-PPP loan compensation.

Can you pay all your employees \$15,385 for the 8-week period even if their average earnings are less?

Yes.

For wages at the \$100K limit, do payroll taxes and other benefits that are incurred by the amount of pay have to be prorated downward accordingly?

The other benefits don't have to be prorated down. Payroll taxes are ignored, other than state and local payroll taxes paid by the company.

The PPP and Other Relief Programs

Can I have a PPP loan and also take the employee retention credits (Section 2301 of the CARES Act)?

No, you cannot double dip. Consult your CPA for which program is better for you.

What should I consider if I applied for multiple sources of emergency relief (EIDL, PPP or other Covid-19 loans)?

You cannot have both an EIDL and PPP loan, but you can roll an existing EIDL loan into a PPP loan. You cannot maintain an existing EIDL if the funds are for the same purposes as the PPP. A business with an EIDL advance is eligible to receive a PPP loan, but the loan is reduced by the amount of the EIDL advance. We are unsure at this time if the EIDL advance is forgivable. Consult your CPA for guidance on this matter.

Can a business receive a PPP loan and still participate in tax relief program of the CARES Act?

No. We believe that businesses participating in the tax deferral program that later receive a PPP loan would probably stop deferring taxes and pay taxes going forward, but we don't have specific guidance on this. You would probably need to pay taxes to catch up to be eligible for the forgiveness program. You need to consult your CPA for guidance on this matter. Churches, synagogues and other religious organizations are qualified to participate if they meet the other rules

regarding number of employees. Religious organizations do not have to count employees of their affiliates to qualify for the PPP loan.

Tax Considerations

Is the amount of forgiveness included in taxable income to borrowers?

No. IRS Notice 2020-32 issued April 30th states that expenses paid with PPP funds which are forgiven under the program are not deductible. Consult your CPA for guidance.

Can I deduct expenses covered by the PPP loan on my taxes?

If the expenses were not forgiven, yes. If the expenses were forgiven, no. Consult your CPA for guidance. But Congress might overturn the IRS ruling that expenses paid with loan proceeds cannot be deducted if the loan is forgiven.