

PPP Loan Forgiveness – 8 or 24 weeks?

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Paycheck Protection Loans

■ Deferral

- If you submit to your lender a loan forgiveness application within 10 months after the end of your loan forgiveness covered period, you will not have to make any payments of principal or interest on your loan before the date on which SBA remits the loan forgiveness amount on your loan to your lender (or notifies your lender that no loan forgiveness is allowed).
- Your lender must notify you of remittance by SBA of the loan forgiveness amount (or notify you that SBA determined that no loan forgiveness is allowed) and the date your first payment is due. Interest continues to accrue during the deferment period.
- If you do not submit to your lender a loan forgiveness application within 10 months after the end of your loan forgiveness covered period, you must begin paying principal and interest after that period. For example, if a borrower's PPP loan is disbursed on June 25, 2020, the 24-week period ends on December 10, 2020. If the borrower does not submit a loan forgiveness application to its lender by October 10, 2021, the borrower must begin making payments on or after October 10, 2021.

SBA Review

■ When will the SBA review?

- For a PPP loan of any size, SBA may undertake a review at any time in SBA's discretion. For example, SBA may review a loan if the loan documentation submitted to SBA by the lender or any other information indicates that the borrower may be ineligible for a PPP loan, or may be ineligible to receive the loan amount or loan forgiveness amount claimed by the borrower.
- As noted on the Loan Forgiveness Application Form, the borrower must retain PPP documentation in its files for six years after the date the loan is forgiven or repaid in full, and permit authorized representatives of SBA, including representatives of its Office of Inspector General, to access such files upon request.

Enhanced Transparency

- **All loans in excess of \$150,000 will be made public.**
 - The SBA has reached an agreement with U.S. Department of the Treasury and leaders of the U.S. Senate Small Business Committee to release the following information:
 - Business Names, addresses, NAICS codes, Zip codes, and business types
 - Demographic Data
 - Non-Profit Information
 - Jobs Supported
 - All information will be released in tranches for loans ranging as follows:
 - \$150,000 – 350,000
 - \$350,000 – 1 Million
 - \$1 – 2 Million
 - \$2 – 5 Million
 - \$5 – 10 Million

A New Option: Form 3508EZ

- **Who can use it?**

- **You have to be able to check ONE of the three boxes:**
- **Box 1:** The Borrower is a self-employed individual, independent contractor, or sole proprietor 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 Application Form (SBA Form 2483).

A New Option: Form 3508EZ

■ Who can use it?

- **You have to be able to check ONE of the three boxes:**
- **Box 2:** 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 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. (Ignore 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. Also ignore reductions in an employee’s hours that the Borrower offered to restore and the employee refused.

A New Option: Form 3508EZ

■ Who can use it?

- **You have to be able to check ONE of the three boxes:**
- **Box 3:** 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.

A New Option: Form 3508EZ

Forgiveness Amount Calculation:

Payroll and Nonpayroll Costs

Line 1. Payroll Costs:

Line 2. Business Mortgage Interest Payments:

Line 3. Business Rent or Lease Payments:

Line 4. Business Utility Payments:

Potential Forgiveness Amounts

Line 5. Add the amounts on lines 1, 2, 3, and 4:

Line 6. PPP Loan Amount:

Line 7. Payroll Cost 60% Requirement (divide Line 1 by 0.60):

Forgiveness Amount

Line 8. Forgiveness Amount (enter the smallest of Lines 5, 6, and 7):

24-Week General information

- Default: 24-week (168-day) period beginning on the day you received the funds.
- Loans issued prior June 5, 2020 you may still elect the 8-week (56-day) period.
 - All others must use 24 weeks period.
- Must remain consistent.
 - You select 8-week period it must be selected for both payroll and non-payroll covered period.
- Alternative Payroll Covered Period is still allowed for either 24-week or 8-week.
- All previous references to June 30, 2020 have been updated to December 31, 2020
 - Except for when loans will be issued. All loans must be issued by June 30, 2020
- Non-Payroll costs are now limited to 40% of total forgiveness on all loans.
 - Previously this was limited to 25%.

8-weeks vs 24-weeks

- Why would I choose the 24-week option?
 - Maybe you haven't spent all the funds during an 8-week period.
 - Do you have a reduction in FTE's?
 - Do you have a reduction in Salary or Wages?
 - Did you receive an EIDL and now want to only use PPP funds for payroll?
 - Timing of revenue recognition.
 - Possible tax benefits.
 - Current lack of guidance
 - Why rush to apply while we are waiting for additional guidance

24-week case study

- Lets assume the following facts for an 8-week period
 - PPP Loan Amount = \$100,000
 - 8 Week spend = \$100,000 (\$60,000 Payroll and \$40,000 Non-Payroll Costs)
 - You have a salary and wage reduction for the 8 week period of \$2,000
 - You have an FTE reduction of 20%
 - You do not qualify for the safe-harbor restoration for FTE or salary/wage reduction
- Under the 8-week Scenario your forgiveness would be \$78,400
 - \$100,000 spend
 - Less \$2,000 salary and wage reduction
 - Less FTE reduction of \$19,600 ($\$100,000 - \$2,000 \times 20\%$)
- \$21,600 would then turn into a loan due within 2 or 5 years

24-week case study

- Lets assume the following facts for a 24-week period
 - PPP Loan Amount = \$100,000
 - 24-Week spend = \$300,000 (\$180,000 Payroll and \$120,000 Non-Payroll Costs)
 - You have a salary and wage reduction for the 24-week period of \$12,000
 - You have an FTE reduction of 40%
 - You do not qualify for the safe-harbor restoration for FTE or salary/wage reduction
- Under the 24-week Scenario your forgiveness would be \$100,000
 - \$300,000 spend
 - Less \$12,000 salary and wage reduction
 - Less FTE reduction of \$115,200 ($\$300,000 - \$12,000 \times 40\%$)
- Even though the formula above totals out to be \$172,800, your total forgiveness cannot exceed your loan.

24-week case study

- Lets assume the following facts for a 16-week period
 - PPP Loan Amount = \$100,000
 - 16-Week spend = \$200,000 (\$120,000 Payroll and \$80,000 Non-Payroll Costs)
 - You have a salary and wage reduction for the 24-week period of \$12,000
 - Your wages and salary reduction will still be based on a 24 week period
 - You have an FTE reduction of 30%
 - You do not qualify for the safe-harbor restoration for FTE or salary/wage reduction
- Under the 16-week Scenario your forgiveness would be \$100,000
 - \$200,000 spend
 - Less \$12,000 salary and wage reduction
 - Less FTE reduction of \$56,400 ($\$200,000 - \$12,000 \times 30\%$)
- Even though the formula above totals out to be \$131,600, your total forgiveness cannot exceed your loan.

What is still unknown

- How to calculate average FTE's.
- What is included in transportation costs?
- How will the \$100,000 limit work if you select a period less than 24-weeks.
- What the SBA will look at and their process for review?
- How the FTE safe harbors will work. What does any date prior to 12/31/2020 mean?
- Will interest on the forgiveness truly be forgiven, as well?
- What other changes will the SBA and Department of Treasury still issue?

Forgiveness approval process with Bank and SBA – What to expect

Providing an accurate calculation of the loan forgiveness amount is the responsibility of the borrower, and the borrower attests to the accuracy of its reported information and calculations on the Loan Forgiveness Application Form. Lenders are expected to perform a good-faith review, in a reasonable time, of the borrower's calculations and supporting documents concerning amounts eligible for loan forgiveness.

Lender should carefully review Forgiveness Application to determine if complete.

- Are all borrower certifications given
- Has the borrower included all required documentation

Lender to confirm:

- Borrower's calculations on Forgiveness Application of forgivable expenditures
- Compensation Lines 1, 4, 6, 7, 8, and 9 of Schedule A (PPP Schedule A not required with 3508EZ Application)
- Mortgage , rent, and utilities Lines 2, 3 and 4 of the Calculation Form

Forgiveness approval process with Bank and SBA – What to expect

Documents that Each Borrower Must Submit with its PPP Loan Forgiveness Application Form 3508EZ

PPP Loan Forgiveness Calculation Form 3508EZ

Payroll: Documentation verifying the eligible cash compensation and non-cash benefit payments from the Covered Period or the Alternative Payroll Covered Period consisting of each of the following:

- Bank account statements or third-party payroll service provider reports documenting the amount of cash compensation paid to employees.
- Tax forms (or equivalent third-party payroll service provider reports) for the periods that overlap with the Covered Period or the Alternative Payroll Covered Period:
 - i. Payroll tax filings reported, or that will be reported, to the IRS (typically, Form 941); and
 - ii. State quarterly business and individual employee wage reporting and unemployment insurance tax filings reported, or that will be reported, to the relevant state.

Forgiveness approval process with Bank and SBA – What to expect

- Payment receipts, cancelled checks, or account statements documenting the amount of any employer contributions to employee health insurance and retirement plans that the Borrower included in the forgiveness amount.
- If you checked only the second box on the checklist on page 1 of these instructions, the average number of full-time equivalent employees on payroll employed by the Borrower on January 1, 2020 and at the end of the Covered Period.

Forgiveness approval process with Bank and SBA – What to expect

Non-payroll: Documentation verifying existence of the obligations/services prior to February 15, 2020 and eligible payments from the Covered Period.

- a. Business mortgage interest payments: Copy of lender amortization schedule and receipts or cancelled checks verifying eligible payments from the Covered Period; or lender account statements from February 2020 and the months of the Covered Period through one month after the end of the Covered Period verifying interest amounts and eligible payments.
- b. Business rent or lease payments: Copy of current lease agreement and receipts or cancelled checks verifying eligible payments from the Covered Period; or lessor account statements from February 2020 and from the Covered Period through one month after the end of the Covered Period verifying eligible payments.
- c. Business utility payments: Copy of invoices from February 2020 and those paid during the Covered Period and receipts, cancelled checks, or account statements verifying those eligible payments

Forgiveness approval process with Bank and SBA – What to expect

Additional support required if borrower is ineligible to utilize Form 3508Z

- PPP Schedule A
- FTE Documentation

There is also additional documentation each borrower must maintain but is not required to submit. Your lender may or may not ask for this documentation.

Forgiveness approval process with Bank and SBA – What to expect

What is the timeline for the decision on a loan forgiveness application?

- The **lender** must issue a decision to SBA on a loan forgiveness application not later than **60 days after receipt of a complete loan forgiveness** application from the borrower. That decision may take the form of an approval (in whole or in part); denial; or (if directed by SBA) a denial without prejudice due to a pending SBA review of the loan for which forgiveness is sought.
- **SBA** will, subject to any SBA review of the loan or loan application, remit the appropriate forgiveness amount to the lender, plus any interest accrued through the date of payment, **not later than 90 days after** the lender issues its decision to SBA. If applicable, SBA will deduct EIDL Advance Amounts from the forgiveness amount remitted to the Lender as required by section 1110(e)(6) of the CARES Act.

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