

Paycheck Protection Program (PPP) - Loan Forgiveness Application

The Coronavirus Aid, Relief, and Economic Stability (CARES) Act, passed on March 27, 2020, includes the Paycheck Protection Program providing businesses with favorable funding to help keep employees working at their normal salary levels. Since its inception on April 3, 2020, more than four million loans have been guaranteed totaling \$531 billion. With an overwhelming response to this Small Business Administration, SBA, loan program, employers seek ways to maximize their loan dollars and take full advantage of its forgiveness.

The CARES Act PPP Loan Forgiveness Provisions

Beside the favorable loan terms of 1% interest for two years, the loan comes with forgiveness. This provision “forgives” expenses the employer pays during the first 8-weeks following receipt of loan monies, as long as the employer uses funds primarily to maintain payroll costs and avoids reductions in headcount or salary. ***A separate forgiveness application is the mechanism for achieving forgiveness on the loan.***

According to the law, there are three things that reduce the amount of loan forgiveness:

1. Reduction in headcount
2. Reduction in salaries
3. Disproportionate amount of expenses paid toward non-payroll expenses

The law and the April 2, 2020 interim rules provide basic information on the forgiveness parameters. Throughout this program, the SBA continues to provide regular updates to their website to guide employers. As employers receive their loan funds, they need to understand just how to get the most out of the loan and its forgiveness. Emerging inquiries uncover the need for details regarding specific usage and calculations to maximize the loan’s forgiveness feature.

SBA Releases PPP Loan Forgiveness Application

The release of the application now gives us the guidance to understand and calculate how much of the loan will be forgiven. Just released, this [11-page application](#) and instructions provide the much needed direction. The four part application includes the calculation form, PPP Schedule A and its corresponding worksheet, and an optional demographic information form.

The following FAQ includes the forgiveness provisions of the law, interim guidance, and guidance from this new application.

Application Process and Covered Period

1. ***How do I apply for loan forgiveness?*** Employers may apply electronically or by paper through their lender

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2. ***When does my 8-week covered period begin and end?*** The “covered period” (CP) begins the day of the PPP funds disbursement, i.e. date funds are received, and ends 56 calendar days after that date. [The CP for funds received on April 20 is Monday, April 20 – Sunday, June 14.]
3. ***What if my payroll period starts on a different date?*** Employers may select an “Alternative Payroll Covered Period” (APCP) that begins on the first day of their first payroll following their PPP loan disbursement date. [If loan proceeds are received April 20 and the employer’s first payroll period following that day begins April 26, then the APCP is Sunday, April 26 through Saturday, June 20.]

Amount Eligible for Loan Forgiveness

4. ***What payroll costs are eligible for forgiveness and for what time period?***

Payroll costs consist of:

- compensation to employees (whose principal place of residence is the United States) in the form of salary, wages, commissions, or similar compensation;
- cash tips or the equivalent (based on employer records of past tips or, in the absence of such records, a reasonable, good-faith employer estimate of such tips);
- payment for vacation, parental, family, medical, or sick leave;
- allowance for separation or dismissal;
- payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums, and retirement;
- payment of state and local taxes assessed on compensation of employees; and
- for an independent contractor or sole proprietor, wage, commissions, income, or net earnings from self-employment or similar compensation

The Act expressly excludes the following:

- Any compensation of an employee whose principal place of residence is outside of the United States;
- The compensation of an individual employee in excess of an annual salary of \$100,000, prorated as necessary;
- Federal employment taxes imposed or withheld between February 15, 2020 and June 30, 2020, including the employee’s and employer’s share of FICA (Federal Insurance Contributions Act) and Railroad Retirement Act taxes, and income taxes required to be withheld from employees; and
- 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)

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Eligible expenses include payroll costs incurred and payroll costs paid in the CP or APCP

- a. Incurred = day the employee's pay is earned
- b. Paid = date the paycheck is distributed or date ACH initiated
- c. Incurred but not paid in last payroll of CP or APCP = includable if paid on or before the next regular payroll period following the end of the CP or APCP

5. Which specific expenses do employer include?

- a. Cash compensation – includes gross salary, wages, tips, commissions, paid leaves (vacation, family, medical, or sick leave but not including leave covered by the Families First Coronavirus Response Act, FFCRA), and allowances for dismissal or separation. [Cash compensation limited to an annual salary of \$100,000, i.e. \$15,385 in CP/ APCP.] *This includes, compensation to owner-employees, self-employed individuals, and general partners capped at the lower of \$15,385 or the 8-week equivalent of their applicable compensation in 2019.*
- b. Health Insurance Costs – Total amount of employer contributions for employee health insurance, including self-insured and employer-sponsored group health plans – this excludes any pre or after-tax contributions by employees
- c. Retirement Costs – Total amount of employer contributions to employee retirement plans excluding any pre or post-tax contributions by employees
- d. Taxes– State and local taxes assessed on employee compensation, e.g. state unemployment insurance – do not include any taxes withheld from employee earnings

6. What non-payroll amounts are eligible for forgiveness? Payments made during the CP or incurred during the CP and paid on or before the next regular billing date, for the following arrangements entered into prior to February 15, 2020:

- a. Mortgage interest payments for obligations on real or personal property;
- b. Business rent or lease payments for real or personal property; and
- c. Payment for utility services including electricity, gas, water, transportation, telephone, or internet
- d. Total non-payroll costs may not exceed 25% of the total forgiveness amount

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Reductions to Loan Forgiveness Amount

7. **How does the reduction in headcount reduce my loan?** The percentage of employee retention from the CP or APCP compared to the employer-chosen reference period. Dividing these two numbers results in a percentage. This percentage is then applied to the total forgiveness proceeds.

Reduction Determination – based on Full-Time Equivalent (FTE) Employees

- Average number of FTE employees/mo. → during CP or APCP
- \div Average number of FTE employees/mo. → 2/15/19-6/30/19 or 1/1/20-2/29/20 (employer's choice)
- Seasonal employers may also choose a consecutive 12-week period between 5/1/19 and 9/15/19 or either of the two periods listed above

Calculating Full-time Equivalent (FTE) Employees

- Employers may choose one of two ways to calculate full-time equivalent employees:
 - Actual = for each employee, take the average number of hours worked per week, divide by 40, and round to the nearest tenth
 - Simplified = Count each full-time employee working 40 hours or more per week as 1.0 and each employee who works less than 40 hours per week as 0.5.

FTE Employee Exemptions

- Do not count employees for whom, a good faith, written offer, of rehire was made during CP/APCP but was declined by employee; or
- who were fired for cause, voluntarily resigned, or voluntarily requested and received a reduction in hours
- AND these positions were not filled by a new employee

FTE Employee Safe Harbor

- Employer is exempt from FTE employee reduction if:
 - The employer reduced its FTE employee levels in the period beginning February 15, 2020 and ending April 26, 2020; AND
 - The employer restored its FTE employee levels by not later than June 30, 2020 to its FTE employee levels in the pay period that included February 15, 2020

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8. **What constitutes a reduction in salary?** A salary/hourly wage reduction of 25% or more, for a particular employee, when comparing annualized salary/hourly wage during the CP/APCP to the annualized salary/wage for the period of January 1, 2020 through March 31, 2020.
- Applies to each individual whose principal place of residence is in the United States and whose annual 2019 compensation was \$100,000 or less or who did not work for the employer in 2019
 - Employees who worked at any point during the CP/APCP whose principal place of residence is in the United states and whose pay in any period of 2019, when annualized, is more than \$100,000 is not subject to this reduction provision

Reduction Determination

- $\$ \text{ Average annual salary/hourly wage during CP or APCP}$
- $\div \underline{\$ \text{ Average annual salary/hourly wage during the period of 1/1/20-3/31/20}}$
- *No reduction to loan if result is 75% or more*
- *If less, see safe harbor and reduction calculation*

Salary Restoration Safe Harbor Exemption

- Eligibility - if annual average salary/hourly wage for the period of February 15, 2020 to April 26, 2020 is less than the average annual salary/hourly wage as of February 15, 2020
- Applicability - if the average annual salary/hourly wage as of June 30, 2020 is equal or greater than the average annual salary/hourly wage as of February 15, 2020, then there is no reduction

Per person reduction calculation =

- $\$ \text{ Average annual salary/hourly wage during 1/1/20} - 3/31/20 \times 0.75$
- $\underline{\$ \text{ Average annual salary/hourly wage during CP or APCP}}$
- $\$ \text{ Salary/hourly wage difference } (*)$
- NEXT:
- $\text{If salary} = \$ \text{ Salary difference} * \times 8 \div 52$
- $\text{If hourly} = \text{average hours worked per week for 1/1/20-3/31/20} \times \text{hourly wage difference} * \times 8$

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Certifications and Documentation Requirements

9. *What certifications will employers agree to when applying for loan forgiveness?*

Employers will initial and certify a number of items including:

- a. All funds were used for PPP-eligible expenses, e.g. payroll costs, business mortgage interest, business rent or lease payments, or business utility payments
- b. The form includes all applicable reductions based on FTE employee and salary changes
- c. Non-payroll costs do not exceed 25% of the amount requested
- d. Understanding that if proceeds were used for non-eligible purposes, the federal government may pursue recovery and/or criminal fraud charges
- e. Required documentation and tax documents submitted to the lender are accurate and applicable and that the SBA may share these documents with authorized representatives
- f. Understanding that the SBA may request additional information, as necessary

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10. ***What documentation must employers submit?***

SUBMIT

Documents required for submission with PPP Loan Forgiveness Application

PAYROLL: Bank accounts statements, payroll service reports for CP/APCP time periods. tax forms covering CP/ APCP period, payment receipts, cancelled checks, Form 941 and other applicable tax forms, state wage reports, supporting documents showing employer contributions to employee health insurance and retirement plans

FTE: Documentation showing FTE counts for CP/APCP and employer-chosen reference period, including payroll tax filings reported or to be reported (e.g. Form 941), state quarterly business and individual employee wage reporting

Non-Payroll: Verification of existence of mortgage interest, rent or leasing arrangements, and utility services prior February 15, 2020, cancelled checks, account statements, copies of agreements, invoices --- expense documentation should cover CP/APCP time period plus one month after the CP/APCP time period ends

PPA Schedule A Worksheet, including FTE Reduction Safe Harbor calculation

MAINTAIN

Documents that each borrower must maintain (submission not required)

Listing of each individual employee, their salary information, and FTE employee status, information on individuals with salaries in excess of \$100,000 in 2019

Employee status changes including employee job offers and refusals, firings for cause, voluntary resignations, and written requests by any employee for reductions in work schedule

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