



August 24, 2020

### SBA Update on Applying for Forgiveness

The Small Business Association (SBA), with the help of the Department of Treasury, provided a list of frequently asked questions (FAQs) on August 4, 2020. Borrowers and lenders may rely on this information for applying for forgiveness:

**Question:** Who qualifies and can use the Loan Forgiveness Application Form 3508EZ?

**Answer:** If you are a sole proprietor, independent contractor, or self-employed individual with no employees and did not include any employee salaries in the computation of average monthly payroll, you qualify to use the Form 3508EZ.

**Question:** Does the borrower have to make any payments on its loan prior to the SBA remitting the forgiveness amount if the borrower submitted the loan forgiveness application timely?

**Answer:** No, as long as the borrower submits its loan forgiveness application within ten months of the completion of the Covered Period, the borrower is not required to make any payments until the forgiveness amount is remitted to the lender by the SBA.

**Question:** Are payroll costs that were incurred during the Covered Period but paid after the Covered Period eligible for loan forgiveness?

**Answer:** Yes, if the payroll costs are paid on or before the next regular payroll date after the Covered Period.

**Question:** Are payroll costs that were incurred before the Covered Period but paid during the Covered Period eligible for loan forgiveness?

**Answer:** Yes

**Question:** Are borrowers required to calculate payroll costs for partial pay periods?

**Answer:** If the borrower uses a biweekly or more frequent payroll cycle, the borrower may elect to calculate eligible payroll costs using the 8-week or 24-week period that begins on the first day of the first payroll cycle following the PPP Loan Disbursement Date. However, if a borrower pays twice a month or less frequently, it will need to calculate payroll costs for partial pay periods.

**Question:** For purposes of calculating cash compensation, should borrowers use the gross amount or the net amount?

**Answer:** The gross amount should be used when calculating cash compensation.

**Question:** Are only salaries or wages covered by loan forgiveness, or can a borrower pay lost tips, lost commissions, bonuses, or other forms of incentive pay and have such costs qualify for loan forgiveness?

**Answer:** Payroll costs include all forms of cash compensation paid to employees, including tips, commissions, bonuses, and hazard pay. Note that forgivable cash compensation per employee is limited to \$100,000 on an annual basis.

**Question:** What expenses for group health care benefits will be considered payroll costs that are eligible for loan forgiveness?

**Answer:** Employer expenses for employee group health care benefits that are paid or incurred by the borrower during the Covered Period are payroll costs eligible for loan forgiveness. Forgiveness is not provided for expenses for group health benefits accelerated from periods outside the Covered Period. If a borrower has an insured group health plan, insurance premiums paid or incurred during the Covered Period qualify as payroll costs as long as the premiums are paid during the applicable period or by the next premium due date after the end of the applicable period.

**Question:** What contributions for the retirement benefits will be considered payroll costs that are eligible for loan forgiveness?

**Answer:** Employer contributions for employee retirement benefits that are paid or incurred by the borrower during the Covered Period qualify as “payroll costs” eligible for loan forgiveness. Forgiveness is not provided for employer contributions for retirement benefits accelerated from periods outside the Covered Period.

**Question:** How is the amount of owner compensation that is eligible for loan forgiveness determined?

**Answer:** The amount depends on the type of business and if the borrower is using an 8- or 24-week period. The amount for owner-employees and self-employed individuals payroll compensation for the 24 weeks is capped at \$20,833 per individual while for the 8-week period it is capped at \$15,385.

See SBA FAQ for details on how owner compensation is affected by the different types of businesses.

**Question:** Are nonpayroll costs incurred **prior** to the Covered period, but paid **during** the Covered Period, eligible for loan forgiveness?

**Answer:** Yes, eligible business mortgage interest costs, eligible business rent or lease costs, and eligible business utility costs incurred prior to the Covered Period and paid during the Covered Period are eligible for loan forgiveness.

**Question:** Are nonpayroll costs incurred **during** the Covered Period, but paid **after** the Covered Period, eligible for loan forgiveness?

**Answer:** Nonpayroll costs are eligible for loan forgiveness if they were incurred during the Covered Period and paid on or before the next regular billing date, even if the billing date is after the Covered Period.

**Question:** If a borrower elects to use the Alternative Payroll Covered Period for payroll costs, does the Alternative Payroll Covered Period apply to nonpayroll costs?

**Answer:** No. The Alternative Payroll Covered Period applies only to payroll costs, not to nonpayroll costs. The Covered Period always starts on the date the lender makes a disbursement of the PPP loan. Nonpayroll costs must be paid or incurred during the Covered Period to be eligible for loan forgiveness. For payroll costs only, the borrower may elect to use the Alternative Payroll Covered Period to align with its biweekly or more frequent payroll schedule.

**Question:** Is interest on unsecured credit eligible for loan forgiveness?

**Answer:** No. Interest on unsecured credit is not eligible for loan forgiveness because the loan is not secured by real or personal property. Although interest on unsecured credit incurred before February 15, 2020 is a permissible use of PPP loan proceeds, this expense is not eligible for forgiveness.

**Question:** Are payments made on recently renewed leases or interest payments on refinanced mortgage loans eligible for loan forgiveness if the original lease or mortgage existed prior to February 15, 2020?

**Answer:** Yes. If a lease that existed prior to February 15, 2020 expires on or after February 15, 2020 and is renewed, the lease payments made pursuant to the renewed lease during the Covered Period are eligible for loan forgiveness.

**Question:** Will a borrower be subject to a reduction to its forgiveness amount due to a reduction in FTE employees during the Covered Period if the borrower offered to rehire one or more laid off employees but the employees declined?

**Answer:** In calculating its loan forgiveness amount, a borrower may exclude any reduction in Full Time Equivalent (FTE) employees if the borrower is able to document in good faith the following: (1) an inability to rehire individuals who were employees of the borrower on February 15, 2020 and (2) an inability to hire similarly qualified individuals for unfilled positions on or before December 31, 2020. Borrowers are required to inform the applicable state unemployment insurance office of any employee's rejected rehire offer within 30 days of the employee's rejection of the offer.

**Question:** If a seasonal employer elects to use a 12-week period between May 1, 2019 and September 15, 2019 to calculate its maximum PPP loan amount, what period in 2019 should be used as the reference period for calculating any reductions in the loan forgiveness amount?

**Answer:** A seasonal employer that elects to use a 12-week period between May 1, 2019 and September 15, 2019 to calculate its maximum PPP loan amount must use the same 12-week period as the reference period for calculation of any reduction in the amount of loan forgiveness.

**Question:** When calculating the FTE Reduction Exceptions in Table 1 of the PPP Schedule A Worksheet on the Loan Forgiveness Application (SBA Form 3508 or lender equivalent), do borrowers include employees who made more than \$100,000 in 2019 (those listed in Table 2 of the PPP Schedule A Worksheet)?

**Answer:** Yes. The FTE Reduction Exceptions apply to all employees, not just those who would be listed in Table 1 of the Loan Forgiveness Application (SBA Form 3508 or lender equivalent). Borrowers should therefore include employees who made more than \$100,000 in the FTE Reduction Exception line in Table 1 of the PPP Schedule A Worksheet.

**Question:** How do borrowers calculate the reduction in their loan forgiveness amount arising from reductions in employee salary or hourly wage?

**Answer:** If the salary or hourly wage of a covered employee<sup>6</sup> is reduced by more than 25% during the Covered Period or the Alternative Payroll Covered Period, the portion in excess of 25% reduces the eligible forgiveness amount unless the borrower satisfies the Salary/Hourly Wage Reduction Safe Harbor (as described in the Loan Forgiveness Application (SBA Form 3508 or lender equivalent)).

**Question:** If a borrower receives the Economic Injury Disaster Loan (EIDL) advance and the PPP loan, how much of the PPP forgiveness amount will be automatically deducted by the SBA?

**Answer:** If a borrower received an EIDL advance, SBA is required to reduce the borrower's loan forgiveness amount by the amount of the EIDL advance.

**Question:** How should the lender handle any remaining balance due on a PPP loan after the SBA remits the forgiveness amount to the lender?

**Answer:** If the PPP loan is not forgiven in full, any remaining balance due must be paid by the borrower. The lender is responsible for notifying the borrower the amount due and the first loan payment due. The borrower must repay the remaining loan balance by the PPP loan maturity date (either two or 5 years).

**Question:** What if a borrower received an EIDL advance more than the amount of its PPP loan?

**Answer:** A borrower will not receive any forgiveness on the PPP loan because the amount of the EIDL advance was in excess of the PPP loan amount. The lender must notify the borrower on when the first loan payment is due.

The team at EHTC realizes that these are uncertain times and there are many questions surrounding the PPP Loan Forgiveness and strive to keep you informed on updated guidance from the Small Business Association and the Federal Government. Please do not hesitate to contact your EHTC Tax Advisor with any questions you may have as we are here to assist you and your business.

More information regarding COVID-19 for businesses and individuals can be found [here](#). If you have further questions or need additional guidance, please leave a message at (616) 575-3482 or email [info@ehtc.com](mailto:info@ehtc.com). Thank you for choosing EHTC as your strategic partner.