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**Disclaimer:** As a Borrower under the Paycheck Protection Program, it is your sole legal responsibility to comply with all laws and regulations applicable to Borrowers under the Small Business Administration Paycheck Protection Program (SBA PPP).

Byline Bank urges SBA PPP Borrowers to closely review the latest SBA PPP law, regulations and guidelines (Guidelines). The Guidelines can be found on the Small Business Administration and the Department of Treasury websites: [www.SBA.gov](http://www.SBA.gov) and [www.Treasury.gov](http://www.Treasury.gov). Byline Bank cautions you that the Guidelines are evolving. The Small Business Administration periodically updates the Guidelines. Some updates modify prior Guidelines, other updates provide further clarification.

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## Loan Forgiveness

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**1. When can businesses apply for loan forgiveness?**

A borrower may submit a loan forgiveness application any time on or before the maturity date of the loan – including before the end of the covered period – if the borrower has used all of the loan proceeds for which the borrower is requesting forgiveness.

**2. Are borrowers allowed to apply for forgiveness before the end of their Covered Period if they have already spent all of the original loan funds?**

Yes, guidance indicates that applications for forgiveness can be submitted any time after all of the loan funds have been used for eligible purposes.

**3. If a borrower made a mistake on the PPP Loan Application, can this be fixed on the Loan Forgiveness Application since the numbers may be in misalignment when compared to the original Loan Application?**

The amounts used for calculating the Loan Forgiveness Amount do not directly depend on what information was used for the original PPP Loan Application. Corrections to the PPP Loan Application would not impact the eligible amount of Loan Forgiveness, unless it is determined that the Borrower was not eligible for the PPP loan in the first place. Loans which were not eligible as a PPP loan will not be forgiven.

**4. When is the forgiveness application due?**

There is no defined due date. Note that loan payments will commence after 10 months following the end of the Covered Period or Alternative Payroll Covered Period. Interest continues to accrue from date of disbursement of the loan.

**5. The PPP loan forgiveness application forms (3508, 3508EZ, and 3508S) display an expiration date of 10/31/2020 in the upper-right corner. Is October 31, 2020 the deadline for borrowers to apply for forgiveness?**

No. Borrowers may submit a loan forgiveness application any time before the maturity date of the loan. The expiration date in the upper-right corner of the posted PPP loan forgiveness application forms is displayed for purposes of SBA's compliance with the Paperwork Reduction Act, and reflects the temporary expiration date for approved use of the forms. This date will be extended, and when approved, the same forms with the new expiration date will be posted.

**6. Where can borrowers find their PPP Loan Number and the Lender PPP Loan Number?**

Borrower will need to request the information from their lender.

**7. Where do employers include bonuses and benefits on the PPP Loan Forgiveness Application?**

Cash bonuses are included in the Cash Compensation section of the PPP Schedule A worksheet. Bonuses are included in the total salary and compensation paid to employees during the Covered Period or Alternative Payroll Covered Period. Benefits are included in lines 6 and 7 of the PPP Schedule A worksheet. Line 6 has employers enter the total amount paid by the borrower for employer contributions for employee health insurance and line 7 has employers enter the total amount paid by the borrower for employer contributions to employee retirement plans.

**8. Is there a calculator accessible to help estimate the amount of loan forgiveness?**

The Loan Forgiveness Application provides instructions regarding the calculations.

**9. Are borrowers allowed to choose more than 8 weeks but less than 24 weeks for their covered period?**

The current guidance states the Covered Period (or Alternative Payroll Covered Period) is either the original 8-week period, or the new 24-week period. Guidance indicates that if a borrower applies for forgiveness before the end of their Covered Period, they are still to record the end of their Covered Period as either 8-weeks or 24-weeks from the date of loan funding.

**10. Do borrowers need to notify the lender if they wish to extend their Covered Period or Alternative Payroll Covered Period past 8 weeks?**

The extension of the Covered Period due the PPPFA was automatically retroactive for existing PPP loans, however the borrower may choose to retain the original 8-week Covered Period when they complete their forgiveness application.

**11. Will borrowers have the opportunity to dispute the forgiveness decision if they do not receive full loan forgiveness?**

Yes. The lender must notify the borrower in writing if they have issued a decision to SBA denying the loan forgiveness application. Within 30 days of notice from the lender, a borrower may request that SBA review the lender's decision on the borrower's forgiveness application.

**12. Do borrowers need to establish a separate bank account for the loan funds?**

Guidance does not require borrowers to set-up a separate account for the loan funds, however, a separate account may help support accurate and detailed recordkeeping.

**13. If a business received EIDL, will this affect the PPP Loan Forgiveness?**

The receipt of an EIDL does not impact forgiveness, however any "Emergency Advance" received will be deducted from the loan forgiveness calculation because the EIDL Emergency Advance itself does not require repayment.

**14. A business was looted badly. This resulted in employees quitting and reduced payroll. Will this circumstance meet the requirements of the FTE Safe Harbor when evaluating loan forgiveness?**

Guidance does not specifically state if the Safe Harbor addresses other environmental or economic complications. Guidance only states that the FTE Safe Harbor comes into effect if employees voluntarily resigned or refused the offer for rehire, if the business was unable to find qualified individuals for rehire or if the employer was unable to operate at the same level of business activity due to compliance with COVID-19 safety requirements.

**15. Is forgiveness affected if a business is considered either an Essential or Non-Essential business?**

Nothing in the program guidance differentiates between essential and non-essential businesses.

**16. Does the requirement to exclude non-US residents include non-US residents with a work permit?**

The program includes employees whose principal place of residence is in the U.S. and does not indicate they need to be a U.S. citizen. Employees residing outside of the U.S., whether a citizen or not, should not be included in FTE or payroll costs.

**17. How does the PPP loan forgiveness apply to an S-Corp CEO who takes periodic owner draw but is not on payroll?**

Compensation to owner/employees and general partners can be included in payroll costs on line 9 of Schedule A. - Sole Proprietor owner compensation is limited to eight weeks' worth of 2019 net profit (up to \$15,385 for any owner) for an 8-week Covered Period or Alternative Payroll Covered Period, or 2.5 months' worth (2.5/12) of 2019 net profit (up to \$20,833 for any owner) for a 24-week Covered Period or Alternative Payroll Covered Period.

**18. Is the forgiveness amount going to be considered taxable revenue to the business?**

No. The forgiveness amount is excluded from gross income by statute. It should be noted that any expenses incurred associated with the forgiveness amount are also not deductible for tax purposes.

**19. How long will the forgiveness process take?**

The lender has 60 days to make a decision and submit the application to the SBA. At that time, the lender must also notify the borrower in writing if they have issued a decision to SBA denying the loan forgiveness application. Within 30 days of notice from the lender, a borrower may request that SBA review the lender's decision on the borrower's forgiveness application. The SBA has 90 days to review and fund the forgiveness amount after the final decision is submitted by the bank.

**20. Will there be another round of PPP loan funds where borrowers can apply for additional funds?**

The SBA has not indicated that there will be another round of loan funding where borrowers may apply for additional funds. The last day for approving PPP loans was August 8, 2020.

**21. Is the loan taxable income?**

To the extent the PPP loan proceeds are used for eligible payroll and nonpayroll costs incurred and paid during the Covered Period or Alternative Payroll Covered Period, the amount of loan forgiveness is excluded from gross income by statute. It should be noted that any expenses incurred associated with the forgiveness amount are also not deductible for tax purposes.

**22. If borrowers have used all of their PPP loan funds before the end of the Covered Period, are they allowed to apply for more funds now that the length Covered Period has been extended?**

No guidance has been released determining if borrowers may apply for additional PPP loan funds. However, loan increases may be issued to Partnerships and Seasonal Employers in specific situations. If a partnership received a PPP loan that only included amounts necessary for payroll costs of the partnership's employees and other eligible operating expenses, but did not include any amount for partner compensation, the lender may electronically submit a request through the SBA's E-Tran Servicing site to increase the PPP loan amount to include appropriate partner compensation. The borrower must provide the lender with required documentation to support the calculation of the increase.

**23. If a seasonal employer received a PPP loan before the alternative criterion for such employers was posted on April 28, 2020, and would be eligible for a higher maximum loan amount under the alternative criterion, the lender may electronically submit a request through the SBA's E-Tran Servicing Site to increase the PPP loan amount**

If a borrower's 8-week Covered Period or Alternative Payroll Covered Period has already concluded, how should they go about extending their Covered Period or Alternative Payroll Covered Period to a maximum of 24 weeks?

The extension of the Covered Period due the PPPFA was automatically retroactive for existing PPP loans, however the borrower may choose to retain the original 8 week Covered Period.

**24. What documentation should borrowers use to represent their 941 since it is a quarterly tax filing?**

Absent a 941 the application states, "Documentation supporting the certification that annual salaries or hourly wages were not reduced by more than 25 percent during the Covered Period or the Alternative Payroll Covered Period relative to the period between January 1, 2020 and March 31, 2020. This documentation must include payroll records that separately list each employee and show the amounts paid to each employee during the period between January 1, 2020 and March 31, 2020, and the amounts paid to each employee during the Covered Period or Alternative Payroll Covered Period." and "Documentation supporting the certification, if applicable, that the Borrower did not reduce the number of employees or the average paid hours of employees between January 1, 2020 and the end of the Covered Period (other than any reductions that arose from an inability to rehire individuals who were employees on February 15, 2020, if the Borrower was unable to hire similarly qualified employees for unfilled positions on or before December 31, 2020). This documentation must include payroll records that separately list each employee and show the amounts paid to each employee between January 1, 2020 and the end of the Covered Period."

## **Loan Forgiveness Application**

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**25. Do all borrowers have the option of an 8-week or 24-week Covered Period?**

Yes. If the business received the loan funds before June 5, 2020, they are eligible to extend their original 8-week Covered Period to 24-weeks. If the borrower received the loan funds on or after June 5, 2020, their Covered Period is automatically 24 weeks, but they may choose an 8 week Covered Period.

**26. If a business will not feel the effects of COVID-19 until a few months after the Covered Period, should the employer wait to apply for forgiveness until their books show the challenges they expect to encounter to show their need for the PPP loan funds?**

If the borrower had a valid concern regarding the longer term impact of COVID and used the loan proceeds properly, they do not have to wait to apply for forgiveness to show the impact on the financial performance of the business. There is no information to suggest providing financials to support the impact of COVID is a requirement.

**27. If a borrower has an employee who earns more than an annual salary of \$100,000, are they still eligible to use the EZ form?**

Yes, even though borrowers may not compensate employees for more than an annualized salary of \$100,000 with the PPP funds, they still are eligible to use the EZ form.

**28. Can the Safe Harbor rule be used to qualify for the EZ application? For example, if a borrower's FTE levels were reduced due to COVID-19 restrictions, are borrowers still eligible to use the EZ application to apply for forgiveness?**

Yes, per the application instructions you may use the EZ application if the following are true.

- The Borrower did not reduce annual salary or hourly wages of any employee by more than 25 percent during the Covered Period or the Alternative Payroll Covered Period (as defined below) compared to the period between January 1, 2020 and March 31, 2020 (for purposes of this statement, "employees" means only those employees that did not receive, during any single period during 2019, wages or salary at an annualized rate of pay in an amount more than \$100,000);

AND

- The Borrower was unable to operate during the Covered Period at the same level of business activity as before February 15, 2020, due to compliance with requirements established or guidance issued between March 1, 2020 and December 31, 2020 by the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention, or the Occupational Safety and Health Administration, related to the maintenance of standards of sanitation, social distancing, or any other work or customer safety requirement related to COVID-19. The borrower will need to have documentation supporting their eligibility for the Safe Harbor.

**29. Are seasonal employers eligible to use the EZ form for forgiveness?**

Seasonal employers may choose to use the EZ Forgiveness Application if they meet at least one of the following criteria:

- The borrower is a self-employed individual, a sole proprietor, or independent contractor who had no employees at the time of the PPP loan application and did not include any employee salaries in the computation of average monthly payroll in the Borrower PPP Loan Application Form. OR
- The borrower can certify that no individual employee pay rates were reduced during the Covered Period when compared to the first quarter of 2020 by more than 25%,

AND

- The borrower can certify that they did not reduce the number of employees or the average paid hours of employees between January 1, 2020 and the end of the Covered Period when compared to the earlier reference period or meet the full-time equivalent employee (FTE) Safe Harbor provision. OR
- The borrower can certify that no individual employee pay rates were reduced during the Covered Period when compared to the first quarter of 2020 by more than 25%,

AND

- The Borrower was unable to operate during the Covered Period at the same level of business activity as before February 15, 2020, due to compliance with requirements established as a result of COVID -19.

However, if an employer chooses to use the seasonal employer alternative reference period, they are likely to have adjustments and reductions in FTE during their Covered Period due to the nature of their business. If the number of FTE is reduced between January 1, 2020 and the end Covered Period, they are not eligible to use the EZ form.

**30. If a business reduces salaries by less than 25%, can they still use the EZ form?**

Yes, in order to use the EZ form employers must certify that no individual employee pay rates were reduced during the Covered Period when compared to the first quarter of 2020 by more than 25%.

**31. Are borrowers to list all expenditures for payroll, utilities and rent on the forgiveness application even if the forgiveness amount requested exceeds the original PPP loan amount?**

Guidance does not indicate if you must list all expenditures during the Covered Period or Alternative Payroll Covered Period on your application. In order to receive maximum forgiveness, you must follow the requirements of the program and provide the appropriate supporting documentation.

On the application, your loan forgiveness will be determined by the lesser of your payroll and nonpayroll expenditures, the original loan amount or the payroll cost 60% requirement calculation. If your expenditures exceed your original loan amount, the maximum amount of forgiveness you will receive from your application is the amount of your original loan.

**32. If a business decides to apply for forgiveness before the end of the Covered Period, are the FTE levels and compensation compared to the levels at the time the application is submitted, or at the end of the year (12/31/2020)?**

Guidance is not clear or consistent. Some of the forgiveness calculations are based on the entire 24-week Covered Period, while other parts of the application are based on the FTE at the time of application.

**33. Can you apply for forgiveness using the EZ form if you received an EIDL?**

Yes, you may apply for forgiveness using the EZ form if you received an EIDL. Per the SBA Form 3508EZ application instructions, you may use the EZ application if at least one of the following three options are true:

- (1) The Borrower is a self-employed individual, independent contractor, or sole proprietor AND had no employees at the time of the PPP loan application and did not include any employee salaries in the computation of average monthly payroll in the Borrower Application Form (SBA Form 2483); OR
- (2) The Borrower did not reduce annual salary or hourly wages of any employee (whose annualized 2019 salary or wages did not exceed \$100,000) by more than 25 percent during the Covered Period or the Alternative Payroll Covered Period compared to the period between January 1, 2020 and March 31, 2020 AND the Borrower did not reduce the number of employees or the average paid hours of employees between January 1, 2020 and the end of the Covered Period (subject to the Safe Harbor provisions for inability to rehire); OR
- (3) The Borrower did not reduce annual salary or hourly wages of any employee (whose annualized 2019 salary or wages did not exceed \$100,000) by more than 25 percent during the Covered Period or the Alternative Payroll Covered Period (as defined) compared to the period between January 1, 2020 and March 31, 2020 AND the Borrower was unable to operate during the Covered Period at the same level of business activity as before February 15, 2020, due to compliance with requirements established or guidance issued between March 1, 2020 and December 31, 2020 by the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention, or the Occupational Safety and Health Administration, related to the maintenance of standards of sanitation, social distancing, or any other work or customer safety requirement related to COVID-19.

**34. If we spent all of the funds on payroll, do we need to provide information or documentation on non-payroll expenditures?**

The application does not specifically indicate whether all eligible payroll and non-payroll expenditures need to be documented on the forgiveness application. Borrowers are required to provide information and supporting documentation for the expenditures that support forgiveness for the amount of the original loan.

**35. Is there a dollar amount of a PPP loan that determines whether or not you can use the EZ form?**

No, there is not a specified loan amount that qualifies an individual for the EZ form. Per the SBA Form 3508EZ application instructions, you may use the EZ application if at least one of the following three options are true:

- (1) The Borrower is a self-employed individual, independent contractor, or sole proprietor AND had no employees at the time of the PPP loan application and did not include any employee salaries in the computation of average monthly payroll in the Borrower Application Form (SBA Form 2483); OR
- (2) The Borrower did not reduce annual salary or hourly wages of any employee (whose annualized 2019 salary or wages did not exceed \$100,000) by more than 25 percent during the Covered Period or the Alternative Payroll Covered Period compared to the period between January 1, 2020 and March 31, 2020 AND the Borrower did not reduce the number of employees or the average paid hours of employees between January 1, 2020 and the end of the Covered Period (subject to the Safe Harbor provisions for inability to rehire); OR
- (3) The Borrower did not reduce annual salary or hourly wages of any employee (whose annualized 2019 salary or wages did not exceed \$100,000) by more than 25 percent during the Covered Period or the Alternative Payroll Covered Period (as defined) compared to the period between January 1, 2020 and March 31, 2020 AND the Borrower was unable to operate during the Covered Period at the same level of business activity as before February 15, 2020, due to compliance with requirements established or guidance issued between March 1, 2020 and December 31, 2020 by the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention, or the Occupational Safety and Health Administration, related to the maintenance of standards of sanitation, social distancing, or any other work or customer safety requirement related to COVID-19.

It should also be noted that regardless of which loan forgiveness application is submitted by the Borrower, the SBA, in consultation with the Department of the Treasury, has decided that it will review all loans in excess of \$2 million.

## Payroll

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**36. What benefits are included in payroll costs?**

PPP loans covers payroll costs, including costs for employee vacation, parental, family, medical, and sick leave. However, the CARES Act excludes qualified sick and family leave wages for which a credit is allowed under sections 7001 and 7003 of the Families First Coronavirus Response Act (Public Law 116-127). The following costs are also included:

- a) Total amount paid by the Borrower for employer contributions for employee health insurance, including employer contributions to a self-insured, employer-sponsored group health plan, but excluding any pre-tax or after tax contributions by employees.
- b) Total amount paid by the Borrower for employer contributions to employee retirement plans, excluding any pre-tax or after-tax contributions by employees.
- c) Total amount paid by the Borrower for employer state and local taxes assessed on employee compensation (e.g., state unemployment insurance tax); do not list any taxes withheld from employee earnings.

**37. Are 1099 employees included in payroll forgiveness?**

No, 1099 Independent contractors are not paid wages or salary. They are able to qualify for their own PPP loan.

**38. Are employers allowed to distribute excess loan funds to employees as bonuses?**

PPP loan funds must be used for eligible payroll costs or eligible nonpayroll costs. Bonuses paid would be included as a payroll cost. Borrowers can determine how bonuses are paid.

**39. Are employers allowed to grant bonuses?**

Bonuses may be included in payroll costs to the extent that annualized compensation over the applicable Covered Period or Alternative Payroll Covered Period does not exceed \$100,000.

**40. Do pay reductions also apply to employees who are commission based?**

No, while gross commissions are included in eligible payroll costs and reductions may affect the amount of forgiveness, only reductions in salary or hourly wage rates beyond 25% trigger the pay reduction calculations affecting the forgiveness amount.

**41. Are employee dental plans includable in the forgiveness calculation?**

Yes, employers may include the employer's contribution during the Covered Period or Alternative Payroll Covered Period to employee medical, vision and dental health plans in the payroll portion of the forgiveness request.

**42. Are fees paid to a payroll processing a forgivable expense?**

Fees paid to payroll processing companies are not included as covered non-payroll or payroll costs.

**43. If an employee resigned and received their PTO balance at the time of resignation, will this amount be a forgivable expense outside of the annualized \$100,000 limit?**

Vacation pay can be included in payroll costs, but payroll costs for any individual employee still may not exceed \$100,000 on an annualized basis.

**44. Are union benefits included in payroll costs?**

Payroll costs included those health benefit and retirement benefit costs paid by the employer.

**45. Can employers use 100% of the loan for payroll?**

Yes. Current guidance only requires at least 60% of PPP Loan proceeds to be used towards qualifying payroll costs. Borrowers may spend more than 60% of loan proceeds on payroll costs if they choose. However, if less than 60% of the loan proceeds are used on payroll costs, the amount of loan forgiveness will be reduced.

**46. Is owner compensation included in payroll?**

Yes, owner compensation is included in payroll costs up to the limitations. Payroll costs may not include amounts paid to any employee in excess of an annualized rate of \$100,000 during the Covered Period.

- Sole Proprietor owner compensation is limited to eight weeks' worth of 2019 net profit (up to \$15,385 for any owner) for an 8-week Covered Period or Alternative Payroll Covered Period, or 2.5 months' worth (2.5/12) of 2019 net profit (up to \$20,833 for any owner) for a 24-week Covered Period or Alternative Payroll Covered Period.

**47. Are housing stipends a forgivable expense? If so, are they considered a payroll expense?**

Payments to employees for housing compensation are considered forgivable payroll expenditures.

**48. An employee works at two separate companies. Are they limited to receive a maximum of an annualized compensation of \$100,000 from both employers combined if both employers are paying the employee with PPP loan funds?**

No, the employee is not limited to a combined annualized compensation of \$100,000 between the two employers. Since the employee is an employee of both businesses, their hours and compensation will be assessed separately by each employer.

**49. Are employee benefits for employees earning over \$100,000 annually in excess of their salary forgivable?**

Yes, benefits paid to employees receiving compensation for \$100,000 or more annually are also forgivable. The \$100,000 annualized compensation cap applies to salary and other cash compensation, but not to amounts paid as benefits including employer-paid amounts for insurance and retirement plans.

**50. Are businesses allowed to increase salaries over the Covered Period or Alternative Payroll Covered Period? How would an increase in pay impact forgiveness?**

Salaries may be increased by the borrower. Any increases in salaries paid would be included in payroll costs for purposes of the forgiveness determination and could increase the amount of the loan forgiveness. It should be noted that compensation over an annualized salary of \$100,000 paid to any individual employee during the Covered Period or Alternative Payroll Covered Period may not be forgiven.

**51. Can a seasonal employer pay more than the Covered Period cap of either \$46,154 for a 24-week period or \$15,385 for an 8-week period to a single employee during the Covered Period or Alternative Payroll Covered Period if the annual pay does not exceed \$100,000?**

No, amounts paid to any one employee during the Covered Period or Alternative Payroll Covered Period exceeding \$46,154 for a 24-week period or \$15,385 for an 8-week period cannot be included in the forgiveness amount. Compensation requirements of the Paycheck Protection Program also apply to seasonal employers.

**52. Are businesses allowed to add employees to payroll during the Covered Period or Alternative Payroll Covered Period and the funds for those additional employees be forgiven?**

Yes, businesses are allowed to add employees to payroll during the Covered Period or Alternative Payroll Covered Period. Any payroll costs associated with added staff can be included in the businesses' total payroll used for forgiveness calculation.

**53. Can employers issue payroll during the Covered Period or Alternative Payroll Covered Period for time that was accrued prior to the Covered Period or Alternative Payroll Covered Period?**

Payments of back pay during the Covered Period or Alternative Payroll Covered Period may be forgiven. However, these payroll costs can only be used for the use of funds determination and total compensation during the Covered Period or Alternative Payroll Covered Period for any one employee may not exceed an annualized rate of \$100,000. Back pay cannot be used for purposes of determining if there has been a greater than 25% reduction in pay during the applicable Covered Period or Alternative Payroll Covered Period.

**54. If 401K and health insurance benefits are paid annually or semi-annually by employers, how should employers calculate the benefits expenses during the Covered Period or Alternative Payroll Covered Period for all employees?**

The amount of benefits incurred during the Covered Period or Alternative Payroll Covered Period may be included in the forgiveness calculation. The incurred costs must be paid during the period or paid on or before the next regular billing cycle immediately following the end of the period. If the payment at the next billing cycle occurs prior to when the request for forgiveness is submitted, it can be included in the eligible benefits costs.

**55. Does the distribution of payroll need to fully align with the 8 week or 24-week period?**

An Alternative Payroll Covered Period may be selected by the Borrower to align to their normal payroll cycle. Alternative Payroll Covered Periods begin on the first day of the next payroll period following the date of the loan disbursement. Borrowers are generally eligible for forgiveness for the payroll costs paid and payroll costs incurred during the Covered Period or Alternative Payroll Covered Period. Payroll costs are considered paid on the day that paychecks are distributed, or the Borrower originates an ACH credit transaction. Payroll costs are considered incurred on the day that the employee's pay is earned. Payroll costs incurred but not paid during the Borrower's last pay period of the Covered Period (or Alternative Payroll Covered Period) are eligible for forgiveness if paid on or before the next regular payroll date. Otherwise, payroll costs must be paid during the Covered Period (or Alternative Payroll Covered Period).

**56. Can employees receive unemployment and PPP funds at the same time?**

Employees are not eligible for full-time unemployment if they are still working for their employer. However, PUA does pay for reduced hours unemployment. In the situation the employer could have reduced hours and used the monies for payroll, the employee could legally receive partial PUA unemployment to compensate for a reduction in hours worked. It is the responsibility of the employee to assure they are not paid wages and unemployment for the same hours.

## Payroll - Taxes

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### **57. Are employer FICA contributions forgivable expenditures?**

State and local payroll taxes are includable in payroll costs, but not federal payroll taxes.

### **58. Which specific state and local payroll taxes are included in forgiveness calculations?**

Guidance is not specific beyond stating that the amount must be paid by the Borrower for employer state and local taxes assessed on employee compensation (e.g., state unemployment insurance tax); do not include any taxes withheld from employee earnings.

### **59. Why are Federal taxes excluded from Payroll forgiveness?**

We can't speak to the intent of Congress in the legislation.

### **60. Are employer taxes paid on payroll also forgiven?**

Payments by employers of the employer's portion of state and local taxes assessed on employee compensation (e.g., state unemployment insurance tax) are included in payroll costs. Payroll costs however exclude federal employment taxes, including the employee's and employer's share of FICA (Federal Insurance Contributions Act) and Railroad Retirement Act taxes.

Federal and state income taxes required to be withheld from employee paychecks are not included in eligible payroll costs.

### **61. If a Schedule C taxpayer reports more than \$100,000 in net profits, can he/she use the entire PPP loan proceeds for payroll?**

Sole Proprietor owner compensation is limited to eight weeks' worth of 2019 net profit (up to \$15,385 for any owner) for an 8-week Covered Period or Alternative Payroll Covered Period, or 2.5 months' worth (2.5/12) of 2019 net profit (up to \$20,833 for any owner) for a 24-week Covered Period or Alternative Payroll Covered Period.

Payroll costs including salary, wages, and tips, up to \$100,000 of annualized pay per employee (for 24-weeks, a maximum of \$46,154 per individual and for 8-weeks, a maximum of \$15,385 per individual) as well as covered benefits for employees (but not owners) may be forgiven.

Forgiveness of loan amounts associated with payments for compensation to any one individual including the owner is limited to a weekly average amount of \$1,923 over the Covered Period or Alternative Payroll Covered Period. Further guidance from the SBA is needed related to the application of the \$100,000 salary limit to the forgiveness calculations for a 24-week Covered Period or Alternative Payroll Covered Period.

### **62. Are gross wages prior to withholding taxes (and not net pay amounts) eligible payroll costs?**

Yes, that is correct.

Are workers compensation insurance and unemployment insurance/related taxes able to be included in the eligible payroll expenses counted in determining the loan forgiveness amount?

Current guidance excludes workers' compensation premiums from the definition of eligible payroll expenses. Payment of employer state and local taxes assessed on employee compensation (e.g., state unemployment insurance tax) are included in payroll costs; however, do not include any taxes withheld from employee earnings (e.g., required state income tax withholding).

## Full Time Employees (FTEs)

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**63. What is the definition of a full-time employee?**

Per the forgiveness application an employee who works 40 or more hours per week is considered 1.0 FTE.

**64. How do borrowers calculate FTE if they have different employees at the end of the Covered Period than at the beginning of the Covered Period?**

To determine average FTE over the Covered Period, all people employed at any time during the Covered Period are included in the calculation for whatever amount of time they worked.

**65. Is the owner included in the FTE calculation?**

No. Owners are not included in the FTE calculation.

**66. Can a borrower make reductions in payroll after the Covered Period is over, but prior to submitting the forgiveness application without reducing their amount of forgiveness?**

The forgiveness calculation is based on expenditures, FTE and salary rates during the Covered Period, the calculation does not reference anything which occurs after the Covered Period.

**67. Are businesses allowed to decrease employee salaries as long as compensation does not fall below 75% of the average compensation for the previous quarter?**

Businesses may reduce employee pay rates and/or hours, without effecting loan forgiveness, so long as the reduction is 25% or less of the average compensation for the previous quarter.

**68. How are employers to document employees who chose to stay home due to the COVID-19 outbreak, even though they had the opportunity to work?**

The employer's forgiveness will not be impacted. The employer will need to provide documentation of the offer and documentation that the employee refused the offer to return to work.

**69. How are employers to document employees who were terminated due to their unwillingness to perform their job responsibilities? Is this termination included in the FTE safe harbor?**

Yes, when an employee of the borrower is fired for cause, voluntarily resigns, or voluntarily requests a reduced schedule during the Covered Period or Alternative Payroll Covered Period (a FTE reduction event), the borrower may count such employee at the same full-time equivalency level before the FTE reduction event. Employers need to document any circumstance where an employee makes the request to leave or reduce their number of hours. The FTE Reduction Quotient calculation will need to be adjusted for these employee circumstances and documented.

The Paycheck Protection Flexibility Act expands the statutory exemption (safe harbor) for rehiring employees by allowing that forgiveness will not be affected by a reduction in employees if the borrower is able to document an inability to rehire individuals, to hire similarly qualified employees, or to return to the same level of business activity as it was operating at before February 15, 2020, due to compliance with Covid-19 requirements.

If an employee was laid off for any other reason than those listed above, employers have until December 31, 2020 to reinstate employee levels to the same level as those on February 15, 2020.

**70. How are employers required to document and support their compliance with the FTE Safe Harbor in the case that an employee refused the offer for rehire, that the business was unable to find qualified individuals for rehire, or that the employer was unable to operate at the same level of business activity as it was operating before February 15, 2020 due to compliance with COVID-19 requirements?**

Appropriate documentation if an employee refused an offer for rehire includes a written offer to rehire to the employee and the prior employee's written rejection of the offer. Showing an inability to find qualified individuals for rehire may include showing evidence of the job posting(s) and location(s) of where posted, along with evidence of any applications received to demonstrate the applicant(s) lack of qualifications. Regarding the employer's inability to operate at prior levels due to COVID-19 requirements, the employer should document all COVID-19 restrictions and requirements that were instituted in the business' location and for the type of business activity conducted.

**71. If our full-time employees at our business work less than 40 hours per week, will this affect our forgiveness amount?**

Your forgiveness will not be affected by employees working less than 40 hours per week, so long as you maintained the same number of full-time equivalent employees (FTE). The following provides an example of how to calculate FTE.

For example, if a business' full time staff work were paid for an average of 32 hours weekly during the Covered Period and Reference Period, the employee's FTE would be  $32/40$  or 0.75 during the Covered Period and the Reference Period. Since there was no change in the FTE calculation between the Reference Period and the Covered Period, forgiveness will not be affected.

**72. How do businesses include employees who worked over 40 hours into the FTE calculation?**

Employees who work more than 40 hours per week are still counted as 1.0 FTE. The maximum FTE calculation for each employee is capped at 1.0.

**73. If the amount of overtime worked by an employee was reduced during the Covered Period, how will this affect forgiveness amounts?**

The forgiveness amount may be affected by a decrease in the dollars of compensation paid, but as long as average hours for the employee continue to exceed 40 per week their FTE is equal to 1.0 and will not be considered a reduction in FTE for purposes of the FTE calculation.

The Paycheck Protection Flexibility Act expands the statutory exemption (safe harbor) for rehiring employees by allowing that forgiveness will not be affected by a reduction in employees if the borrower is able to document an inability to rehire individuals, to hire similarly qualified employees, or to return to the same level of business activity as it was operating at before February 15, 2020, due to compliance with Covid-19 requirements.

**74. Does paid parental leave during the Covered Period or Alternative Payroll Covered Period affect FTE requirements?**

Paid parental leave does not affect the FTE requirements or loan forgiveness. For forgiveness calculation, the employee on paid leave remains in the employee head count and the funds used for paid leave are included in payroll costs.

**75. If an employee works occasionally on an as-needed basis, how are their hours factored into the forgiveness calculation?**

To calculate the FTE total, the business must calculate for each employee the weekly average number of hours paid during the Covered Period to the weekly average number of hours paid during the previous quarter and determine the FTE ratio for that employee. The total FTE for the business is the sum of the FTE ratios for all employees. To simplify calculations, employers also have the option to indicate that any employee who works less than 40 hours a week may be counted as 0.5 FTE.

**76. How are part time employees factored into the staffing requirements and forgiveness calculation?**

Part-time employees are included in the calculation of Full Time Equivalent employees (FTE). For each employee, the average number of hours paid per week is divided by 40 and rounded to the nearest tenth. For example, a part-time employee working 32 hours per week would represent 0.8 FTE. The maximum for each employee is capped at 1.0. A simplified method may also be used which assigns a 1.0 for employees who work 40 hours or more per week and 0.5 for employees who work fewer than 40 hours per week.

Payroll costs associated with part-time employees are included in payroll costs for PPP loan forgiveness calculations.

**77. What is the definition of a part-time employee?**

Per the forgiveness application an employee who works less than 40 hours per week is considered a part-time employee and their FTE is either the ratio of their hours worked over 40 (rounded to the nearest tenth) or 0.5 at the choice of the borrower.

**78. Some seasonal employers are approaching the end of their busy season. Employees will be laid off until the start of the next busy season even though there is time still remaining in the Covered Period. Will this affect their forgiveness amount?**

Seasonal employers are required to meet the same FTE requirements as traditional employers. If their busy season concludes in the middle of the Covered Period (or Alternative Payroll Covered Period) seasonal employers should select a reference period that is similar to the Covered Period. This reference period may be any consecutive 12-week period between May 1, 2019 and September 15, 2019. Other than the choice of reference period, the same FTE calculations and requirements apply to seasonal employers as non-seasonal employers.

**79. How do FTE requirements apply to seasonal employers?**

Seasonal employers have the option to use an alternative reference period against which their number of FTE during the Covered Period or Alternative Payroll Covered Period will be compared. This alternative reference period may be any consecutive 12-week period between May 1, 2019 and September 15, 2019. Other than the choice of reference period, the same FTE calculations and requirements apply to seasonal employers as non-seasonal employers.

**80. If an employee retired during the Covered Period, how will FTE and forgiveness be affected?**

If an employee retired during the Covered Period or Alternative Payroll Covered Period, you will need to formally document their retirement in order to be covered under the FTE Reduction Safe Harbor Provision.

**81. An employee received an order from their doctor to stay at home due to the COVID-19 outbreak and a compromised immune system. This employee had the opportunity to work but followed the doctor's orders and stayed home. This employee was not laid off but was also not paid for the time they chose to stay home during the Covered Period. Will this affect forgiveness?**

No, the employer's forgiveness will not be impacted. The employer will need to provide documentation of the offer and documentation that the employee was not able to return to work for medical reasons.

**82. Do temporary furloughs constitute a reduction in headcount? These individuals are not paid during their furlough but continue to receive company benefits.**

So long as the temporarily furlough employees are brought back to work by December 31, 2020, the borrower's headcount will not be reduced.

**83. Will employers receive a reduction in loan forgiveness if they do not rehire employees that were laid off until the end of the Covered Period or Alternative Payroll Covered Period?**

So long as the laid off employees are brought back to work by the earlier of the date the borrower applies for forgiveness and December 31, 2020, the borrower's headcount will not be reduced so loan forgiveness will not be affected. Forgiveness will also be unaffected if the borrower meets one of the statutory or safe harbor exemptions regarding FTE's. However, loan forgiveness may be reduced by other factors including, a salary/hourly wage reduction greater than 25%, or if less than 60% of the loan amount is not used for payroll costs.

**84. If an employee voluntarily resigns during the Covered Period or Alternative Payroll Covered Period, is the employer's loan forgiveness reduced?**

Not directly. When an employee of the borrower is fired for cause, voluntarily resigns, or voluntarily requests a reduced schedule during the Covered Period or Alternative Payroll Covered Period (a FTE reduction event), the borrower may count such employee at the same full-time equivalency level before the FTE reduction event. Employers will need to document any circumstance where an employee makes the request to leave or reduce their number of hours. The FTE Reduction Quotient calculation will need to be adjusted for these employee circumstances and documented.

The Paycheck Protection Flexibility Act expands the statutory exemption (safe harbor) for rehiring employees by allowing that forgiveness will not be affected by a reduction in employees if the borrower is able to document an inability to rehire individuals, to hire similarly qualified employees, or to return to the same level of business activity as it was operating at before February 15, 2020, due to compliance with Covid-19 requirements.

If an employee was laid off for any other reason than those listed above, employers have until December 31, 2020 to reinstate employee levels to the same level as those on February 15, 2020.

**85. Is the reduction in employee hours evaluated on a total business or individual employee basis?**

A reduction in hours is calculated on an individual employee basis. However, the determination of the total average FTE's is the sum across all employees during the reference period in comparison to the covered period.

**86. Are businesses allowed to replace employees that left the business with new employees in order to meet the forgiveness requirements?**

Yes. The relevant calculation is the amount of FTE at the end of the Covered Period or Alternative Payroll Covered Period Compared to the Base Period.

**87. If a business has been forced to cut hours due to the shelter in place, should they continue to pay employees to meet the staffing requirements of the program?**

Borrowers must make their own business decisions. To the extent employees continue to be paid, FTE levels will be higher, and reductions of PPP loan forgiveness tied to FTE levels will be less. Any amounts incurred for payroll costs during the Covered Period or Alternative Payroll Covered Period are included in the amount of PPP loan forgiveness, up to the amount of the PPP loan.

**88. If an employer decreased the hours worked by one employee but increased the number of hours worked by another employee to replace those hours, will forgiveness be affected?**

Forgiveness could be affected by this change in hours depending on the impact on calculated FTE. If the calculated FTE for the two employees is reduced, it could reduce the amount of forgiveness depending on the potential reduction in FTEs for all employees.

**89. If borrowers use all of their funds before the end of the Covered Period, are they required to maintain the same number of FTE once all of the funds have been spent?**

No, they are not required to maintain FTE. Businesses may make whatever decisions appropriate for their business. Forgiveness amounts calculations however may be affected if the average FTE during the Covered Period declines unless the business qualifies for one of the Safe Harbor provisions.

**90. Is the FTE reduction quotient calculated by evaluating the average number of FTE during the Covered Period (or Alternative Payroll Covered Period) or the number of FTE at the end of the Covered Period (or Alternative Payroll Covered Period)?**

The FTE reduction quotient is determined by dividing the average FTE headcount during the Covered Period (or Alternative Payroll Covered Period) by the average FTE headcount during the historical period selected by the borrower.

Employers must reinstate the number of FTE to the same level as February 15, 2020 by December 31, 2020.

**91. If my original loan application has the incorrect number of employees listed, what should I do?**

Borrowers cannot adjust the numbers that were entered on their original PPP loan application. Borrowers should enter the correct number of employees when completing the forgiveness application and upload the appropriate documentation to support their eligible payroll and non-payroll expenditures, as well as FTE calculations.

**92. What kind of documentation is required to support our FTE calculations?**

Borrowers are required to provide documentation with their loan forgiveness application showing (at the election of the Borrower):

- (1) the average number of FTE employees on payroll per month employed by the Borrower between February 15, 2019 and June 30, 2019;
- (2) the average number of FTE employees on payroll per month employed by the Borrower between January 1, 2020 and February 29 2020; OR
- (3) in case of a seasonal employer, the average number of FTE employees on payroll per month employed by the Borrower between February 15, 2019 and June 30, 2019; between January 1, 2020 and February 29, 2020; or any consecutive twelve-week period between May 1, 2019 and September 15, 2019.

Examples of required documentation may include payroll tax filings reported, or that will be reported, to the IRS (typically Form 941) and state quarterly business and individual employee wage reporting and unemployment insurance tax filings reported, or that will be reported, to the relevant state.

It should also be noted that there is additional documentation the borrowers must maintain, but which is not required to be submitted to the lender or the SBA as part of the loan forgiveness application. You should reference the instructions to the loan forgiveness application for these additional documentation retention requirements.

## **Non-Payroll Costs**

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**93. What specifically is covered under “Non-Payroll Expenditures”?**

Eligible nonpayroll costs eligible for forgiveness consist of:

- covered mortgage obligations: payments of interest (not including any prepayment or payment of principal) on any business mortgage obligation on real or personal property incurred before February 15, 2020 (“business mortgage interest payments”);
- covered rent obligations: business rent or lease payments pursuant to lease agreements for real or personal property in force before February 15, 2020 (“business rent or lease payments”); and
- covered utility payments: business payments for a service for the distribution of electricity, gas, water, transportation, telephone, or internet access for which service began before February 15, 2020 (“business utility payments”).

An eligible nonpayroll cost must be paid during the Covered Period or Alternative Payroll Covered Period and paid on or before the next regular billing date, even if the billing date is after the Covered Period or Alternative Payroll Covered Period. Eligible nonpayroll costs cannot exceed 40% of the total forgiveness amount. Rent and lease payments to businesses with any common ownership are eligible for loan forgiveness, but the amount of the loan forgiveness is limited to no more than the amount of mortgage interest owed on the property during the Covered Period that is attributable to the space being rented and the lease and the mortgage were entered into prior to February 15, 2020.

**94. Are costs associated with the purchase of Covid supplies forgivable expenditures?**

Expenditures on COVID-19 supplies are not included as eligible nonpayroll costs.

**95. If a business owner owns and leases the property to the business, can rent and interest be included in the forgiveness calculation?**

Per SBA guidance, rent and lease payments to businesses with any common ownership are eligible for loan forgiveness, but the amount of the loan forgiveness is limited to no more than the amount of mortgage interest owed on the property during the Covered Period that is attributable to the space being rented and the lease and the mortgage were entered into prior to February 15, 2020.

**96. Is interest on an unsecured credit line a forgivable expense?**

The guidance provided states interest on any business mortgage obligation on real or personal property incurred before February 15, 2020. Interest on unsecured debt would not be included as part of forgivable expenses.

**97. Are long term disability and long-term life insurance forgivable expenses?**

Yes. Employer benefits costs include employer-paid amounts (including premiums) for medical, dental, life, short term disability, and long-term disability insurance. Employer-paid retirement benefits and employer contributions to health savings accounts are also includable.

**98. Is interest paid on vehicles and equipment forgivable, or is it strictly limited to mortgage interest on real estate?**

Our interpretation of the somewhat unclear wording of the guidance is that interest on loans secured by business-related personal property, such as vehicles and equipment, may be included in the forgiveness calculation.

It should be noted that rent and lease payments to businesses with any common ownership are eligible for loan forgiveness, but the amount of the loan forgiveness is limited to no more than the amount of mortgage interest owed on the property during the Covered Period that is attributable to the space being rented and the lease and the mortgage were entered into prior to February 15, 2020.

**99. Are borrowers required to submit the actual lease agreement to document rent expense?**

No, but other evidence of the existence of the lease as of February 15, 2020 and the amounts of rent paid must be provided. Borrowers are advised to maintain documentation that will support their compliance with the requirements of the program. Maintaining access to the lease agreements will support compliance with the requirement that lease agreements must have been in effect before February 15, 2020.

It should be noted that rent and lease payments to businesses with any common ownership are eligible for loan forgiveness, but the amount of the loan forgiveness is limited to no more than the amount of mortgage interest owed on the property during the Covered Period that is attributable to the space being rented and the lease and the mortgage were entered into prior to February 15, 2020.

**100. If employers decrease the number of employees during the Covered Period or Alternative Payroll Covered Period, is forgiveness for non-payroll costs affected?**

Non-payroll costs are indirectly affected by a decrease in the number of employees during the Covered Period or Alternative Payroll Covered Period. If payroll decreases during the Covered Period or Alternative Payroll Covered Period, the maximum amount of forgiveness will also decrease if payroll costs are less than 60% of the original loan amount.

**101. Are loan payments eligible for forgiveness?**

Only payments of interest (not including any prepayment or payment of principal) on any business mortgage obligation on real or personal property incurred before February 15, 2020.

**102. What types of loan interest is covered under “Non-Payroll Expenditures”?**

Only payments of interest (not including any prepayment or payment of principal) on any loan secured by business real property incurred before February 15, 2020 can be included in the forgiveness amount. The guidance is somewhat unclear, but our interpretation is that payments of interest on loans secured by a business’ personal property (e.g. vehicles, equipment, etc.) incurred before February 15, 2020 may be included in forgiveness calculations.

**103. An employer had a lease that began prior to February 15, 2020. The business had to re-sign the lease to continue renting the property on March 5, 2020. Are the payments made after March 5, 2020 includable in forgiveness calculations?**

Yes. The borrower will need to provide both leases, showing the existence of the lease prior to February 15, 2020 and the expiration date, along with the new lease agreement/extension.

**104. Does rent only include workspace/real estate? Or are payments to rent vehicles and equipment also covered?**

Per the forgiveness application business rent or lease payments for real or personal property during the Covered Period or Alternative Payroll Covered Period, pursuant to lease agreements in force before February 15, 2020, are covered.

**105. Is land for agricultural clients an eligible rent expense?**

Yes, so long as the business’ rental agreement was in effect before February 15, 2020.

It should be noted that rent and lease payments to businesses with any common ownership are eligible for loan forgiveness, but the amount of the loan forgiveness is limited to no more than the amount of mortgage interest owed on the property during the Covered Period that is attributable to the space being rented and the lease and the mortgage were entered into prior to February 15, 2020.

**106. Are HOA and condominium fees included under rent expense?**

Only such expenses being paid as part of a lease agreement can be included in rent expense.

**107. Are borrowers allowed to pre-pay expenses during the Covered Period or Alternative Payroll Covered Period for payments that will be accrued and due after the Covered Period or Alternative Payroll Covered Period?**

No, prepayment of non-payroll costs does not appear to be includable in the forgiveness amount as the IFR indicates that expenses must have been incurred during the Covered Period or Alternative Payroll Covered Period.

**108. Are non-payroll expenditures limited to the Covered Period or Alternative Payroll Covered Period, or can they be accrued before the Covered Period?**

An eligible nonpayroll cost must be paid or incurred during the Covered Period or Alternative Payroll Covered Period and paid on or before the next regular billing date, even if the billing date is after the Covered Period or Alternative Payroll Covered Period. Eligible nonpayroll costs cannot exceed 40% of the total forgiveness amount. Count nonpayroll costs that were both paid and incurred only once.

**109. Can borrowers back pay utility and rent payments using the PPP Loan funds if they are behind on payments?**

Utility and rent cost paid during the Covered Period or Alternative Payroll Covered Period are eligible for inclusion in the forgiveness amount. The guidance is not completely clear, but this would appear to say that past due payments can be included.

**110. What specifically is covered under transportation costs?**

A specific definition has not been provided, although guidance provided by the SBA includes an example that gas used by a sole proprietor for driving their business vehicle would qualify.

**111. Do utility payments need to be prorated to match the 8 week or 24-week period?**

No. An eligible nonpayroll cost must be paid or incurred during the Covered Period or Alternative Payroll Covered Period and paid on or before the next regular billing date, even if the billing date is after the Covered Period or Alternative Payroll Covered Period. Eligible nonpayroll costs cannot exceed 40% of the total forgiveness amount.

**112. Are employee cell phone bills forgivable expenditures?**

Guidance does not specifically state if reimbursement of employee cell phone bills are forgivable expenses. However, telephone is included in non-payroll costs as utilities, so long as they are for business purposes. If the cell phones are owned by the business and were under service agreements in existence as of February 15, 2020, the costs can be included in utilities expenses.

**113. A business was transitioning from one office to another in February. We agreed to the new lease on February 13th but did not begin paying rent until March. Since we were already in a lease and moved to another building, would rent payments under the new lease qualify for forgiveness?**

Yes, rent payments under a lease agreement are eligible non-payroll expenditures as long as the lease agreement was signed and in force prior to February 15, 2020.

## **Sole Proprietors**

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**114. How is forgiveness calculated for sole proprietors?**

Forgiveness calculated for sole proprietors includes payroll costs and non-payroll costs similar to other businesses. The primary difference is that owner compensation replacement is calculated based on 2019 net profit.

- Owner compensation is limited to eight weeks' worth of 2019 net profit (up to \$15,385 for any owner) for an 8-week Covered Period or Alternative Payroll Covered Period, or
- 2.5 months' worth (2.5/12) of 2019 net profit (up to \$20,833 for any owner) for a 24-week Covered Period or Alternative Payroll Covered Period.

In addition, for nonpayroll costs, borrowers must have claimed or be entitled to claim a deduction for such expenses on their 2019 Form 1040 Schedule C for them to be a permissible use during the Covered Period or Alternative Payroll Covered Period. For example, if a borrower did not claim or are not entitled to claim utilities expense on their 2019 Form 1040 Schedule C, they cannot use the proceeds for utilities during the Covered Period or Alternative Payroll Covered Period.

**115. Can an independent contractor using a home office include home mortgage interest as an eligible expense?**

No. Interest on loans secured by business real estate is includable as a non-payroll cost for forgiveness.

**116. Is health insurance included in payroll costs for self-employed individuals?**

No, forgiveness amounts only include amounts paid for employee health insurance benefits.

**117. What is included in the maximum 40% of non-payroll expenditures for self-employed individuals?**

Non-payroll costs for self-employed individuals are the same as for other borrowers under the PPP loan forgiveness requirements, which are interest, rent and utilities. However, current guidance dictates that you must have claimed or be entitled to claim a deduction for such expenses on your 2019 Form 1040 Schedule C for them to be a permissible expenditure during the Covered Period or Alternative Payroll Covered Period following the disbursement of the loan. For example, if you did not claim or are not entitled to claim utilities expenses on your 2019 Form 1040 Schedule C, you cannot use the PPP loan proceeds for utilities during the Covered Period or Alternative Payroll Covered Period.

It should be noted that rent and lease payments to businesses with any common ownership are eligible for loan forgiveness, but the amount of the loan forgiveness is limited to no more than the amount of mortgage interest owed on the property during the Covered Period that is attributable to the space being rented and the lease and the mortgage were entered into prior to February 15, 2020.

**118. How does a sole proprietor provide documentation with the Loan Forgiveness Application? Are they to write checks to themselves out of the PPP loan funds?**

Sole Proprietors may pay themselves out of the PPP loan funds to compensate any lost profit due to the effects of the Pandemic. Documentation of this payment may include cancelled checks or ACH credit transactions out of the PPP loan account. It should be noted that forgiveness amounts for sole proprietors and owner's compensation are limited to no more than \$15,385 for an 8-week Covered Period, or for a 24-week Covered Period no more than 2.5 months of 2019 Schedule C net profit subject to a cap of \$20,833.

**119. Can the spouse of the owner of a Sole Proprietorship be included in forgivable payroll costs?**

If the spouse was previously on the business' traditional payroll, the spouse's payroll may also be a forgivable expense.

**120. If a sole proprietor is receiving unemployment under PUA, are they allowed to be disbursing payroll using the PPP loan funds at the end of their unemployment period?**

The only guidance provided regarding unemployment is that the sole proprietor could receive either unemployment or a PPP loan, but not both.

**121. Are owner benefits included for an S Corp?**

The current guidance provides that only covered benefits of employees (but not owners) shall count as eligible payroll costs for purposes of determining loan forgiveness.

As a sole proprietor, can borrowers use some of the PPP loan to pay estimated taxes on the loan amount provided? Or is this loan not taxed for some reason.

Although the amount of the loan forgiveness is not taxable, the portion of the PPP loan used for owner compensation replacement, as well as payroll costs for employees whose principal place of residence is in the United States, would be treated as taxable income to the recipients. The sole proprietor would have to make its own determination as to any federal or state estimated tax payment requirements, but it would not be able to directly use the PPP loan proceeds to cover any estimated taxes.

**122. Will PPP proceeds paid to a sole proprietor be taxable to a sole proprietor as these are not wages similar to the normal use of proceeds?**

Yes. Although the amount of the loan forgiveness is not taxable, the portion of the PPP loan used for owner compensation replacement, as well as payroll costs for employees whose principal place of residence is in the United States, would be treated as taxable income to the recipients.

**123. I am a new sole proprietor and have no historical look back period to use for comparison. Will I have to pay back the loan in full?**

No, you are not required to pay back the loan in full assuming you otherwise meet the requirements for loan forgiveness, as outlined in the applicable loan forgiveness application. Borrowers were required to certify the following on the original borrower application Form 2483: The Applicant was in operation on February 15, 2020 and had employees for whom it paid salaries and payroll taxes or paid independent contractors, as reported on Form(s) 1099-MISC. In addition, for new businesses, the average monthly payroll for the original loan application is calculated using the time period from January 1, 2020 to February 29, 2020, excluding payroll costs over \$100,000 on an annualized basis for each employee.

Thus, the SBA recognized that there would be borrowers who were not in existence during 2019. As such, these borrowers are still eligible for full loan forgiveness, assuming the PPP loan proceeds were used for eligible payroll and non-payroll expenditures, and the borrower otherwise complies with all other safe harbor provisions regarding reductions in salary/wages and/or employee headcount.

## Business Operations

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**124. If a business has been forced to close due to “shelter in place” orders, are borrowers required to continue to pay employees even though they are unable to operate their business?**

Borrowers are not required to continue to pay employees. The borrower does have up to 24 weeks from the date of the loan disbursement to use the funds for payroll and other eligible costs. If payroll costs incurred are less than 60% of the PPP loan amount, the forgiveness amount will be reduced proportionately.

However, the Paycheck Protection Flexibility Act expands the Safe Harbor for rehiring employees by allowing that forgiveness will not be affected by a reduction in employees if the borrower is able to document its inability to return to the same level of business activity as it was operating at before February 15, 2020, due to compliance with Covid-19 requirements, or its inability to rehire individuals who were employees on February 15, 2020, as well as its inability to hire similarly qualified employees for unfilled positions on or before December 31, 2020.

**125. If a business has been forced to close due to the stay at home order, does the 8 week or 24 week period begin once the business is able to re-open for business?**

No. You have only up to 24 weeks from the date of first disbursement to use the loan funds.

**126. If an owner is in the process of selling the business that received the PPP loan, what will happen if the loan is not forgiven prior to the close of the sale?**

It depends on how the purchase agreement was structured.

## Loan Funding

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**127. Can wages paid during the Covered Period or Alternative Payroll Covered Period also be deducted from income for tax purposes?**

Based on current IRS guidance, to the extent used to support loan forgiveness any eligible payroll and nonpayroll costs incurred and paid during the Covered Period or Alternative Payroll Covered Period (which determines the amount of loan forgiveness) cannot be deducted for federal income tax purposes. Please reference the SBA Loan Forgiveness Application for the definitions of the Covered Period or Alternative Payroll Covered Period.

**128. Will the payroll be deductible for income tax purposes?**

To the extent payroll costs are supporting the forgiveness amount of a PPP loan, they are not tax deductible. Based on current IRS guidance, any eligible payroll and nonpayroll costs incurred and paid during the Covered Period or Alternative Payroll Covered Period (which determines the amount of loan forgiveness) cannot be deducted for federal income tax purposes. Payroll costs beyond the amount associated with loan forgiveness are tax deductible, assuming they otherwise meet applicable deductibility requirements under current tax law.

## Unforgiven Loan Amounts

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**129. Has guidance been released how to approach a situation where a business cannot repay the unforgiven loan amount?**

Any amounts which the borrower is unable to repay will be handled consistent with existing SBA guidelines for loans in default. Lenders may take legal action against borrowers for repayment.

**130. If a borrower ended up not needing the funds and returns the original loan amount in full, will they be required to pay interest?**

Borrowers will be required to pay interest on the loan. Interest begins to accrue the date the funds were disbursed to the borrower.

**131. When does interest on the loan begin to accrue? Will interest be included in the forgiveness amount?**

Interest begins to accrue on the day that the business receives funds from the loan. Accrued interest on the PPP loan amount forgiven will also be forgiven.

**132. How is the monthly payment calculated for the remaining loan amounts after forgiveness is determined? Will this amount include interest?**

Payments will be equal monthly payments consisting of principal and interest in an amount sufficient to fully amortize the remaining principal balance of the loan and all accrued interest over the remaining term of the loan. Loans approved by SBA on or after June 5, 2020 may have a maturity of five years. If the loan was approved prior to June 5, 2020, both the lender and borrower must agree to extend the loan maturity from the previously required two-year maturity to a five year maturity.

**133. Can borrowers return funds they know will be in excess or unforgiven without any penalty?**

Yes and the borrower is responsible for accrued interest on the repaid portion of the loan.

Any unforgiven portion of the loan may be repaid to the lender at any point in time.

**134. Can businesses use unforgiven loan amounts for expenditures as they please? (And just accept the excess funds as a loan)**

No. 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

**-END OF DOCUMENT-**