



## **PPP Forgiveness FAQ Library**

Version 6 | Updated 6/19/20

New questions (and questions with revised responses) in red.

The FAQ library is categorized to make navigating this information as easy as possible. Should you have any additional questions about the Forgiveness process, please forward your question to [PPP\\_Questions@bankcbc.com](mailto:PPP_Questions@bankcbc.com). We will tabulate these questions semiweekly, share with Armanino, and provide an updated FAQ library every Tuesday and Friday. Questions deemed specific to individual businesses will receive a direct response the following respective Tuesday or Friday.

Of note, the forgiveness calculation model we will send to you will automatically perform every calculation necessary to complete your application based on the data you enter in the model. Thus, please don't feel as though you need to know how to apply every rule associated with this complicated application. The model being prepared by our CPA partner Armanino will do it for you.

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## **Allowable Expenses**

### **Payroll Costs** (pp. 22-33)

- What is allowed in payroll costs?
- Can you clarify covered payroll costs? Are they based on the date that the money was disbursed from the employer's cash account, or is it the date that the employees earned the money? Or is it the date on which the employee actually received their paycheck?
- The alternative payroll schedule is an option that people can choose. Who is an eligible employer to choose the alternative payroll schedule?
- If I choose an alternative Covered Period for my payroll costs, how do I calculate my payroll schedule for the forgiveness application?
- I have employees who have earned pay between the time of my last payroll and the end of my Covered Period. Can I count that cost in my payroll costs?
- What is the process I should use to accrue wages and other payroll costs at the end of my Covered Period that will be paid in the next payroll following the Covered Period?
- **In calculating payroll costs is there a maximum I can apply to any one person? (Response Updated)**
- **Does that \$100,000 maximum per person include other fringe benefit costs? (Response Updated)**
- **Many of my employees have earned a bonus beyond their salaries during the Covered Period. Can I pay those? (Response Updated)**
- Can I change my policy and begin paying 100% of my employees' health benefits?
- **I pay state taxes on compensation that I paid to my employees. Can I include that in the forgiveness calculation? (Response Updated)**
- **I laid people off during the Covered Period and paid them severance and their accrued PTO. Can I include that in the payroll costs for forgiveness? (Response Updated)**
- **If I don't spend 60% on payroll during the Covered Period, am I eligible for any forgiveness at all? (Response Updated)**
- Do I have to spend 60% of my forgiveness expenses on payroll or 60% of my total loan expenses on payroll, or both?
- I had accrued bonuses from my fiscal year end of February 29. For decades, we have paid those bonuses out in early May. Since our PPP loan got funded in late April, should I back out all of those bonuses for loan forgiveness since they were actually earned in February, but will show up during my PPP payroll records?
- You have indicated that Profit-Sharing contributions for 2019 are not forgivable, but what about for the current year? Could we allocate 2 months' worth of what we contributed in 2019?

- For employees who were making more than the \$100,000 maximum allowance for PPP, do they have to be reinstated to their full payroll amount by June 30 (even if that amount was, for instance, \$250,000)?
- Our loan funded on April 20. Since my first payroll and use of the funds was on April 30 for our April 16-30 payroll, does the Covered Period start then?
- I came away from the last webinar with the understanding that only 75% of the amount that I spend on payroll could be eligible to be forgiven. Am I correct? (Response Updated)
- For those whose income exceeds \$100,000 annually, do I use the 8/52 formula or, since I'm a semi-monthly payer, do I divide by the 24 equal payments I make over the course of the year? (Response Updated)
- Can we include the entire April 30 payroll toward our forgiveness because it was paid after disbursement April 29, even though it includes payroll records for time worked prior to disbursement?
- Short-term and long-term disability are not allowable expenses, correct?
- We have union payroll and union benefit costs that we incur during our Covered Period. Are both the union health and the union pension benefit qualified expenditures for payroll costs?
- In the webinar, there was discussion around the \$100,000 maximum annual compensation and when to include it in certain calculations. I'm confused as to whether the \$100,000 should be subtracted altogether or just the amount over \$100,000? (Response Updated)
- Does forgiveness use the same \$100,000 payroll cost per person limit as the loan application calculation?
- In the forgiveness calculation, can I include the payroll cost for people I did not include in the loan application (e.g. equity partners)?
- If I don't think I can get to the 60% payroll threshold for forgiveness, can I repay some of my loan now to lower my denominator and better my chances?
- Do HSA contributions to employees count as health insurance benefits for forgiveness?
- Does the Covered Period start the date the funds are received?
- Does paid sick leave count as a covered payroll expense?
- How do we handle seasonal employees?
- If I received my funding on April 26, can I make my Alternative Covered Period start April 21, or does it have to be a date after the funding of the loan?
- Does the cap of \$100,000 per employee refer only to 2019 or both 2019 and 2020?
- We erroneously included the cost of 1099 contractors in our original loan amount but are now able to spend the full loan amount on true W-2 employees with the extension to 24 weeks. Will the payroll spend be forgiven or does the miscalculation of the loan amount lead to significant un-forgivability?
- I understand that FICA costs are not forgivable, but what about Federal Unemployment, Medicare or State Unemployment Insurance payments? (Response Updated)

- We have several "employees" who each own 20% of the business. Are they excluded entirely from the forgiveness calculation? (Response Updated)
- When we submitted our labor, we included all employees including part-time. If the goal was to keep employees working their normal schedules, can we include our part-time employees in our total payroll expenses?
- We make monthly union benefit payments and understand that these payments can be included in our forgiveness calculation. We paid the March bill in April after we received our PPP funds, paid the April bill on schedule in May and paid the May bill early to get it in under the wire of our Covered Period. Can we include all three payments?
- Do you treat employees paid via a PEO the same as if they were being paid by a temp agency?
- Has the \$15,385 cap on salaries for the eight-week period been increased to \$46,154 for the 24-week period?
- Are we allowed to get forgiveness for employee auto allowances or mileage reimbursements?
- Is dental and vision care part of health care?
- Are pension payments also restricted to \$100,000?
- Do you include part-time employees who don't work every pay period?
- If a new employee is hired during the Covered Period, will we be able to include them in payroll costs?
- Are commissions for salespeople also included in the maximum pay calculations?
- Do we have to include commissions or bonuses in looking at 2019 annualized pay to determine if they should be included or excluded from the Salary Reduction Factor calculation?
- We are a construction company and work is not consistent each week. How do we handle this?
- Are wages capped at \$1,923 for each employee each week?
- Is it okay to pay an employee \$15,385 for one week and nothing for the remaining Covered Period, or do you have to pay \$1,923 each week?
- If an employee earns \$110,000 per year, can I include the first \$100,000 of wages in the forgiveness amount?
- If an employee will earn over \$100,000 this year, does this employee's pay have a maximum for inclusion in payroll costs?
- When an employee passed away during our eight-week period, we split up his duties to other current employees and gave out raises that pushed two employees over the \$100,000 limit (annually). Do I use my last payroll (for the eight-week period) to calculate their costs?
- The AICPA website says that employee federal withholding is included in allowable payroll costs for the purposes of determining the amount to be forgiven, but the employer federal payroll taxes (i.e. FICA and Medicare taxes) imposed on the gross payroll are not eligible payroll costs for the loan forgiveness calculation. Is that right?
- Are both FICA and Medicare NOT eligible payroll tax expenses?

- We have reasons to not want certain wages to be considered for PPP forgiveness. For example, we may want only \$6,000 of an employee's wages considered for forgiveness, even though the employee earned \$10,000 in the Covered Period. Can we do this and still use the \$10,000 amount paid as the basis for the various reduction factors?
- We got our first project in Texas and brought on two people to perform the project. They are not technically on our payroll as a W-2, but instead are paid through a 1099. This is considered payroll cost, correct?
- Two owner-employees in our S Corp had an increase in salary in mid-2019. Therefore, their salary is greater in 2020 than the average 2019 number that contributed to the calculation of the original PPP funds. For the forgiveness application, can we include the increased salary, or do we need to stay with 2019 salaries?
- Workers comp is paid quarterly — is this forgivable when properly accrued?
- We are using a PTO company. Since we do not have our own 941, what payroll records are acceptable?
- Our payroll journals do not show hours for salaried exempt employees, only hours that have been used like sick, vacation, holiday, etc. Will this be an issue in terms of applying for forgiveness and providing supporting documentation?
- Our loan was funded on April 15, 2020. Can we include the payroll we issued that day or does our Covered Period start the day after the loan funds, so April 16, 2020 for us?
- Say funding is on April 23, 2020, the payroll period is April 13 to April 24 with a pay date of May 1. If I understand correctly, we can claim the whole pay period for forgiveness, not just the two days after the funding date. Is that correct? Then, at the end, my Covered Period ends June 17, in the middle of my payroll period from June 8 to June 19 that we will pay June 26. Is the entire pay period still covered as long as it is paid prior to the next cycle, or only the part that occurs during the Covered Period?
- Where is it stated that compensation over \$100,000 is not forgiven? I know it was used for the loan basis and to determine whether a pay reduction results in an amount being unforgiven, but that's different than the amount we are allowed to pay employees out of PPP funds. When/how did this change come about?
- For a C Corp, are all employee shareholders considered owners for the payroll cost forgiveness calculation, or only those above a certain ownership percentage?
- I have three questions. First, is the per diem payment or subsistence paid to employees for out of town work forgivable or allowable? Second, how about a monthly truck allowance for salespeople? Third, what period is to be used to compare the eight-week total wage payroll — can we still use the January-February 2020 reference period?
- Could we extend the eight-week coverage to nine weeks to cover the semi-monthly payroll that is due on June 15, 2020? Since we have basically maxed out the PPP funds, when shall we submit the PPP loan forgiveness application?

- How would distributions to S Corp shareholders be viewed during the eight-week or 24-week forgiveness period in terms of using liquid resources, arguably the PPP loan, to distribute out? Would that be a valid business transaction or be viewed negatively and possibly jeopardize full forgiveness?

#### **Retirement** (pp. 34-35)

- Do contributions to an employee stock ownership plan, or ESOP, qualify as retirement benefits when computing the forgivable amount of a PPP loan?
- What types of tax-deductible ESOP contributions may be considered retirement benefits for forgiveness?
- How much of the ESOP contribution paid within the Covered Period counts toward forgiveness?
- **Can I make my profit-sharing contribution for 2019 in the Covered Period and include it in my forgiveness calculation? (Response Updated)**
- How about a defined benefit plan paid at the end of the year as an annual payment?
- **Can owner retirement contributions be included in the forgiveness calculations? (Response Updated)**
- Will my matching 401(k) contributions to my employees count for forgiveness?
- Can I prepay during my Covered Period future 401(k) matching contributions and get forgiveness?

#### **Mortgage and Other Debt** (pp. 36)

- Are mortgage expenses allowable?
- I see my mortgage payment is an allowable use of PPP funds; however, what portion of that is actually forgivable?
- I have some non-mortgage debt. Can I use PPP funds to pay interest on payments to a former owner that I'm paying off or buying out?
- I drew down my line of credit and am making regular interest payments against that during the Covered Period. Can I use PPP funds to make those payments and will that be a forgivable expense?
- I understand that we are allowed to use PPP funds for non-mortgage interest but that it is not forgivable. Can I include the interest payments that we were making on our equipment loan in my forgiveness calculation?
- Is interest on personal property loans included in forgiveness?
- Can personal property taxes be included?

#### **Rent and Other Lease Expenses** (pp. 37-40)

- My business pays rent every month to another business that I own which holds the real estate in an LLC. Can I include in my forgivable expenses my related party rent?
- My landlord charges me not only for the space that I occupy, but also for my portion of the building's property taxes, maintenance and common area charges. Can I include those in my rent cost?
- My business rents off-site storage to hold files and other business materials. Can I include the rent for that storage facility in my forgivable expenses?

- Can I prepay my fourth-quarter rent during the Covered Period and include it in my forgiveness request?
- Can I include leases that I pay for personal property, like copiers, in rental costs?
- My business leases several vehicles that we use for delivery and other purposes. Can I include the cost of those leases in my rental expense?
- We pay car leases and gas as monthly auto expenses for our sales team, all of which were in effect before PPP and are still active. Does this qualify for forgiveness either under leased equipment or transportation?
- We have leases on delivery trucks and the drivers who drive those trucks. We get charged weekly for the truck leases, mileage, diesel fuel and the hourly rate for the drivers. Can I include both the leasing costs for the truck as well as the leased employees? We pay a weekly bill to our transportation provider that includes the charges mentioned above. (Response Updated)
- Our rent statement shows both base rent and expense recovery. Can I only use PPP funds to pay the base rent or can I also include expense recovery?
- If we deferred our March rent and pay it during the Covered Period, is it forgivable?
- We pay to provide monthly parking spaces for our office employees, but they are not part of a lease agreement. Are these fees eligible for forgiveness?
- My eight weeks end on June 19. Can I include payables that I usually pay on the 25th of each month, such as my June rent? Should I pay it before the 19th?
- Are rent/lease payments calculated from the date we received the funds?
- Does parking at the office count toward rent if we pay it on an itemized invoice each month?
- Are furniture lease payments eligible/includable?
- Can payments for equipment leases be included in forgiveness?
- We signed a lease prior to February 15, 2020 but didn't move in until February 22. Can we get forgiveness on the lease payments?
- In December 2019, we signed a new lease agreement with a related party that called for higher rent payments to begin in April 2020. Is this new, higher rent payment eligible for forgiveness?
- Are property taxes on a triple net lease for manufacturing space qualified rent?
- If we have a triple net rent agreement with a related entity in which the common area maintenance and property taxes are not specifically broken out, how should we handle itemizing the rent portion of the monthly payment for documentation purposes?
- It's inconsistent to state that renters on FSG leases can include CAM, property tax, etc. which are intrinsic to the FSG lease, and those on NNN or modified gross leases cannot include these expenses. The intent is to keep the business operating for two months regardless of which lease type a tenant has. Please triple check this before using it as a criterion for forgiveness.
- We had to downsize and move to a smaller building in May and our landlord let us out of the lease on the larger space. Is the new lease forgivable due to the downsizing?

- Our lease agreement requires us to pay for the entire year in one lump sum (\$250,000 a year). So, if this is paid during the period, must this be broken down by month or can the entire payment be used in the calculation?
- Do you report your rent payment, net of any sublessee income or do you report the whole amount?

### Utilities (pp. 41-42)

- What expenses are considered “utilities”?
- What costs can be included in transportation expense for forgiveness purposes?
- My staff has been working from home where they have incurred internet access and telephone costs on behalf of my business. Can I reimburse them for that and include it in my forgiveness costs?
- Internet costs are forgivable. Can I include as part of that my software costs, dues, licenses, subscriptions, etc.?
- Can I pay for third-party IT Support and include it in internet costs and utilities?
- Are utilities prorated for the month if your eight or 24-week period ends in the middle of the month?
- Is there any clarity yet on the inclusion of fuel for delivery vehicles under utility costs?
- Will the transportation include the mileage that employees drive to work, and the company reimburses them?
- Is trash service included as utilities?
- Can utilities costs include server hosting service, data storage service or monthly email/website hosting fees if we were already using the service prior to COVID?
- Can we claim employee home office expenses, e.g., home internet, home phone and cellphones that the company has reimbursed to our employees since pre-COVID time (per our company reimbursement policy)?

### Self-employment (pp. 43-46)

- What is the wage maximum for people who are self-employed? (Response Updated)
- Are owner distributions to S Corp owners and LLC members forgivable and included in income for owners on the loan forgiveness application?
- Can I include pay to my spouse in my loan forgiveness calculation?
- Are health insurance premiums for owners considered forgivable benefits expense?
- What is the definition of an owner who cannot submit their benefits expense as part of their loan forgiveness?
- Does the limitation on owner benefits apply to leaders in a not-for-profit organization?
- On the forgiveness application it specifically says that the owner's compensation should not go on Table 1 or Table 2 of Schedule A and should be listed elsewhere. Doesn't that hurt me when it comes to forgiveness calculations and possible Safe Harbor?

- The owners of the company make more than the capped amount for the Covered Period, so does this mean I should automatically not include their net healthcare costs and employer 401(k) contributions in the payroll costs for the forgiveness amount? (Response Updated)
- Owners get paid by K-1 sometimes and not by W-2s, so can we include those payments in calculating our payroll costs for forgiveness purposes? (Response Updated)
- Will the self-employed be able to file for PPP forgiveness while also receiving unemployment for sole-ownership program?
- For LLC owners who are paid by K-1 and not W-2, does the \$100,000 maximum compensation still apply?
- Are payments to equity partners, up to the \$15,385 amount, includable in the forgiveness calculation?
- Can you add the amount of employer retirement and health care contributions paid on behalf of the owner-employee?
- If we have minority owners with less than 5% ownership, do they get included in the owner compensation data?
- Are you prohibited from providing profit distributions to shareholders until the loan is paid off?
- Why would the self-employed compensation be limited to eight weeks when we now have 24 weeks to spend on payroll?
- Can owners take any surplus PPP money for themselves?
- Is it true that self-employed people who file Schedule C on their 1040 can't include non-payroll costs in their forgiveness application?

#### **Disallowed Costs or Costs That Are Not Included in Payroll Costs** (pp. 47-49)

- Can I include the costs for workers comp insurance, long-term care insurance or disability insurance?
- Can I include the cost of childcare benefits that I pay for my employees?
- Can I include educational reimbursements covered under Section 127?
- Can I include prepaid wages in payroll costs?
- Am I allowed to include in payroll costs the employer part of Social Security tax?
- Do I include in payroll costs the amount of benefits costs that I deduct from my employees' gross pay?
- Do I include in employer paid benefits costs the amount of benefits that my employee pays that I deduct from their paychecks?
- Can I submit my entire health insurance bill as a covered cost?
- I have many temporary employees who are part of my business but paid by a staffing agency. Can I include their costs?
- I am a not-for-profit that receives money in the form of a grant to pay for certain jobs that I have filled. Can I include those wages in my PPP forgiveness?
- I am required to pay union dues each pay cycle that include health insurance and non-health benefits for my union employees. Can I deduct all the union dues?

- Many of my salespeople earn commissions during the Covered Period, but they won't be paid until later. Can I include those accrued commissions as earned by the employee but not yet paid in my forgiveness calculation?
- Can I prepay health insurance premiums and count them in forgiveness costs?
- Can I use PPP funds to buy inventory?
- Should payments to an independent contractor or sole proprietor be included as payroll costs?
- It seems counterintuitive that payments to temporary agencies are not allowed since the underlying client is the one who is making the true decision and expense with regards to employment. Can you clarify the guidance on this?
- Our company hires temporary staff through a temp agency which we included in the computation of the loan. I was told that we can also include those in our forgiveness expenses. But we see conflicting guidance on whether we can actually include this in the computation of payroll cost for forgiveness. Can you please clarify?

## **Forgiveness Reduction Factors**

### **Salary Reduction Calculation** (pp. 50-54)

- Which employees do I put on Table 1 and which employees do I put on Table 2 of the PPP Schedule A worksheet? (Response Updated)
- How do I figure out if the employee made more than \$100,000 in any one pay period in 2019?
- If I cut people's pay by less than 25%, does that count as a wage reduction?
- I cut people's pay by 30%. Do I have to take the entire 30% as my salary reduction calculation?
- How do I count overtime or bonus pay in the Salary Reduction Factor calculation? (Response Updated)
- Which periods do I compare for purposes of the Salary Reduction Factor calculation? (Response Updated)
- If we fired an employee during the loan period, but replaced them, do we have to take a salary reduction penalty for the employees we let go, even though our employee count remained constant?
- When looking at Step 1 of the Instructions for the PPP Schedule A Worksheet to determine if pay was reduced more than 25%, both line A and line B say to enter the hourly wage during the Covered Period. That seems to be asking for the wage per hour versus the total of all wages. We did not change anyone's hourly rate but did reduce weekly hours from 55 to 40 hours per week. In comparing 1Q20 versus the Covered Period, are we looking at overall wages OR the hourly rate a person was getting during that time regardless of the number of hours?
- I'm confused about the salary reduction calculation. We cut pay 40% starting May 1, but if we restore those cuts before December 31, are we okay? (Response Updated)
- Does the Salary Reduction Factor only include 2019 employees, or do we also have to include employees hired in 2020 in the calculation?

- Is the Salary Reduction Factor based on the average salary for all employees or is it calculated for each employee?
- If we lay off an employee during the Covered Period, does that count as a Salary Reduction too?
- We know that employees who receive legitimate offers of employment and choose not to return do not count against the employer's FTE count, but we also need to return payroll dollars to February 15, 2020 levels. How will that be calculated to qualify for forgiveness?
- If employees are paid hourly, is the reduction based on their hourly rate? So, if they worked more hours in Q1 than in the Covered Period but had the same hourly rate, do we have to calculate a reduction percentage?
- I thought compensation was capped at \$100,000, not excluded completely. What am I missing?
- What if my company started January 1, 2020? I won't have payroll info for 2019.
- For Salary/Wage Safe Harbor, if my overall wage is restored by the December 31, 2020 date because we hired new employees (employees who were laid off were no longer available), can we still qualify for the Safe Harbor?
- Does the shift to 24 weeks change how we account for the Salary/Wage Reduction Factor?
- Why do we need to enter the payroll from January 1, 2019 to the Covered Period, if the baseline we chose is January 1, 2020 to February 29, 2020? What is the relevance of the extra data?
- To confirm, if we had a \$200,000 officer who took a 50% reduction in pay, his reduction will be \$25,000?
- When calculating FTE, we do not use overtime hours, as I understand it, but do we use overtime dollars when calculating the reduction in payroll?

#### **FTE Reduction Factor — Definitions** (pp. 55)

- Our work week is 35 hours and we consider that full-time. Do we still need to use 40 hours as an FTE?
- What are the minimum hours worked in a week to be considered an FTE?
- Is 21 hours a week considered full time?
- Is an employee who regularly works 37.50 hours per week considered a 1.0 FTE?
- Do employees need to work 38 hours per week to be considered an FTE?
- Why do employees have to work 40 hours to be considered full time? On the ADA anything over 30 hours is considered full time.
- Do employees who take unpaid vacation during the Covered Period reduce the FTE calculation since they were working less than 40 hours per week?

#### **FTE Reduction Factor — Baseline Period** (pp. 56-57)

- In determining the FTEs, not all employees that now work for the firm worked here during the baseline period. Do I only account for those who worked during that time that are still with the firm, which would make our baseline much smaller?

- Since we have seasonality in our business, a Q1 2020 baseline comparison doesn't make as much sense as a Q1 2019 comparison or the annual average from 2019 (which was the basis of the loan amount anyway). Can we just use either of those alternatives as the baseline for comparison for forgiveness?
- **Do we not need to be concerned with the number of employees that went on our loan application? (Response Updated)**
- **What if in our loan application our head count included our part-time employees? (Response Updated)**
- We overstated the number of employees on our loan application because we included independent contractors by accident. Will this create an FTE reduction for us?
- We had four employees in 2019 but laid off one of them in October 2019. Does the laid off employee need to be listed in the forgiveness model? Note, this laid off employee was not in the loan application documentation.
- **What is the significance of February 15 to June 30, 2019? Isn't that supposed to be 2020?**
- **Is the initial date of February 15, 2020 for FTE measuring the only start date that can be used, or can a later date be used?**

#### **FTE Reduction Factor — Calculation Approach** (pp. 58-62)

- When do you use the alternative FTE method of 1.0 and 0.5?
- Can I use the calculation method for part-time employees to determine FTEs if they work more than 20 hours per week and use the 0.5 simplified method for any part-time employees who work less than 20 hours per week?
- Can I use one method for the Covered Period and a different method for the baseline period for purposes of comparing my FTE reduction calculation?
- Can I just use my employee count that I used for my loan application?
- Do I calculate FTE by taking the total hours worked across the entire Covered Period and dividing by the number of weeks? Or do I use only the last week of the period? Or something else?
- Using the reference period January 1 to February 29 to calculate FTE, I have one employee on payroll for only one week within this period. Do I count this individual as FTE?
- We have been paying all of our employees, whether they are working or not. Are we able to designate employees as full time even if we aren't entering their time as hours worked?
- If a salaried employee gets a 20% salary reduction, do I have to count them as 0.8 FTE?
- If I hire more people and didn't reduce any wages, do I have to fill out the salary and hourly wage reduction and FTE reduction calculations in the application?
- What about the employees I hired during the Covered Period? Can I use the money that I spent on them for payroll costs in my forgiveness calculation?
- If we select the 24-week option, our spend will significantly exceed the loan amount we received. Therefore, if we have an FTE reduction of 25%, we will still end up with a total greater than our loan. Will this be acceptable?

- We have employees who were part-time before, during and remained so after our Covered Period. Will that create a deduction in forgiveness because they are working less than 40 hours? (Response Updated)
- If we reduce hours by only 20% for our staff to aid in cost savings, will that impact our forgiveness amount?
- Do outside salespeople (exempt employees) get included in the FTE calculation?
- Do we still need to include in our FTE calculation employees that were laid off, terminated or quit prior to March 31?
- What if we fired someone on February 14 which was not related to the pandemic?
- We hired a new employee on February 17. How are they included in the calculations?
- Would an employee who resigned in Q2 be excluded from the average FTEs? (Response Updated)
- What happens if the number of our FTEs are the same, but the employees during our Covered Period are completely different people?
- In the webinar, it was stated that one of the baseline periods for the FTE Reduction Factor is February 15 through June 30, 2019. Are you saying this is 24 weeks? This is actually only 20 weeks. 24 weeks would be February 15 through July 31, 2019.
- If we did not lower payroll costs or number of employees, do we need to calculate FTE? (Response Updated)
- We hired two people as full-timers during the Covered Period who subsequently returned to their former jobs within weeks of coming to work for us. Can I count them as full time, or should I treat them as part time? If part time, can I use the "0.5" FTE method for them to determine FTE?
- Our FTE on February 15, 2020 was 28. The current FTE is 27. One person left us voluntarily, and we laid off one person, all during February. In March, we laid off another full-time person, but we rehired that employee during the Covered Period. I assume that the person who voluntarily resigned will reduce our previous headcount so that it matches our current head count.

#### **FTE Reduction Factor — Exclusions** (pp. 63-65)

- I have two employees who asked for and were granted reduced work schedules during the Covered Period. Does that count as a headcount reduction?
- I had an employee go out on disability and another one take maternity leave. Does that count against me as an FTE reduction?
- I had an employee resign. I tried to replace them during the Covered Period but did not succeed in finding a qualified candidate. Will this count against me as an FTE reduction? (Response Updated)
- I had several employees who went out on leave under the Families First Coronavirus Relief Act. Do I have to count those people as reduced FTEs?
- I had to terminate two individuals for cause during the Covered Period. Does that count against my FTE reduction?

- **If payroll was reduced because people resigned, but were not laid off, does that affect forgiveness? (Response Updated)**
- Our business had to change direction to save the company, so when we re-hired, we brought in different kinds of talent than we had before the layoff. Does that affect our FTE Reduction Factor?
- What documentation is needed to substantiate a legitimate decrease in the number of FTEs, such as people not wanting to come back due to fear of exposure to COVID-19 or lack of sufficient business activity to require the employee?
- **If we elect to take the eight-week period, are we precluded from using the "unable to return to business activities" excuse for reduction in FTEs? (Response Updated)**
- Does the FTE reduction exclusion for being unable to restore business because of social distancing apply if our business has declined because most of our customers are "unable to return to business activities"?
- **We have a small office of five employees. Two employees left the company of their own will. Do we need to replace them in order to get loan forgiveness? (Response Updated)**
- If we offered a job to a potential employee and they refused, will that help in our FTE?
- Do we get penalized on forgiveness for employees who went on FMLA (birth of child) or pregnancy disability (i.e. non-COVID or business-related reasons)?

#### **FTE Reduction Factor — Effect of Layoffs/Furloughs** (pp. 66-67)

- I furloughed employees but did not lay them off. Does that count against my FTE Reduction Factor?
- **We will have spent all our PPP money during our initial eight-week period that ends on June 14. Based on this would it be safe to make staff reductions as of June 15? Or do we need to wait until June 30 or December 31? (Response Updated)**
- **What happens if work has not returned and employees are let go after June 30? (Response Updated)**
- If we elect to take the 24-week Covered Period, does that mean we have to keep our head count for the entire Covered Period or risk the reduction because of lowered FTE?
- We will run out of PPP funds at approximately 16 weeks and will have to furlough people. What effect will this have on our forgiveness?
- Do layoffs after the Covered Period have any impact on the forgiveness calculation?
- Our prior Covered Period of eight weeks has passed, and the funds have been exhausted. All funds were used entirely for payroll. Now, we need to layoff some employees due to reduction in business. This will reduce the FTE count. How does this affect the PPP loan forgiveness with the extended Covered Period?

### **Safe Harbor for Forgiveness Reduction Factors** (pp. 68-70)

- If I rehire people by December 31 does that get me Safe Harbor from the FTE reduction calculation?
- I reduced my staff on May 1 and my Covered Period began May 5. After receiving my PPP funds, I hired my staff back on June 1 and kept them through December 31. Does that give me Safe Harbor? (Response Updated)
- Do I qualify for Safe Harbor if I restore my FTE count on December 30?
- If we chose to proceed with the eight-week option, do we have to continue with staff levels until December 31 or June 30 for Safe Harbor? (Response Updated)
- Between February 15 and April 26, 2020, we did in fact have lower FTE than at February 15, however at the end of our Covered Period on June 11, our FTE count was the same as February 15. With the Safe Harbor date change from June 30 to December 31, can we use the June 11 FTE numbers to qualify for Safe Harbor? (Response Updated)
- If we have a project that temporarily bumps the FTE count above the baseline period for more than one pay period, does that qualify for restoring the FTEs before December 31? (Response Updated)
- We can reduce hours any amount so long as we restore by December 31, right? (Response Updated)
- If we furloughed 35 employees and brought them back, plus hired another 20 employees within that 24-week period, will that be factored in?
- If our company has a reduction in FTEs since the quarantines began, what options do we have as to the actual date we need to return to that same FTE total?
- Our loan funded on April 16 and we will most likely exhaust our funds with our next payroll cycle on June 16. Since business has not picked up at all, we will need to furlough an FTE. What date can we do the termination and be able to fully forgive their payroll without getting disqualified because we let them go too early?
- If I needed to increase my FTE by one, is it as simple as hiring a full-time employee the day before June 30?

### **Safe Harbor for Demonstrating Need for the Loan** (pp. 71)

- My loan was for less than \$2 million. Does that mean I will not get audited?
- I borrowed more than \$2 million. I understand that means I will absolutely be audited, but what do I need to do to prepare for that?
- I'm over the \$2 million loan. I had other sources of borrowing available to me. Would I be eligible for partial forgiveness?

### **Other**

#### **Applying for Forgiveness** (pp. 72-73)

- What documentation will I be required to submit to the bank with my forgiveness application? (Response Updated)

- How much time do I have after the end of my Covered Period to file my forgiveness application? (Response Updated)
- If I've used the funds within my eight weeks, do I have to wait until December 31 to apply for forgiveness just so I can see if we can restore our FTEs? (Response Updated)
- If we choose 24 weeks, but use up the money by July 1, can we apply for forgiveness in July? (Response Updated)
- If we use the 24-week Covered Period, we should be more than able to justify 100% forgiveness of our loan amount with our payroll costs only. Can we then reduce our application paperwork and submit only payroll costs, not interest nor utility costs?
- In the most current loan forgiveness application on the SBA website, the Schedule A worksheet asks for "cash compensation" but should that include health insurance and retirement costs as well? (Response Updated)
- What website do I use to download the application?
- I'm confused as to whether I can use the new EZ application form. How do I know if I qualify?

#### **Auditability of the Loan** (pp. 74)

- I've heard that a best practice for a business is to keep the PPP money in a separate bank account. Is this required, or could I just put my money into a separate cash account in my general ledger and keep track of it that way?
- Our payroll accounts are at a different bank than the one holding the PPP money. Do we need to show bank transfers that have the funds going out of the PPP account directly to the payroll account, or can we just show our payroll records to document our allowable uses of the PPP funds without showing the actual bank transfers?
- If we paid non-payroll costs from our general account, can we just transfer amounts from our PPP loan account at a later date to show that PPP money ultimately paid for the expense?

#### **Definitions** (pp. 75)

- What does it mean if an expense is allowed but not forgiven? Isn't that the same thing or does "not allowed" indicate a future penalty or something?
- Is it incurred AND paid during the period, or incurred OR paid? (Response Updated)

#### **Calculations** (pp. 76-77)

- In the webinar, the forgiveness calculation examples for ABC Co. and XYZ Co. included three potential forgiveness figures, of which the lowest would be the forgiven amount. Since one of these forgiveness figures was based solely on the payroll costs, does this mean that rent and utilities can never be included in the final forgiven figure? (Response Updated)
- If we don't have a salary or FTE reduction, can we get forgiveness for utilities and mortgage interest?

- If the basis of the original PPP loan was payroll/health insurance only, can you later claim other expenses (utilities, postage meter, copier) for forgiveness purposes? (Response Updated)
- Given the 24-week period, we may spend two or three times the amount of the PPP loan in forgivable expenses. Can we start out with a gross forgiveness amount of, say, 150% of the PPP loan amount, and have the reduction factors subtract from that 150%, so that we still could get 100% of the loan forgiven?
- After the 24-week period, I will have spent 100% of the proceeds on payroll and payroll related costs. Should I still submit the costs for rent and utilities in my forgiveness application? (Response Updated)
- If we opt for the 24-week period, and exhaust all loan funds prior to the end of 24 weeks (say by week 12), do we need to continue tracking/outlining all covered expenses? (Response Updated)
- If economic uncertainty changed during the course of the application process and/or eight-week period, does that affect eligibility for forgiveness?
- At the time we applied for a PPP loan in April, we had guaranteed funding only until May 10 and had no way of knowing whether it would be extended beyond that date. Since then, our funding has been extended twice with no gaps. Are we at risk of failing the economic uncertainty test?

#### **Deductibility of Expenses** (pp. 78)

- Is the amount of the loan that I have forgiven considered taxable income? (Response Updated)
- Will expenses that are forgiven be deductible business expenses for tax purposes?
- By not allowing the expenses to be deducted on our taxes, doesn't the IRS position effectively make PPP forgiveness taxable?

#### **Length of the Covered Period** (pp. 79-80)

- If we choose an eight-week Covered Period, does it have to be a consecutive eight-week period?
- Why would I want to choose the eight-week Covered Period instead of the 24 weeks? (Response Updated)
- When do we need to choose between an eight-week or 24-week period? (Response Updated)
- Can we choose a Covered Period between eight weeks and 24 weeks (for example 16 weeks) to use the PPP funds? Or is it just either eight weeks OR 24 weeks? (Response Updated)
- If it takes me 12 weeks to expend all my loan funds, do I have to measure my FTEs over 24 weeks? Or can I match the FTE calculations against the time it takes to use all the funds? (Response Updated)
- Does the new 24-week period apply to loans that were funded prior to June 5?
- Is the 24-week period an automatic extension or do we have to apply for it?
- If we aren't happy with the eight-week forgiveness approval we receive, can we change our forgiveness period from eight to 24 weeks afterwards?

- The final day of our Covered Period is today. With the changes in the program, do we need to have spent the money by today or spent it and pulled it out of the designated account that holds the PPP funds?

#### **Start Date for the Covered Period** (pp. 81)

- Our Covered Period started on a Friday. What constitutes a week?
- When does the Covered Period begin, the loan date or the funding date? Our loan is dated May 1, but we were funded May 7.
- Does the 24-week period start on February 15 or start on the date we receive the funds?
- We received the PPP loan, but we're not open for business. Can we change the start of our Covered Period to be the date when we are officially open?

#### **Forgiveness Threshold** (pp. 82)

- The joint statement issued by the SBA and Treasury on June 8 states: "If a borrower uses less than 60 percent of the loan amount for payroll costs during the forgiveness Covered Period, the borrower will continue to be eligible for partial loan forgiveness, subject to at least 60 percent of the loan forgiveness amount having been used for payroll costs." What happens if we don't hit the 60% threshold?
- Can a company use the 60/40 rule, but still use the eight-week period?

#### **Loan Repayment** (pp. 83-84)

- If I don't use all my money, do I have to give it back? (Response Updated)
- Can I prepay my loan balance?
- Are there any restrictions on the use of any money that I have left over during the remainder of the term of the loan? (Response Updated)
- Do any unused funds still accrue interest at 1% even if we have deferred principal payments?
- On a two-year repayment term, does the first payment of the note start after the loan forgiveness application has been processed and total loan forgiveness has been defined?
- If we elect the 24-week forgiveness period, will we be obligated to start paying on the loan prior to getting forgiveness?
- When will we be required to start paying back our remaining loan amount? I'd like to submit our forgiveness calculations 30 days prior to avoid more work.
- We received a PPP loan of about \$520,000 in late April. About \$200,000 of this loan came from 1099 employees, which we now know should not have been included so most likely we will not meet the 60% threshold. Do we have the option to pay back the \$200,000 (1099 employee part) now, and reset the amount used in the forgiveness calculation to \$320,000 so we can meet the 60% threshold? If not, do you suggest to just convert the loan to a two-year or five-year loan?

- Do the revised repayment rules — after the bank receives forgiveness dollars from the SBA — only apply to new loans made after July 5, or all PPP loans? If for all PPP loans, what about the repayment terms in the promissory note I signed (payments starting in month seven)?

#### Other (pp. 85-86)

- What are the changes to the PPP program being enacted by the PPP Flexibility Act? (Response Updated)
- Now that I have 24 weeks available for my Covered Period, can I apply for more PPP money?
- A few of our owners hold their shares as part of a trust that they will receive at the age of 25. Does it matter that none are of age yet?
- How does the PPP process affect the sale of a business? Can a business be sold before the end of the Covered Period or loan forgiveness?
- If we have affiliates that will opt for the eight-week period, but other affiliates need longer, do each get treated separately?

#### Payroll Tax Deferral (pp. 87-88)

- Does the payroll tax deferral only include the employer portion of FICA?
- We use ADP so taxes are filed under their tax ID. ADP is debiting our account for ER FICA. Is there a way for us to defer those taxes?
- If I do not need to take advantage of the tax deferral for financial purposes, should I still take advantage of it? It is eventually going to be due.
- Does the deferral ever have to be repaid? It says deferral which means pay later, so I am confused.
- As a cash basis taxpayer, are the payroll taxes still deductible in the year they are incurred if they are not paid (i.e. deferred)?
- How do I go about getting the payroll tax deferral?
- How does deferring the FICA payment affect quarterly filings we have to make?
- If a business with a PPP loan closes down, can that company continue to defer all the payroll taxes through 2020?
- Can a business with a PPP defer all the payroll taxes through 2020?
- The form we received from our payroll provider to defer payroll taxes includes a note that penalties will be assessed by the IRS on taxes not deposited once the PPP loan is forgiven. Does this mean the date we receive notice the PPP is forgiven, or will it go back to the last day of the eight or 24 weeks? I also found this on the IRS website: “Employers that received a Paycheck Protection Program loan may not defer the deposit and payment of the employer's share of Social Security tax that is otherwise due after the employer receives a decision from the lender that the loan was forgiven. (See FAQ 4).”

**Other CARES Act Loans** (pp. 89)

- Am I eligible for Title IV, also known as Main Street loans, if have a PPP loan and when can I get one? (Response Updated)
- I have a PPP. Can I also have an EIDL loan? (Response Updated)
- If the \$10,000 EIDL grant (the advance, not the EIDL loan) is used exclusively for rent and utilities and the PPP loan is used exclusively for payroll, why would the PPP loan amount that is forgiven be reduced by \$10,000?

# **FAQ LIBRARY**

## **Allowable Expenses**

### **Payroll Costs**

#### **What is allowed in payroll costs?**

Gross wages without any other deductions for benefits or for taxes that the employee pays, state tax expense paid by the employer, health insurance benefits paid by the employer, and retirement plan benefits paid by the employer.

#### **Can you clarify covered payroll costs? Are they based on the date that the money was disbursed from the employer's cash account, or is it the date that the employees earned the money? Or is it the date on which the employee actually received their paycheck?**

All three of those things can apply, providing you never pay an employee twice for the same hour or same period:

- Any payroll cost paid during the Covered Period may be included in the forgiveness application (example: I received my funds on April 28. I paid my payroll on April 30 covering the period of April 15 to April 30.) This is allowable under the rule that allows costs based on the date that the paychecks were distributed.
- At the end of your Covered Period, you may include payroll costs that have been paid to the payroll provider but not yet paid to your employees (example: your Covered Period ends June 14, with a payroll due on June 15, and you funded the payroll to your payroll provider on June 12. This too is allowable.
- At the end of your Covered Period, your employees have earned pay that has not yet been paid but will be in your next regular payroll run. (example: you pay your payroll semi-monthly on the 15th and 30th, and your Covered Period ends June 24. You may include in your forgiveness application the payroll costs incurred, but not yet paid, for the period from June 16 to June 24.)

#### **The alternative payroll schedule is an option that people can choose. Who is an eligible employer to choose the alternative payroll schedule?**

Eligible employers have either a bi-weekly payroll schedule or one that is more frequent, such as weekly. Bi-weekly means that you pay payroll every two weeks, or 26 pay periods per year. This does not apply to employers that have fewer than 26 pay periods per year, such as semi-monthly (example: payday on the 15<sup>th</sup> and last day of the month) or monthly payers.

**If I choose an alternative Covered Period for my payroll costs, how do I calculate my payroll schedule for the forgiveness application?**

The alternative payroll schedule ensures you don't have to move your pay dates to match your Covered Period and enables you to more easily calculate costs for the forgiveness application. If your payroll schedule starts four days after your loan is funded, you can start counting your covered payroll on the first day of the next pay period (example: your loan funds on May 6 and your next pay period starts on May 11, you can start your Covered Period on May 11 for Payroll Cost purposes only). You may not change your Covered Period dates for non-payroll costs.

**I have employees who have earned pay between the time of my last payroll and the end of my Covered Period. Can I count that cost in my payroll costs?**

Yes.

**What is the process I should use to accrue wages and other payroll costs at the end of my Covered Period that will be paid in the next payroll following the Covered Period?**

To properly accrue for and document earned wages at the end of your loan period that have not been paid but will be paid in the next payroll cycle, you should prepare a schedule that shows:

- For hourly workers: hours worked in that accrual period and rate of pay
- For salaried workers: their annual rate of pay divided by 260 to get their daily pay rate, then multiplied by the number of workdays between the final payroll and the end of the Covered Period

**In calculating payroll costs is there a maximum I can apply to any one person? (Response Updated)**

Yes. The wage maximum is \$100,000 annually per person. If you choose an eight-week Covered Period, this means that you can include no more than \$15,385 per person on the forgiveness application. If instead you choose a 24-week Covered Period, the maximum you will be allowed to claim for any employee on your application is \$46,154.

**Does that \$100,000 maximum per person include other fringe benefit costs? (Response Updated)**

Fringe benefits are not included in the \$100,000 cap. The \$100,000 annual maximum (either \$15,385 or \$46,154 depending on the Covered Period) applies only to the gross salary or wages earned by the employee and does not include any benefits or other additional payroll costs.

**Many of my employees have earned a bonus beyond their salaries during the Covered Period. Can I pay those? (Response Updated)**

Yes. Any regular payments of wages, commissions, or bonuses can be included and may be forgiven up to the \$100,000 per person annualized limit prorated for the length of your Covered Period, meaning maximum pay during the Covered Period is either \$15,385 or \$46,154 per person depending on the chosen time frame.

**Can I change my policy and begin paying 100% of my employees' health benefits?**

Yes. Technically you could cover a larger share of your employees' health benefits during the Covered Period and submit it for forgiveness.

**I pay state taxes on compensation that I paid to my employees. Can I include that in the forgiveness calculation? (Response Updated)**

Yes. State taxes that are the employer's cost can be included in the forgiveness calculations. Any state taxes that you withheld from the employee's gross pay should be excluded because those costs are already captured in the gross wages part of the Payroll Costs calculation.

**I laid people off during the Covered Period and paid them severance and their accrued PTO. Can I include that in the payroll costs for forgiveness? (Response Updated)**

Yes. Paid time off and severance payouts to employees can be included in wages up to the limit of gross compensation per person in the Covered Period. However, keep in mind that eliminating those positions will also affect your FTE count in determining forgiveness reductions.

**If I don't spend 60% on payroll during the Covered Period, am I eligible for any forgiveness at all? (Response Updated)**

Yes, you are. The PPP Flexibility Act reduced the amount required to be spent on payroll costs from 75% to 60%. However, subsequent guidance from the SBA and Treasury indicates that they are carrying over their prior interpretation that allows for a graduated forgiveness amount, even if a borrower fails to meet the 60% threshold. In this instance, the non-payroll costs will be reduced by an amount necessary to establish payroll at a 60% level. For example, a borrower who spends \$540,000 on payroll and \$460,000 on non-payroll (total: \$1 million), would fail the 60% test, so they would have to lower the forgivable portion of their non-payroll costs to \$360,000. This would adjust the ratio to be \$540,000 on payroll (60%) and \$360,000 on non-payroll (40%). The net effect of this adjustment would be to reduce their total forgiveness amount from \$1 million to \$900,000.

**Do I have to spend 60% of my forgiveness expenses on payroll or 60% of my total loan expenses on payroll, or both?**

According to guidance from the SBA interim final rules, the answer is both. The guideline is 60% or more of the forgiveness amount, which is the amount spent during the Covered Period, must be spent on payroll in order to maximize forgiveness. A separate interim final rule notice also specifies that 60% of the total loan proceeds are to be spent on payroll. This would apply to any loan amount that is carried over beyond the Covered Period.

**I had accrued bonuses from my fiscal year end of February 29. For decades, we have paid those bonuses out in early May. Since our PPP loan got funded in late April, should I back out all of those bonuses for loan forgiveness since they were actually earned in February, but will show up during my PPP payroll records?**  
You should include them as a normal business practice which you can demonstrate through historical records.

**You have indicated that Profit-Sharing contributions for 2019 are not forgivable, but what about for the current year? Could we allocate our Covered Period's worth of what we contributed in 2019?**

Yes, but only if you make the Profit-Sharing contribution during the Covered Period or in the next pay cycle following the Covered Period.

**For employees who were making more than the \$100,000 maximum allowance for PPP, do they have to be reinstated to their full payroll amount by December 31 (even if that amount was, for instance, \$250,000)?**

No. Those employees are not subject to the Salary Reduction Factor because they made more than \$100,000 in 2019.

**Our loan funded on April 20. Since my first payroll and use of the funds was on April 30 for our April 16-30 payroll, does the Covered Period start then?**

As a semi-monthly payer, you do not have access to the Alternative Covered Period concept. Your Covered Period began the date you received the funds for both payroll and non-payroll costs.

**I came away from the last webinar with the understanding that only 75% of the amount that I spend on payroll could be eligible to be forgiven. Am I correct? (Response Updated)**

No, that is incorrect. The rules have changed, but let's first correct the misperception in your question. The payroll threshold test did not say that you could only get 75% of whatever you spent on payroll forgiven — that would be to multiply payroll costs by 0.75. Rather, you would divide by 0.75, in effect "grossing up" your payroll costs. So, with the clarified, under the old rules, at least 75% of the *total amount spent* (not just the amount that you spent on payroll) needed to be spent on payroll costs in order to maximize forgiveness. Under the new rules enacted by the PPP Flexibility Act, this 75% threshold has been reduced to 60%. In either scenario, every payroll dollar will count toward forgiveness except for any amounts paid in excess of \$15,385 (eight-week Covered Period) or \$46,154 (24-week Covered Period) to any single employee.

**For those whose income exceeds \$100,000 annually, do I use the 8/52 formula or, since I'm a semi-monthly payer, do I divide by the 24 equal payments I make over the course of the year? (Response Updated)**

No, do not divide by the number of payments. Instead, the maximum amount allowable to be claimed for any employee is either 8/52 or 24/52 of \$100,000, depending on the number of weeks in your Covered Period.

**Can we include the entire April 30 payroll toward our forgiveness because it was paid after disbursement (April 29), even though it includes payroll records for time worked prior to disbursement?**

Yes, any payroll paid during the Covered Period counts toward forgiveness.

**Short-term and long-term disability are not allowable expenses, correct?**

This is correct.

**We have union payroll and union benefit costs that we incur during our Covered Period. Are both the union health and the union pension benefit qualified expenditures for payroll costs?**

Yes, all contributions to health insurance and pension programs for your employees are to be included in payroll costs for the forgiveness calculation.

**In the webinar, there was discussion around the \$100,000 maximum annual compensation and when to include it in certain calculations. I'm confused as to whether the \$100,000 should be subtracted altogether or just the amount over \$100,000? (Response Updated)**

There are two places where the \$100,000 figure comes into play: payroll costs and the Salary Reduction Factor. For purposes of calculating payroll costs, you include all employees no matter what they are paid, but for those paid more than \$100,000 annually you may only count gross salary paid up to \$15,385 or \$46,154 depending on the number of weeks during the Covered Period. Any pay over that amount will not be forgiven. For purposes of calculating the Salary Reduction Factor, you exclude those highly paid employees from the Salary Reduction calculation altogether.

**Does forgiveness use the same \$100,000 payroll cost per person limit as the loan application calculation?**

The \$100,000 per person limit remains. Do not exclude employees who make more than \$100,000 annually. Instead include payroll costs for those employees up to that limit, prorated for the number of weeks in your Covered Period.

**In the forgiveness calculation, can I include the payroll cost for people I did not include in the loan application (e.g. equity partners)?**

Yes, and it would be helpful to do so because it helps you get your FTE and wages up.

**If I don't think I can get to the 60% payroll threshold for forgiveness, can I repay some of my loan now to lower my denominator and better my chances?**

No. The loan amount is determined by the loan document on record, not how much you have repaid. Furthermore, for forgiveness purposes the 60% payroll threshold is relative to what you spent during the Covered Period, not what the total loan amount was.

**Do HSA contributions to employees count as health insurance benefits for forgiveness?**

Yes, anything that goes toward employee welfare such as dental, vision and HSA contributions (the employer portion) can be included in health insurance benefits.

**Does the Covered Period start the date the funds are received?**

Yes.

**Does paid sick leave count as a covered payroll expense?**

Yes. PPP loans cover 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.

**How do we handle seasonal employees?**

The SBA has not defined seasonal employees; however, the clear implication is they are referring to summer workers. Employers using seasonal employees — from agricultural workers to lifeguards — have the option to include either of the two elective baseline periods or a consecutive 12-week period between May 1 and September 15, 2019.

**If I received my funding on April 26, can I make my Alternative Covered Period start April 21, or does it have to be a date after the funding of the loan?**

The Alternative Covered Period cannot pre-date the loan and would need to start after you received the funds.

**Does the cap of \$100,000 per employee refer only to 2019 or both 2019 and 2020?**

The \$100,000 cap is in place throughout the PPP program, originally in calculating your loan amount. In the forgiveness phase, this cap limits the amount of forgiveness available for payroll costs. This amount is also used to determine the employees who may be subject to the Salary/Hourly Wage Reduction Factor.

**We erroneously included the cost of 1099 contractors in our original loan amount but are now able to spend the full loan amount on true W-2 employees with the extension to 24 weeks. Will the payroll spend be forgiven or does the miscalculation of the loan amount lead to significant un-forgivability?**

The payroll spend will be eligible to be forgiven if it was used for W-2 employees, regardless of the calculation that was used to secure the loan originally.

**I understand that FICA costs are not forgivable, but what about Federal Unemployment, Medicare or State Unemployment Insurance payments?  
(Response Updated)**

Employer costs for federal programs, including Social Security, Federal Income Tax, Federal Unemployment Tax Act and Medicare are expressly prohibited from being included in forgiveness by the CARES Act. Specifically, the law reads that "taxes imposed or withheld under chapters 21 (FICA and Medicare), 22 (Railroad), or 24 (FIT) of the Internal Revenue Code of 1986 during the Covered Period" are excluded. The federal government would essentially be giving you the tax money back if they allowed this. On the other hand, state taxes paid by the employer are forgivable, but not if those amounts were withheld from the gross pay of the employees.

**We have several "employees" who each own 20% of the business. Are they excluded entirely from the forgiveness calculation? (Response Updated)**

For questions on self-employed persons, an excellent reference document is the IFR released on April 14. In that document, it was clear that owners of either sole proprietorships or pass-through entities can be forgiven for paying themselves the smaller of \$15,385 (assuming an eight-week period) and 8/52 of their reported 2019 self-employment income. For borrowers choosing the 24-week period, this amount adjusts to the smaller of \$20,833 (which is 2.5 months of \$100,000) or 20.83% of their reported 2019 self-employment income. However, they may not be forgiven for spending on health or retirement benefits that are passed-through and deducted on their personal tax returns.

**When we submitted our labor, we included all employees including part-time. If the goal was to keep employees working their normal schedules, can we include our part-time employees in our total payroll expenses?**

Yes. Include all employees in your payroll costs, regardless of whether they are full-time or part-time.

**We make monthly union benefit payments and understand that these payments can be included in our forgiveness calculation. We paid the March bill in April after we received our PPP funds, paid the April bill on schedule in May and paid the May bill early to get it in under the wire of our Covered Period. Can we include all three payments?**

Prepayments are generally not allowed in the forgiveness program. However, in this example, because the payment would have been made in the next regular billing cycle and covered a cost that was incurred during the Covered Period, all three payments are able to be included in the forgiveness application.

**Do you treat employees paid via a PEO the same as if they were being paid by a temp agency?**

Unlike a temporary agency, a PEO (Professional Employer Organization) contracts with your organization as a "co-employer". The PEO will file payroll tax returns and also administer benefit plans as your "co" employer. Employees paid in a PEO relationship will be provided benefits and you'll work with your PEO in a relationship that allows you to control the employee. You will jointly provide benefits. When the employee files for unemployment, they can name you as the employer of record. The difference is documented in the contractual differences between the PEO and Temp Agency arrangements you engage in.

**Has the \$15,385 cap on salaries for the eight-week period been increased to \$46,154 for the 24-week period?**

Yes.

**Are we allowed to get forgiveness for employee auto allowances or mileage reimbursements?**

Allowances and reimbursements are typically like other expense reimbursements — non-taxable and not considered wages — so they are not allowable for forgiveness. However, if you leased a vehicle for an employee to use for business purposes, that lease payment could be included in your rent costs.

**Is dental and vision care part of health care?**

Yes.

**Are pension payments also restricted to \$100,000?**

No. The only place where there is a \$100,000 cap is on annualized gross salary or wages, which means a maximum of \$15,385 if the borrower chooses an eight-week covered period or \$46,154 for a 24-week period. The employer's portion of pension payments and other retirement benefit payments, along with health insurance benefit payments, may also be forgiven in total regardless of the employee's gross salary.

**Do you include part-time employees who don't work every pay period?**

Yes. Every employee who works for you for even one paid hour during the Covered Period should be included in your payroll costs. It is to your benefit to include them.

**If a new employee is hired during the Covered Period, will we be able to include them in payroll costs?**

Yes. Every employee who works for you for even one paid hour during the Covered Period should be included in your payroll costs. It is to your benefit to include them.

**Are commissions for salespeople also included in the maximum pay calculations?**

Yes. Gross salary or wages includes an employee's standard paycheck, plus any bonuses, commissions, overtime pay, tips, etc. that are considered taxable income. In total, they are subject to the \$100,000 annualized maximum.

**Do we have to include commissions or bonuses in looking at 2019 annualized pay to determine if they should be included or excluded from the Salary Reduction Factor calculation?**

Yes. If in any single pay period in 2019 an employee was paid an amount that, when multiplied by the number of pay periods the business had in 2019 (i.e., annualized), totals more than \$100,000, they are to be excluded from the Salary Reduction Factor calculation. The amount the individual was paid could include salary, wages, commissions, bonuses, overtime pay, sick leave pay, tips or other sources of taxable income. For ease of understanding, the limit in any single pay period in 2019 is as follows, depending on the frequency with which you pay your employees:

- Weekly payroll (52 pay periods): \$1,923
- Bi-Weekly payroll (every 2 weeks) (26 pay periods): \$3,846
- Semi-Monthly payroll (twice per month) (24 pay periods): \$4,167
- Monthly payroll (12 pay periods): \$8,333

**We are a construction company and work is not consistent each week. How do we handle this?**

For purposes of totaling your payroll costs during your Covered Period, add the total of each payroll you run during the period, plus any pay that your employees may have earned before the end of your Covered Period but that you didn't pay until the next regular payroll cycle after your Covered Period. It doesn't matter if the amount of pay varies widely from payroll to payroll — just add it up.

**Are wages capped at \$1,923 for each employee each week?**

No. Wages are capped at \$15,385 during an eight-week Covered Period, or \$46,154 during a 24-week Covered Period. There is no individual weekly cap.

**Is it okay to pay an employee \$15,385 for one week and nothing for the remaining Covered Period, or do you have to pay \$1,923 each week?**

Aside from possible employee relations issues this may cause, this is allowable. You could pay them \$15,385 every week if you want — you would just be limited in your forgiveness claim to \$15,385 once, assuming you are using an eight-week Covered Period.

**If an employee earns \$110,000 per year, can I include the first \$100,000 of wages in the forgiveness amount?**

No, that's not how it works. For this or any other employee, you can only include up to \$15,385 if using an eight-week Covered Period, or \$46,154 if you choose 24 weeks. The \$100,000 maximum is an expression of annualized pay, meaning how much they would have been paid if you had persisted for a full year at the same level you paid the person during the Covered Period.

**If an employee will earn over \$100,000 this year, does this employee's pay have a maximum for inclusion in payroll costs?**

Yes.

**When an employee passed away during our eight-week period, we split up his duties to other current employees and gave out raises that pushed two employees over the \$100,000 limit (annually). Do I use my last payroll (for the eight-week period) to calculate their costs?**

No. To calculate payroll costs, add up the total amount paid to your employees during the Covered Period you choose. Apply the maximum limit threshold explained elsewhere where necessary. Then add in any employer payments made for health insurance, retirement benefits or state/local taxes on compensation. Do not simply take the last payroll and multiply by eight.

**The AICPA website says that employee federal withholding is included in allowable payroll costs for the purposes of determining the amount to be forgiven, but the employer federal payroll taxes (i.e. FICA and Medicare taxes) imposed on the gross payroll are not eligible payroll costs for the loan forgiveness calculation. Is that right?**

Yes, the AICPA got that one right. Understand that employee withholdings are deducted from gross pay. Also understand that the payroll cost calculation uses gross pay for each employee. Therefore, those withholdings are “allowable” because they are included in gross pay. However, the payroll taxes paid by the employer, separate from the amounts withheld from the employees, are ineligible because otherwise you would be using federal government money to pay federal government taxes. If they wanted to do that, they would have simply waived the requirement to pay taxes and kept it simple. On that notion, though, they do now allow any business, regardless of whether it has had PPP money forgiven, to defer (not avoid) paying the FICA portion of payroll taxes (6.2%) through the end of 2020, with half of the deferral amount due December 31, 2021 and the other half due December 31, 2022.

**Are both FICA and Medicare NOT eligible payroll tax expenses?**

Correct.

**We have reasons to not want certain wages to be considered for PPP forgiveness. For example, we may want only \$6,000 of an employee's wages considered for forgiveness, even though the employee earned \$10,000 in the Covered Period. Can we do this and still use the \$10,000 amount paid as the basis for the various reduction factors?**

Without speculating on your reasons, the answer is no.

**We got our first project in Texas and brought on two people to perform the project. They are not technically on our payroll as a W-2, but instead are paid through a 1099. This is considered payroll cost, correct?**

Incorrect. Payroll costs include W-2 employees only. Contract employees paid through a 1099 are not to be included in your payroll cost calculation.

**Two owner-employees in our S Corp had an increase in salary in mid-2019. Therefore, their salary is greater in 2020 than the average 2019 number that contributed to the calculation of the original PPP funds. For the forgiveness application, can we include the increased salary, or do we need to stay with 2019 salaries?**

To calculate payroll costs, add up the total amount paid to your employees during the Covered Period you choose. Apply the maximum limit threshold explained elsewhere where necessary. Then add in any employer payments made for health insurance, retirement benefits or state/local taxes on compensation. Their 2019 pay level is irrelevant to how much payroll cost you can claim for your Covered Period in 2020. The 2019 pay comes into play only in determining whether they should be considered for the Salary Reduction Factor later on, so ignore it for payroll cost purposes.

**Workers comp is paid quarterly — is this forgivable when properly accrued?**

No. Workers comp is not an allowable payroll cost expense regardless of how you accrue it.

**We are using a PTO company. Since we do not have our own 941, what payroll records are acceptable?**

We assume you meant you are using a PEO company and not a PTO company. As a co-employer, your PEO company should be able to provide you with the necessary reports and documentation. Just ask them.

**Our payroll journals do not show hours for salaried exempt employees, only hours that have been used like sick, vacation, holiday, etc. Will this be an issue in terms of applying for forgiveness and providing supporting documentation?**

No.

**Our loan was funded on April 15, 2020. Can we include the payroll we issued that day or does our Covered Period start the day after the loan funds, so April 16, 2020 for us?**

Covered Period day one is the day the funds hit your bank account. So, in this case, you can include the payroll you issued on April 15, 2020.

**Say funding is on April 23, 2020, the payroll period is April 13 to April 24 with a pay date of May 1. If I understand correctly, we can claim the whole pay period for forgiveness, not just the two days after the funding date. Is that correct? Then, at the end, my Covered Period ends June 17, in the middle of my payroll period from June 8 to June 19 that we will pay June 26. Is the entire pay period still covered as long as it is paid prior to the next cycle, or only the part that occurs during the Covered Period?**

To your first question, you have it correct. The amount paid for payroll in the Covered Period (in this case, paid May 1) can be included even if the cost was incurred prior to the Covered Period, so long as it is the immediately contiguous period. As to your second question, only the part that occurs during the Covered Period may be claimed. In this case, you do not get the benefit of the entire June 26 payroll, so you will have to figure out the amount you incurred through June 17 for forgiveness purposes.

**Where is it stated that compensation over \$100,000 is not forgiven? I know it was used for the loan basis and to determine whether a pay reduction results in an amount being unforgiven, but that's different than the amount we are allowed to pay employees out of PPP funds. When/how did this change come about?**

This change came about when the PPP program was invented. See CARES Act language signed into law on March 27, 2020: Section 1102 of the CARES Act, which is what creates paragraph (36) and outlines the Paycheck Protection Program, defines in 1102(a)(2)(36)(A)(viii)(I)(bb) “the sum of payments of any compensation to or income of a sole proprietor or independent contractor that is a wage, commission, income, net earnings from self-employment, or similar compensation and that is in an amount that is not more than \$100,000 in one year, as prorated for the Covered Period.” The forgiveness provisions outlined in Section 1106 state in paragraph (a)(8): “the term “payroll costs” has the meaning given that term in paragraph (36) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)), as added by section 1102 of this Act.” So, it’s always been there.

**For a C Corp, are all employee shareholders considered owners for the payroll cost forgiveness calculation, or only those above a certain ownership percentage?**

The threshold used by the SBA is a 20% ownership stake.

**I have three questions. First, is the per diem payment or subsistence paid to employees for out of town work forgivable or allowable? Second, how about a monthly truck allowance for salespeople? Third, what period is to be used to compare the eight-week total wage payroll — can we still use the January-February 2020 reference period?**

To your first two questions, no — those are not part of taxable wages. Your third question relates to the Salary Reduction Factor, in which you compare the Covered Period average wage to the average each employee earned in Q1 2020, not just January-February 2020.

**Could we extend the eight-week coverage to nine weeks to cover the semi-monthly payroll that is due on June 15, 2020? Since we have basically maxed out the PPP funds, when shall we submit the PPP loan forgiveness application?**

Question 1: No. Pick either eight weeks or 24 weeks but remember the “incurred but not paid” rule described elsewhere. Question 2: You have 10 months from the end of your Covered Period to apply for forgiveness.

**How would distributions to S Corp shareholders be viewed during the eight-week or 24-week forgiveness period in terms of using liquid resources, arguably the PPP loan, to distribute out? Would that be a valid business transaction or be viewed negatively and possibly jeopardize full forgiveness?**

Distributions are not forgivable uses of PPP funds.

## Retirement

### **Do contributions to an employee stock ownership plan, or ESOP, qualify as retirement benefits when computing the forgivable amount of a PPP loan?**

In general, yes. Contributions to an ESOP are considered tax contributions to a qualified retirement plan. Contributions should be forgivable if paid within the Covered Period.

### **What types of tax-deductible ESOP contributions may be considered retirement benefits for forgiveness?**

ESOP contributions may include cash contributed to the plan, which is used to make a payment on a loan, or cash contributed to the plan for any purposes permitted under the plan document, or stock contributions to the plan.

### **How much of the ESOP contribution paid within the Covered Period counts toward forgiveness?**

There isn't clear guidance on this yet. It's unknown if the full amount of the ESOP contribution is forgivable, or if only a pro-rated amount of an annual contribution will be forgiven. It's possible the SBA will issue further guidance on this in the coming weeks.

### **Can I make my profit-sharing contribution for 2019 in the Covered Period and include it in my forgiveness calculation? (Response Updated)**

No. To be forgivable, any profit-sharing contributions that you make should be related to the Covered Period. Our interpretation is that retirement plan expenses should be both paid and incurred in the period that is covered, or, incurred in the immediately preceding contiguous period and paid in the Covered Period, or, incurred in the Covered Period and paid in the immediately following contiguous period.

### **How about a defined benefit plan paid at the end of the year as an annual payment?**

A defined contribution plan is just like any other retirement plan, and if you can allocate the portion that is attributable to the period now, if it's calculable, you could do that. You could put it in your forgiveness calculation, but you would also have to fund it and pay it so that it was both earned and paid in the Covered Period.

### **Can owner retirement contributions be included in the forgiveness calculations? (Response Updated)**

For self-employed people generally, the answer is no. If an owner is on payroll in a corporation, receives a W-2, contributes to their own retirement and the company matches their contributions, the portion that is the employer matching expense can be included in the forgiveness calculation up to a maximum of 2.5 months' worth of the employer's 2019 contribution.

### **Will my matching 401(k) contributions to my employees count for forgiveness?**

Yes. The employer cost that is 401(k) match expense can be included.

**Can I prepay during my Covered Period future 401(k) matching contributions and get forgiveness?**

No. The 401(k)-match expense should be applicable to the Covered Period and not to a future period.

## **Mortgage and Other Debt**

### **Are mortgage expenses allowable?**

Yes, so long as they were in place prior to February 15, 2020 for real estate or other personal property associated with the business.

### **I see my mortgage payment is an allowable use of PPP funds; however, what portion of that is actually forgivable?**

You may use PPP funds to pay eligible mortgage expenses; however, only the interest portion of that will be considered a forgivable expense. All principal payments made with the PPP money will not be forgiven.

### **I have some non-mortgage debt. Can I use PPP funds to pay interest on payments to a former owner that I'm paying off or buying out?**

Payments of other business debt that is non-mortgage related is an allowable use of PPP funds; however, none of those payments will be considered forgivable expenses.

### **I drew down my line of credit and am making regular interest payments against that during the Covered Period. Can I use PPP funds to make those payments and will that be a forgivable expense?**

Yes and no. You may use PPP funds to pay non-mortgage related debt; however, none of those payments will be included in forgivable expenses.

### **I understand that we are allowed to use PPP funds for non-mortgage interest but that it is not forgivable. Can I include the interest payments that we were making on our equipment loan in my forgiveness calculation?**

Yes. An equipment loan is considered a mortgage for purposes of forgiveness.

### **Is interest on personal property loans included in forgiveness?**

Yes. Interest on personal property loans for business assets, such as equipment loans or loans used to buy delivery trucks, may be included in expenses for forgiveness. To be clear, the principal portion of payments made for these loans must be excluded from the forgiveness calculation.

### **Can personal property taxes be included?**

No.

## **Rent and Other Lease Expenses**

**My business pays rent every month to another business that I own which holds the real estate in an LLC. Can I include in my forgivable expenses my related party rent?**

Yes. That is a forgivable rent expense so long as:

- There is a written agreement
- It has not changed during the course of the Covered Period
- It was in place prior to February 15, 2020

**My landlord charges me not only for the space that I occupy, but also for my portion of the building's property taxes, maintenance and common area charges. Can I include those in my rent cost?**

No. Only rent is an allowable and forgivable expense. If the bill from the landlord clearly includes maintenance, common area maintenance charges, property taxes and insurance, those charges should be stripped out of the PPP request for forgiveness.

**My business rents off-site storage to hold files and other business materials. Can I include the rent for that storage facility in my forgivable expenses?**

Yes, so long as the storage unit rental was in place prior to February 15, 2020.

Remember to provide your rental agreement for that storage space as documentation.

**Can I prepay my fourth-quarter rent during the Covered Period and include it in my forgiveness request?**

No. Rent expense needs to be paid or incurred in the Covered Period.

**Can I include leases that I pay for personal property, like copiers, in rental costs?**

Yes. Leases of personal business property are included in the forgiveness calculation.

**My business leases several vehicles that we use for delivery and other purposes. Can I include the cost of those leases in my rental expense?**

Yes. Business vehicle leases are an acceptable use of PPP funds and are included in the PPP calculations for forgiveness.

**We pay car leases and gas as monthly auto expenses for our sales team, all of which were in effect before PPP and are still active. Does this qualify for forgiveness either under leased equipment or transportation?**

Yes, but in separate categories. The car leases should go in the Rent and Other Lease Expenses category while the gas expense should go under Transportation in the Utilities category.

**We have leases on delivery trucks and the drivers who drive those trucks. We get charged weekly for the truck leases, mileage, diesel fuel and the hourly rate for the drivers. Can I include both the leasing costs for the truck as well as the leased employees? We pay a weekly bill to our transportation provider that includes the charges mentioned above. (Response Updated)**

Trucks and fuel are okay so long as the trucks are leased in the borrower's name; leased employees are not. If all costs are combined into one amount without any supporting detail, you will need to provide an estimate for the amount that relates strictly to the truck lease and fuel costs.

**Our rent statement shows both base rent and expense recovery. Can I only use PPP funds to pay the base rent or can I also include expense recovery?**

You can only include the Base Rent in the forgiveness calculation, not the Expense Recovery portion of your monthly payment.

**If we deferred our March rent and pay it during the Covered Period, is it forgivable?**

No, because the expense was not incurred during the Covered Period.

**We pay to provide monthly parking spaces for our office employees, but they are not part of a lease agreement. Are these fees eligible for forgiveness?**

No, they are not, since they are not covered by a pre-existing lease agreement. This is an operating expense.

**My eight weeks end on June 19. Can I include payables that I usually pay on the 25th of each month, such as my June rent? Should I pay it before the 19th?**

Yes, if an expense is accrued for up to the last day of the loan Covered Period, and then paid on the next billing cycle, the amount applicable to the Covered Period can be submitted in the forgiveness application ("incurred but not paid in the period").

**Are rent/lease payments calculated from the date we received the funds?**

Yes. The date you received funds is day one of your Covered Period.

**Does parking at the office count toward rent if we pay it on an itemized invoice each month?**

If there is a separate lease agreement for the parking, then you can count it. If not, then it is an operating expense and not a rent/lease cost.

**Are furniture lease payments eligible/includable?**

Yes.

**Can payments for equipment leases be included in forgiveness?**

Yes.

**We signed a lease prior to February 15, 2020 but didn't move in until February 22. Can we get forgiveness on the lease payments?**

Yes, since the agreement was in place at February 15, 2020 and your documentation can demonstrate that.

**In December 2019, we signed a new lease agreement with a related party that called for higher rent payments to begin in April 2020. Is this new, higher rent payment eligible for forgiveness?**

Yes, so long as you have a lease agreement in place as of February 15, 2020.

**Are property taxes on a triple net lease for manufacturing space qualified rent?**

No. Only the rent portion of a triple net lease is forgivable.

**If we have a triple net rent agreement with a related entity in which the common area maintenance and property taxes are not specifically broken out, how should we handle itemizing the rent portion of the monthly payment for documentation purposes?**

You will need to develop an estimate of the portion that is allocated to rent as opposed to the other, non-forgivable expenses, and include that in the documentation you submit with your application.

**It's inconsistent to state that renters on FSG leases can include CAM, property tax, etc. which are intrinsic to the FSG lease, and those on NNN or modified gross leases cannot include these expenses. The intent is to keep the business operating for two months regardless of which lease type a tenant has. Please triple check this before using it as a criterion for forgiveness.**

Renters on full service gross leases are not allowed to include common area maintenance or property tax expenses in their rent costs for forgiveness either, especially because those expenses are supposed to be paid by the landlord and not the tenant.

**We had to downsize and move to a smaller building in May and our landlord let us out of the lease on the larger space. Is the new lease forgivable due to the downsizing?**

Unfortunately, no. Lease costs are allowed only so long as the lease agreement was in place at February 15, 2020.

**Our lease agreement requires us to pay for the entire year in one lump sum (\$250,000 a year). So, if this is paid during the period, must this be broken down by month or can the entire payment be used in the calculation?**

You cannot use the entire payment in your rent costs calculation. That is effectively a pre-payment, which are expressly not allowed. You will need to pro-rate the lump sum payment for the length of your Covered Period.

**Do you report your rent payment, net of any sublessee income or do you report the whole amount?**

Report the entire amount. Income from sub-leases is not a reportable item.

## Utilities

### **What expenses are considered “utilities”?**

Water, gas, electric, internet access and phone access. Also, gasoline used in any vehicle that is owned or leased by the business. Reimbursements for employee cell phone expenses are forgivable as long as you can show that the business reimbursed employee cell phone bills before the pandemic as well.

### **What costs can be included in transportation expense for forgiveness purposes?**

The only SBA guidance that has been issued thus far relates to self-employed individuals, and it states that gas which is used for driving a business vehicle is a forgivable use of PPP loan proceeds. There has been no further guidance to define the transportation costs, such as vehicle maintenance expense or other costs associated with owning a vehicle. Those have not been defined as being either forgivable or not forgivable yet.

### **My staff has been working from home where they have incurred internet access and telephone costs on behalf of my business. Can I reimburse them for that and include it in my forgiveness costs?**

In terms of forgiveness, you can submit for those costs providing that was your habit before February 15, 2020 as well.

### **Internet costs are forgivable. Can I include as part of that my software costs, dues, licenses, subscriptions, etc.?**

No.

### **Can I pay for third-party IT Support and include it in internet costs and utilities?**

No.

### **Are we allowed to include expenses related to disposal of all wastes/trash in our calculations for utilities?**

No, these costs are not specified as a utility expense.

### **We received our PPP funds on April 20 and have an electric bill for generation from the period March 21 through April 20. This bill was paid with a check on May 11. Is this eligible for PPP funding based on paid date, or should we hold off for the payment that would coincide with generation from April 21 through May 20?**

Because you paid the bill during the Covered Period, even though it was for a consumption period that pre-dated your Covered Period, you are allowed to include this cost.

### **Can we include the monthly charge for a company that is housing our servers for access through the "cloud", which includes the lease and the storage, as well as IT services (help desk) and licenses?**

No. Utilities costs guidance specifies that only internet access costs are to be included for IT.

**Are utilities prorated for the month if your eight or 24-week period ends in the middle of the month?**

Yes. You will need to determine the amount of the utility cost that was incurred from the beginning of the billing period to the end of the Covered Period in such situations.

**Is there any clarity yet on the inclusion of fuel for delivery vehicles under utility costs?**

This is a forgivable expense.

**Will the transportation include the mileage that employees drive to work, and the company reimburses them?**

No. Expense reimbursements are not allowable expenses, they are payables.

**Is trash service included as utilities?**

No. This is not specifically highlighted in any guidance as a forgivable expense.

**Can utilities costs include server hosting service, data storage service or monthly email/website hosting fees if we were already using the service prior to COVID?**

No. Those are not allowable uses of PPP funds.

**Can we claim employee home office expenses, e.g., home internet, home phone and cellphones that the company has reimbursed to our employees since pre-COVID time (per our company reimbursement policy)?**

If those were required expenses for your employees to perform their duties during the Covered Period, and you can demonstrate that this was in place prior to February 15, 2020, then yes, those expenses can be claimed as internet access and telephone expenses.

## Self-employment

### What is the wage maximum for people who are self-employed? (Response Updated)

Self-employed people are also subject to the \$100,000 per year maximum, or \$15,833 for the 8-week Covered Period forgiveness application. In the event of a 24-week Covered Period, this maximum increases to \$20,833. If a self-employed person filed a Schedule C on their 2019 tax return (meaning that they're a sole proprietor or a single member LLC), the net profit on the Schedule C for that self-employed person is also used to calculate the maximum allowable payroll cost for forgiveness. The rule allows for 8/52 of 2019 net profit for an eight-week Covered Period, or 2.5 months' worth of 2019 net profit for a 24-week Covered Period. The 2019 Schedule C is required documentation for loan forgiveness in this instance. The self-employed person is required to use the smaller of the two maximums (\$15,833 vs. 8/52 of 2019, or \$20,833 vs. 2.5 months of 2019 net profit) in their forgiveness application.

### Are owner distributions to S Corp owners and LLC members forgivable and included in income for owners on the loan forgiveness application?

No. Only self-employment income is to be included in the loan forgiveness.

### Can I include pay to my spouse in my loan forgiveness calculation?

If your spouse is truly an employee and performing duties to the organization, the answer is yes. Be prepared to show that your spouse was a part of your staff before the loan was given to you or show that your spouse is filling in for someone who has refused employment.

### Are health insurance premiums for owners considered forgivable benefits expense?

No, not for self-employed persons who report their income on a Schedule C because they're sole proprietors, nor for those who report their self-employment earnings on an S Corp return, or those who are owner-members of an LLC.

### What is the definition of an owner who cannot submit their benefits expense as part of their loan forgiveness?

The definition here applies specifically to LLC owners, S Corp owners and sole proprietorships, specifically pass-through entities.

### Does the limitation on owner benefits apply to leaders in a not-for-profit organization?

No, because technically not-for-profit organizations do not have owners.

**On the forgiveness application it specifically says that the owner's compensation should not go on Table 1 or Table 2 of Schedule A and should be listed elsewhere. Doesn't that hurt me when it comes to forgiveness calculations and possible Safe Harbor?**

The amount paid to owner-employees or self-employed individuals or general partners does not go in either Table 1 or Table 2 of the PPP Schedule A worksheet; instead, that compensation is listed on line 9 of the PPP Schedule A under the heading "Compensation to Owners" and is included in total payroll costs which are summed on the next line.

**The owners of the company make more than the capped amount for the Covered Period, so does this mean I should automatically not include their net healthcare costs and employer 401(k) contributions in the payroll costs for the forgiveness amount? (Response Updated)**

This depends on your form of organization, but these are two separate questions, though neither is dependent on the amount the owners are paid. Regardless of their pay, their healthcare costs are not to be included in payroll costs, with the exception of payments made for owners in a C Corp who are paid as employees. Separately, in the case of retirement contributions, payments made on behalf of owner-employees by an employer that is a corporation (such that the contributions are listed on the corporate tax return) are eligible for forgiveness. These retirement contributions for the owner-employees are limited to 2.5 months' worth of the employer's 2019 contributions for them. Retirement contributions for any owner in a non-corporate form of organization are not eligible for forgiveness.

**Owners get paid by K-1 sometimes and not by W-2s, so can we include those payments in calculating our payroll costs for forgiveness purposes? (Response Updated)**

Yes, but be careful to document these as "guaranteed payments" and not "distributions." It is subject to the \$100,000 cap — which is either \$15,385 or \$20,833 depending on the length of the Covered Period — and K-1 documentation will be required.

**Will the self-employed be able to file for PPP forgiveness while also receiving unemployment for sole-ownership program?**

Unemployment filing is expressly for those who are unemployed and not receiving paychecks. Therefore, a person receiving payment from an employer, whether funded by PPP sources or not, must disclose that they are receiving paychecks. Payments will reduce eligibility for unemployment benefits.

**For LLC owners who are paid by K-1 and not W-2, does the \$100,000 maximum compensation still apply?**

Yes.

**Are payments to equity partners, up to the \$15,385 amount, includable in the forgiveness calculation?**

Yes.

**Can you add the amount of employer retirement and health care contributions paid on behalf of the owner-employee?**

This is a mixed answer. If the business is a C Corp and the owner-employee receives a W-2, then the answer is yes. If not, the answer is no as it relates to the main forgiveness application. However, for the EZ forgiveness application, there is a provision that allows for retirement contributions for owner-employees up to 2.5 months' worth of the 2019 contribution. There is nothing in the main application instructions that indicates this same allowance is available there.

**If we have minority owners with less than 5% ownership, do they get included in the owner compensation data?**

No. Limit owner's compensation to 20% or greater owners.

**Are you prohibited from providing profit distributions to shareholders until the loan is paid off?**

No. You can provide profit distributions to shareholders at any time, you just can't claim forgiveness for them.

**Why would the self-employed compensation be limited to eight weeks when we now have 24 weeks to spend on payroll?**

Per the 19<sup>th</sup> Interim Final Rule issued on June 17, 2020: "The Administrator, in consultation with the Secretary, has determined that it is appropriate to limit the forgiveness of owner compensation replacement for individuals with self-employment income who file a Schedule C or F to either eight weeks' worth (8/52) of 2019 net profit (up to \$15,385) for an eight-week Covered Period or 2.5 months' worth (2.5/12) of 2019 net profit (up to \$20,833) for a 24-week Covered Period per owner in total across all businesses. This approach is consistent with the structure of the CARES Act and its overarching focus on keeping workers paid and will prevent windfalls that Congress did not intend. Specifically, Congress determined that the maximum loan amount is generally based on 2.5 months of the borrower's average total monthly payroll costs during the one-year period preceding the loan. For example, a borrower with one other employee would receive a maximum loan amount equal to five months of payroll (2.5 months of payroll for the owner plus 2.5 months of payroll for the employee). If the owner laid off the employee and availed itself of the Safe Harbor in the Flexibility Act from reductions in loan forgiveness for a borrower that is unable to return to the same level of business activity the business was operating at before February 15, 2020, the owner could treat the entire amount of the PPP loan as payroll, with the entire loan being forgiven. This would not only result in a windfall for the owner, by providing the owner with five months of payroll instead of 2.5 months, but also defeat the purpose of the CARES Act of protecting the paycheck of the employee. For borrowers with no employees, this limitation will have no effect, because the maximum loan amount for such borrowers already includes only 2.5 months of their payroll. Finally, at least 60 percent of the amount forgiven must be attributable to payroll costs, for the reasons specified in the First PPP Interim Final Rule and SBA's interim final rule posted on June 11, 2020."

### **Can owners take any surplus PPP money for themselves?**

Owners are entitled to take the smaller of the maximum compensation allowed (\$15,385 if opting for an eight-week Covered Period, or \$20,833 for a 24-week time frame), or a proportionate amount of their 2019 net income (8/52 if 8 weeks, 2.5 months if 24 weeks).

### **Is it true that self-employed people who file Schedule C on their 1040 can't include non-payroll costs in their forgiveness application?**

Self-employed people have always been allowed to include such costs in their forgiveness application. What has changed, as of June 17, is the elimination of this language from the third Interim Final Rule (which was published April 14): "it is appropriate to limit loan forgiveness to a proportionate eight-week share of 2019 net profit, as reflected in the individual's 2019 Form 1040 Schedule C." They limited it thusly because "allowing such a self-employed individual to treat the full amount of a PPP loan as net income would result in a windfall." Now, "it is appropriate to limit the forgiveness of owner compensation replacement for individuals with self-employment income who file a Schedule C or F to either eight weeks' worth (8/52) of 2019 net profit (up to \$15,385) for an eight-week Covered Period or 2.5 months' worth (2.5/12) of 2019 net profit (up to \$20,833) for a 24-week Covered Period per owner in total across all businesses." This appears to relieve the prior limitation on overall loan forgiveness, such that non-payroll costs are additive to owner compensation up to the limit of the loan amount itself. For borrowers with no employees, this change is unlikely to have a material effect, but those with employees now have a possible avenue for additional forgiveness. Further clarification may be forthcoming in subsequent guidance.

## **Disallowed Costs or Costs That Are Not Included in Payroll Costs**

### **Can I include the costs for workers comp insurance, long-term care insurance or disability insurance?**

No. You cannot include workers comp, long-term care or voluntary paid disability insurance.

### **Can I include the cost of childcare benefits that I pay for my employees?**

No.

### **Can I include educational reimbursements covered under Section 127?**

No. Those are not taxable wages.

### **Can I include prepaid wages in payroll costs?**

No. Wages included should be earned and/or paid in the applicable loan Covered Period. It would be inappropriate, for example, to prepay fourth-quarter wages in the loan Covered Period.

### **Am I allowed to include in payroll costs the employer part of Social Security tax?**

No. The employer part of Social Security tax (also known as FICA) is not to be included in the expenses for payroll when considering loan forgiveness.

### **Do I include in payroll costs the amount of benefits costs that I deduct from my employees' gross pay?**

Those costs are already included in their gross pay and should not be deducted from your forgiveness calculation.

### **Do I include in employer paid benefits costs the amount of benefits that my employee pays that I deduct from their paychecks?**

No. In this category, you only include the portion of benefits that are actually paid by the employer. The employee portion paid via a payroll deduction is already included in the employee's gross pay calculation.

### **Can I submit my entire health insurance bill as a covered cost?**

No. The bill should be apportioned between the part that is employer cost, which is covered, and employee cost, which is already included in their gross pay calculated elsewhere. Counting the entire health insurance cost would result in "double-dipping" by counting the employee portion twice.

### **I have many temporary employees who are part of my business but paid by a staffing agency. Can I include their costs?**

No. That is a vendor bill and not an employee payment. You can only include W-2 employees that are on your Form 941 payroll returns.

**I am a not-for-profit that receives money in the form of a grant to pay for certain jobs that I have filled. Can I include those wages in my PPP forgiveness?**

No, because those wages have been covered and earmarked and will be reported as paid for by another entity, they should not be part of your PPP forgiveness.

**I am required to pay union dues each pay cycle that include health insurance and non-health benefits for my union employees. Can I deduct all the union dues?**

No. Only include the portion of union dues that relate to employee benefit costs for health, retirement and leave. You cannot include other costs such as membership, apprenticeship or industry advancement costs that may also be part of the union dues you pay.

**Many of my salespeople earn commissions during the Covered Period, but they won't be paid until later. Can I include those accrued commissions as earned by the employee but not yet paid in my forgiveness calculation?**

You may include those costs only if the commissions are paid during the next payroll cycle following the end of the Covered Period.

**Can I prepay health insurance premiums and count them in forgiveness costs?**

No. The intent of this program is to cover health insurance premiums related to wages paid during the Covered Period and not in other periods.

**Can I use PPP funds to buy inventory?**

No.

**Should payments to an independent contractor or sole proprietor be included as payroll costs?**

No. Any amounts that an eligible borrower has paid to an independent contractor or sole proprietor should be excluded from the eligible business's payroll costs. Those are considered operating expenses.

**It seems counterintuitive that payments to temporary agencies are not allowed since the underlying client is the one who is making the true decision and expense with regards to employment. Can you clarify the guidance on this?**

Staff provided by temporary employment agencies receive a W-2 from the agency, not from the underlying client. Therefore, they are not employees of the client, do not participate in the client's benefits programs and do not list the client as the responsible employer if they apply for unemployment benefits. Temp staff provided by an agency are no different than staff working on a client IT project that are provided by a consulting firm. The temp agency is a vendor, like many others contracted by the client. In this regard, temporary agency staff are comparable to 1099 contractors, who are very clearly prohibited from being included in payroll costs per Treasury guidance.

**Our company hires temporary staff through a temp agency which we included in the computation of the loan. I was told that we can also include those in our forgiveness expenses. But we see conflicting guidance on whether we can actually include this in the computation of payroll cost for forgiveness. Can you please clarify?**

Temp agency staff are not allowed. Anyone employed by a staffing agency is, by definition, not your employee. The PPP loan only covers those you employ, and who will receive a 2020 form W2 from you. If you directly employ part-time staff, include them. Those you co-employ in arrangement with a PEO can be included. Provide a copy of your co-employment agreement confirming that you are responsible for taxes, benefits and other employment matters.

## **Forgiveness Reduction Factors**

### **Salary Reduction Calculation**

#### **Which employees do I put on Table 1 and which employees do I put on Table 2 of the PPP Schedule A worksheet? (Response Updated)**

Only put on Table 1 those employees who, during every pay period in 2019, earned less than \$100,000 at an annualized rate. Also list any employees hired during 2020 on Table 1 regardless of their compensation. All employees who earned more than \$100,000 annualized in any pay period in 2019 go in Table 2.

#### **How do I figure out if an employee made more than \$100,000 in any one pay period in 2019?**

For each employee, find the maximum amount that they earned in any pay period in 2019 and multiply that gross wage by the number of pay periods that you had in 2019.

For example, put on Table 2 anyone who:

- Earned more than \$8,333 in any pay period for a monthly payer (12 pay cycles)
- Earned more than \$4,167 in any pay period for a semi-monthly payer (24 pay cycles)
- Earned more than \$3,846 in any pay period for a bi-weekly payer (26 pay cycles)
- Earned more than \$1,923 in any pay period for a weekly payer (52 pay cycles)

#### **If I cut people's pay by less than 25%, does that count as a wage reduction?**

Only salary and hourly wage reductions that were greater than 25% need to be calculated for purposes of the Salary Reduction Factor.

#### **I cut people's pay by 30%. Do I have to take the entire 30% as my salary reduction calculation?**

No. You only count the portion that was greater than the 25% cut. So, in this example you would only use 5% (30% minus 25%) and not the full 30%.

#### **How do I count overtime or bonus pay in the Salary Reduction Factor calculation? (Response Updated)**

Overtime pay is paid to hourly employees. For those employees, you use the employee's standard average hourly wage (e.g., \$20.00 per hour) as the basis for determining a reduction, such that any reduction that exceeds a 25% cut (e.g., standard hourly wage reduced from \$20.00 per hour to \$14.00 per hour) must be included.

Overtime becomes relevant after this step when you multiply the value of the reduced hourly wage beyond 25% (in this example, the difference between \$15.00 and \$14.00, or \$1.00) by the average number of weekly hours during Q1 2020 (which may have included overtime hours). For salaried people, bonus compensation is not included for purposes of the salary reduction. The calculation is looking at salary on an average basis during the Covered Period versus average salary during the baseline period and comparing the two.

**Which periods do I compare for purposes of the Salary Reduction Factor calculation? (Response Updated)**

Compare the average salary or hourly wage paid to each employee during the Covered Period with the average salary or wage that they earned during the first quarter of 2020 from January 1 through March 31.

**If we fired an employee during the loan period, but replaced them, do we have to take a salary reduction penalty for the employees we let go, even though our employee count remained constant?**

While there is no specific guidance yet issued on this point, our interpretation is no. Employees who were fired for cause are excluded from the FTE reduction calculation if the position was not backfilled — they get listed at the bottom of Table 1 on the Schedule A Worksheet. If the position was backfilled, then there is not a significant impact to the number of FTEs. It follows that this should be the case for the Salary Reduction Factor as well, in consideration of the spirit of the CARES Act. However, we expect future guidance will be issued to clarify or correct this interpretation.

**When looking at Step 1 of the Instructions for the PPP Schedule A Worksheet to determine if pay was reduced more than 25%, both line A and line B say to enter the hourly wage during the Covered Period. That seems to be asking for the wage per hour versus the total of all wages. We did not change anyone's hourly rate but did reduce weekly hours from 55 to 40 hours per week. In comparing 1Q20 versus the Covered Period, are we looking at overall wages OR the hourly rate a person was getting during that time regardless of the number of hours?**

Correct, it asks for "hourly wage", meaning the rate per hour that you pay. Because you did not lower anyone's hourly rate during the Covered Period as compared to Q1 2020, there is no Safe Harbor necessary or available to you. Furthermore, you had no employees with their hourly wage reduced by over 25%, so you will have no reduction factor to apply. On the other hand, had you actually had some employees whose average rate per hour did decline by more than 25%, then you would need to go through the Safe Harbor calculation (to see if you have that available to you), and if not, you'd have to go through the Salary/Wage Reduction Factor calculation which is where the impact of your Q1 overtime hours would show up — In this calculation, you multiply the amount of the hourly rate that exceeds a 25% reduction by the average hours worked during Q1, not during the Covered Period.

**I'm confused about the salary reduction calculation. We cut pay 40% starting May 1, but if we restore those cuts before December 31, are we okay? (Response Updated)**

The actual amount of loan forgiveness depends in part on whether the average salary or hourly wage of certain employees (those under \$100,000 annualized in every 2019 pay period, or anyone hired in 2020) during the Covered Period or Alternative Payroll Covered Period was less than during the first quarter of 2020. If the average during the Covered Period was more than 25% lower for any employee, the Salary Reduction Factor applies. There is a Safe Harbor available, but it only is available if the average salary or wage was lower during the period of February 15 through April 26 than the individual employee's pay was at February 15 AND the borrower restores the salary/hourly wage levels back to the February 15 level by the earlier of either December 31 or the date that the application is submitted to the lender. This calculation needs to be performed for each employee individually, not in the aggregate. A similar Safe Harbor provision exists for restoring FTE cuts. Again, the salary/wage reduction Safe Harbor applies only to those employees who earned an annualized rate of pay of \$100,000 or less during every single pay period in 2019 or were hired in 2020.

**Does the Salary Reduction Factor only include 2019 employees, or do we also have to include employees hired in 2020 in the calculation?**

Include any employee hired in 2020 in Table 1 for the calculation, regardless of their compensation level.

**Is the Salary Reduction Factor based on the average salary for all employees or is it calculated for each employee?**

You have to calculate both the Salary Reduction Factor and the Safe Harbor for each employee, not in the aggregate across all employees.

**If we lay off an employee during the Covered Period, does that count as a Salary Reduction too?**

No. An employee who was laid off and not backfilled goes into Table 1 of the Schedule A Worksheet at the bottom as an FTE Reduction Exception, which means you do not have to calculate a Salary Reduction Factor for those exceptions.

**We know that employees who receive legitimate offers of employment and choose not to return do not count against the employer's FTE count, but we also need to return payroll dollars to February 15, 2020 levels. How will that be calculated to qualify for forgiveness?**

An employee who refused an offer to return to work goes into Table 1 of the Schedule A Worksheet at the bottom as an FTE Reduction Exception, which means you do not have to calculate a Salary Reduction Factor for those exceptions.

**If employees are paid hourly, is the reduction based on their hourly rate? So, if they worked more hours in Q1 than in the Covered Period but had the same hourly rate, do we have to calculate a reduction percentage?**

The Salary Reduction Factor is calculated using a reduction in the hourly rate for non-salaried employees. In your example, you would not be required to calculate a reduction percentage because the hourly rate did not decline by more than 25%. Any hourly rate reduction that is larger than a 25% reduction (meaning they were paid less than 75% of their baseline hourly rate) needs to be included in the Salary Reduction Factor calculation. The math requires that you take the amount of the hourly rate that is beyond the threshold (e.g., for a 30% cut from \$20/hour to \$14/hour, you would use \$1/hour — the difference between the actual cut and the allowable 25% cut to \$15/hour) and multiply this by the average number of paid hours during Q1 2020, then multiplying this product by the number of weeks in your Covered Period (either eight or 24).

**I thought compensation was capped at \$100,000, not excluded completely. What am I missing?**

You are missing the distinction between payroll costs and the Salary Reduction Factor. Both use \$100,000, but for different purposes. For payroll costs calculations, you are correct that compensation is capped at \$100,000 on an annualized basis (either \$15,385 or \$46,154 depending on the length of your Covered Period). For the Salary Reduction Factor, the \$100,000 threshold applies to annualized 2019 pay in any one or more payroll periods and determines whether you need to include or exclude that employee from the calculation. It is unrelated to the payroll costs calculation.

**What if my company started January 1, 2020? I won't have payroll info for 2019.**

For Salary Reduction Factor calculation purposes, you need to list every employee in Table 1 because they were hired in 2020. If any of them experienced a pay reduction of more than 25% as compared to Q1 2020, then you will need to calculate the reduction for those employees.

**For Salary/Wage Safe Harbor, if my overall wage is restored by the December 31, 2020 date because we hired new employees (employees who were laid off were no longer available), can we still qualify for the Safe Harbor?**

The Safe Harbor is not a function of your overall wages. It is calculated on an employee-by-employee basis.

**Does the shift to 24 weeks change how we account for the Salary/Wage Reduction Factor?**

Somewhat. The basic math is still the same, except at the very end where any employees who are subject to the factor would have their average weekly reduction multiplied by 24 weeks instead of eight weeks.

**Why do we need to enter the payroll from January 1, 2019 to the Covered Period, if the baseline we chose is January 1, 2020 to February 29, 2020? What is the relevance of the extra data?**

The 2019 data is necessary to determine which employees earned more than \$100,000 in any single pay period, so they can be properly placed in either Table 1 or Table 2 of the Schedule A Worksheet for purposes of calculating the Salary Reduction Factor.

**To confirm, if we had a \$200,000 officer who took a 50% reduction in pay, his reduction will be \$25,000?**

No for two reasons. First, highly compensated individuals (over \$100,000 annualized in any pay period in 2019) are excluded from the Salary Reduction Factor calculation; in other words, you can cut those people as much as you want with impunity as it relates to your forgiveness application. Second, your math is off even if you did need to include this person — a 50% reduction would make their pay \$100,000, which is \$50,000 less than the allowable reduction threshold of \$150,000 (a 25% cut from their baseline pay), not \$25,000. Furthermore, you are using annual amounts of pay; the Salary Reduction Factor calculation actually looks at the amount of the reduction during the Covered Period only.

**When calculating FTE, we do not use overtime hours, as I understand it, but do we use overtime dollars when calculating the reduction in payroll?**

The Salary/Wage Reduction Factor calculation uses the average hourly wage paid to the employee, without regard for overtime wages. However, if an employee does have a reduction beyond the 25% threshold, you would multiply that excess reduction in the hourly wage by the average weekly paid hours for the employee during Q1 2020, which does include any overtime hours they worked in the quarter.

## **FTE Reduction Factor — Definitions**

**Our work week is 35 hours and we consider that full-time. Do we still need to use 40 hours as an FTE?**

Yes. The definition of FTE for purposes of the forgiveness application is a 40-hour work week; however, you are also calculating FTEs in a baseline period for comparison in the FTE reduction calculation. In both cases, if an employee worked 35 hours in the baseline period and 35 hours in the Covered Period, they would equal each other at 0.875, or rounded to 0.9 FTEs, which would not result in a reduction.

**What are the minimum hours worked in a week to be considered an FTE?**

An FTE is defined as 40 hours worked per week.

**Is 21 hours a week considered full time?**

No. Not even in France or Italy.

**Is an employee who regularly works 37.50 hours per week considered a 1.0 FTE?**

No. An FTE is 40 hours per week. This employee would be considered a 0.9 FTE.

**Do employees need to work 38 hours per week to be considered an FTE?**

No. Employees need to work 40 hours per week to be considered an FTE.

**Why do employees have to work 40 hours to be considered full time? On the ADA anything over 30 hours is considered full time.**

The SBA has chosen to abide by the prevailing wage and hour laws and defined an FTE as 40 hours, regardless of what the ADA or ACA defines as full-time work.

**Do employees who take unpaid vacation during the Covered Period reduce the FTE calculation since they were working less than 40 hours per week?**

Yes. You must calculate their total hours worked and paid (up to 40) during the Covered Period and divide by the number of weeks to get the average hours per week, then divide this amount by 40 to determine the individual's FTE.

## **FTE Reduction Factor — Baseline Period**

**In determining the FTEs, not all employees that now work for the firm worked here during the baseline period. Do I only account for those who worked during that time that are still with the firm, which would make our baseline much smaller?**

In calculating FTEs during any period, use the people employed at the time. FTE comparisons use an aggregation of people, not necessarily the same people. For example, if a business had one full-time employee in 2019, that person resigned in early 2020 and the business replaced the person, the business still has one full-time employee for comparative purposes.

**Since we have seasonality in our business, a Q1 2020 baseline comparison doesn't make as much sense as a Q1 2019 comparison or the annual average from 2019 (which was the basis of the loan amount anyway). Can we just use either of those alternatives as the baseline for comparison for forgiveness?**

No. For calculating the FTE Reduction Factor, you must compare your average FTEs during your Covered Period with the most favorable prescribed baseline period: either February 15 through June 30, 2019 or January 1 through February 29, 2020. Seasonal businesses may alternatively elect a consecutive 12-week period between May 1 and September 15, 2019. You may not use Q1 2019. The calculations you made to determine the loan amount are irrelevant to the forgiveness calculations.

**Do we not need to be concerned with the number of employees that went on our loan application? (Response Updated)**

Only to the extent that the number of employees you listed on your loan application should match the number that you put on your forgiveness application on the line "Employees at time of loan application". Any calculations you did for your loan application are not relevant to your forgiveness application because they focused on "average 2019 monthly payroll", which is not used anywhere in the forgiveness application. Now, the focus is on FTEs, not employees, with one exception: FTE Reduction calculation criterion #1, which states "If you have not reduced the number of *employees* or the average paid hours of your employees between January 1, 2020 and the end of the Covered Period," you can be exempt from the FTE Reduction Factor.

**What if in our loan application our head count included our part-time employees? (Response Updated)**

That was the correct calculation to do for your loan application. It is irrelevant to your forgiveness calculation because you'll use FTE, not headcount. On the forgiveness application itself, you will be asked to provide headcount at the time you applied for your loan. The SBA is asking for this data simply as a verification that the number of staff comply with the PPP general limitation of 500 or fewer staff.

**We overstated the number of employees on our loan application because we included independent contractors by accident. Will this create an FTE reduction for us?**

No. Your FTE Reduction Factor calculation definitely should not include independent contractors, only W-2 employees. Compare the average W-2 FTEs during your Covered Period with the average W-2 FTEs you had during the prescribed baseline period, disregarding any independent contractors. The fact that you included them erroneously when you applied for your loan is not relevant to this calculation.

**We had four employees in 2019 but laid off one of them in October 2019. Does the laid off employee need to be listed in the forgiveness model? Note, this laid off employee was not in the loan application documentation.**

Yes, you will need to consider the impact of the laid off employee in your FTE Reduction Factor calculation, as the employee affected your FTE count during the baseline period of February 15 through June 30, 2019. Remember, you have the option of choosing that period as your baseline or the period of January 1 through February 29, 2020, when that employee did not affect your FTE count. Choose the more favorable period.

**What is the significance of February 15 to June 30, 2019? Isn't that supposed to be 2020?**

No. It is supposed to be 2019. This is one of the baseline periods used in the FTE Reduction Factor.

**Is the initial date of February 15, 2020 for FTE measuring the only start date that can be used, or can a later date be used?**

For measuring your FTEs, you use your Covered Period which begins on the date your loan funded. For purposes of determining if you qualify for Safe Harbor from the FTE Reduction Factor, the baseline date is February 15, 2020 and that is not optional.

## **FTE Reduction Factor — Calculation Approach**

### **When do you use the alternative FTE method of 1.0 and 0.5?**

This is the borrower's choice. You may do the average calculations on each FTE to determine the FTE count of your part-time employees or you may simply adopt 0.5 for each part-time employee and total those. Choose the larger of the two for your FTE reduction calculation.

### **Can I use the calculation method for part-time employees to determine FTEs if they work more than 20 hours per week and use the 0.5 simplified method for any part-time employees who work less than 20 hours per week?**

No. You can only use one method.

### **Can I use one method for the Covered Period and a different method for the baseline period for purposes of comparing my FTE reduction calculation?**

No. You may only use one method for both periods.

### **Can I just use my employee count that I used for my loan application?**

No. You have to use an FTE count in this analysis for forgiveness. Headcount is not the same as FTE count.

### **Do I calculate FTE by taking the total hours worked across the entire Covered Period and dividing by the number of weeks? Or do I use only the last week of the period? Or something else?**

Something else. You can only use a maximum of 40 hours per week for each employee, so overtime does not count. Total those hours and divide by the number of weeks in your Covered Period to get the average work week. Take this number and divide by 40 to get the FTE calculation for each employee.

### **Using the reference period January 1 to February 29 to calculate FTE, I have one employee on payroll for only one week within this period. Do I count this individual as FTE?**

Yes. Calculate the FTE equivalent as one week out of the 8.6 weeks, which is a 0.1 FTE for the baseline period.

### **We have been paying all of our employees, whether they are working or not. Are we able to designate employees as full time even if we aren't entering their time as hours worked?**

Yes, enter those employees as full-time, assuming you are paying them for the equivalent of a 40-hour work week.

### **If a salaried employee gets a 20% salary reduction, do I have to count them as 0.8 FTE?**

FTE is not the same as dollars. If you did not reduce their hours you still have your full FTE count. However, if you reduced both their hours and their pay you would count them as 0.8 FTE.

**If I hire more people and didn't reduce any wages, do I have to fill out the salary and hourly wage reduction and FTE reduction calculations in the application?**

Yes. Do not leave this section blank. You would simply put a 1.0 indicating Safe Harbor was met on line 13 of the Schedule A, and you would put zero on line 3 in Schedule A for the salary and hourly wage reduction and check the box in the line 3 text.

**What about the employees I hired during the Covered Period? Can I use the money that I spent on them for payroll costs in my forgiveness calculation?**

Yes. You do not have to have the same people; you just need to have the same number of FTEs.

**If we select the 24-week option, our spend will significantly exceed the loan amount we received. Therefore, if we have an FTE reduction of 25%, we will still end up with a total greater than our loan. Will this be acceptable?**

No. You cannot claim forgiveness greater than your loan amount. Forgiveness relates solely to how you spent the PPP loan proceeds, not to how much you spent in aggregate on payroll and other authorized uses in 24 weeks, regardless of source. In your situation, clearly you will have spent all the PPP funds, along with a significant portion of operating funds you held independently from the PPP funds. You can't claim forgiveness on your use of non-PPP funds. In this example, your gross forgiveness amount would begin with the total loan amount received, against which the FTE Reduction Factor would be applied, netting you 75% forgiveness.

**We have employees who were part-time before, during and remained so after our Covered Period. Will that create a deduction in forgiveness because they are working less than 40 hours? (Response Updated)**

Not likely. Part-time employees during your Covered Period will be calculated at either the actual FTE level (such as 0.8 FTE) or the simplified FTE level (where all part-time staff are counted as 0.5 regardless of how many hours they worked on average). The same approach you use to calculate this numerator must be applied to your calculation of the denominator during your baseline period as well. So, if your part-time employee worked a steady 24 hours per week in both the baseline and covered periods, they will count as 0.6 FTE in both — hence, no reduction. If, on the other hand, hours for the employee were less in the Covered Period (say, 16 hours per week, or 0.4 FTE), then that employee would create a reduction in your total FTEs by 0.2 assuming you used the actual FTE calculation and not the simplified method.

**If we reduce hours by only 20% for our staff to aid in cost savings, will that impact our forgiveness amount?**

Yes. Remember, it is the Salary Reduction Factor that allows a decrease of up to 25% without penalty. The FTE Reduction Factor, which is calculated based on the hours worked and not the pay given, does not have such a feature. Even a 1% reduction in FTEs will lower your forgiveness amount.

**Do outside salespeople (exempt employees) get included in the FTE calculation?**

Yes. All employees, regardless of role or exempt status, must be included in the FTE calculation.

**Do we still need to include in our FTE calculation employees that were laid off, terminated or quit prior to March 31?**

Yes. Though they will not be counted in your Covered Period (the numerator in the FTE Reduction Factor) because the PPP program did not yet exist at March 31, they will need to be counted in your baseline period (the denominator) of either February 15 through June 30, 2019 or January 1 through February 29, 2020.

**What if we fired someone on February 14 which was not related to the pandemic?**

This employee would need to be considered in your baseline period FTE calculation. However, for purposes of the Safe Harbor rule that can eliminate the FTE Reduction Factor, this person would not factor into that calculation as they were terminated before the look back date of February 15.

**We hired a new employee on February 17. How are they included in the calculations?**

For the FTE Reduction Factor calculation, this employee would be counted in your Covered Period FTEs assuming they stayed with the company through the period — so they would count in the numerator. They also would have a fractional impact to your baseline period if you selected the January 1 through February 29, 2020 period as your baseline, because they were employed by you for the final 12 days of that period. For the Safe Harbor calculation, this employee would not be counted in your February 15 look back baseline (the denominator), but they would be counted in your average FTE count during the period of February 15 through April 26, 2020 (the numerator). For the Salary Reduction Factor calculation, they would be included as a Table 1 employee regardless of their compensation level because they were hired in 2020, so any reductions they took would have to be considered.

**Would an employee who resigned in Q2 be excluded from the average FTEs?  
(Response Updated)**

You are allowed to exclude from your FTE baseline any employee who, during the Covered Period, was fired for cause, resigned and was not replaced, or asked for and received reduced hours. You may also exclude any employees who rejected a written offer to restore a prior reduction in hours to prior levels (assuming pay was also offered to be restored to prior levels). Finally, you are also allowed to exclude anyone who was an employee at February 15, 2020, was subsequently laid off, rejected a good faith written offer to be rehired, and you were unable to hire similarly qualified employees for the unfilled position on or before December 31, 2020.

**What happens if the number of our FTEs are the same, but the employees during our Covered Period are completely different people?**

The FTE Reduction Factor looks only at numbers, not names. In this example, there would be no reduction.

**In the webinar, it was stated that one of the baseline periods for the FTE Reduction Factor is February 15 through June 30, 2019. Are you saying this is 24 weeks? This is actually only 20 weeks. 24 weeks would be February 15 through July 31, 2019.**

You are confusing different aspects of the program. If you elect it, the 24-week feature relates only to the amount of time in 2020 in which to spend your PPP loan funds. The 24-week time frame does not factor into any other calculations, including the FTE Reduction Factor. The baseline period stated for 2019 is correct.

**If we did not lower payroll costs or number of employees, do we need to calculate FTE? (Response Updated)**

If you did not lower payroll costs according to the Salary Reduction Factor calculation or reduce the number of employees between January 1, 2020 and the end of your Covered Period, you are entitled to use the Form 3508EZ to apply for forgiveness, so long as you also can demonstrate that you meet the test of not reducing average paid hours of your employees during the same time period. While specific guidance has not yet been issued on this last test and is expected, it is quite possible that this “average paid hours” test must be determined on an employee by employee basis and not in the aggregate across the entire business. There is also no guidance yet issued to indicate the specific time period to compare a “reduction” of average paid hours against, nor for how long a reduction needs to be in place to qualify as a reduction (for example, if someone worked 38 paid hours in the third week of May, does that count as a reduction thereby nullifying use of the EZ form?). If you are unable to meet all of the tests above, you should calculate your FTEs. The average number of FTEs is not the same as the average number of employees unless all employees were full-time in both the baseline and covered periods and there were no reductions or increases.

**We hired two people as full-timers during the Covered Period who subsequently returned to their former jobs within weeks of coming to work for us. Can I count them as full time, or should I treat them as part time? If part time, can I use the “0.5” FTE method for them to determine FTE?**

Since they were hired as full-time employees, you would count them among your FTEs as such. Had you hired them as part-timers, you could have chosen to count them as either 0.5 or a calculated fractional FTE.

**Our FTE on February 15, 2020 was 28. The current FTE is 27. One person left us voluntarily, and we laid off one person, all during February. In March, we laid off another full-time person, but we rehired that employee during the Covered Period. I assume that the person who voluntarily resigned will reduce our previous headcount so that it matches our current head count.**

Let's be clear about what you are asking: to calculate any FTE reduction, you compare the average FTEs during your Covered Period with the average FTEs during either February 15 through June 30, 2019 or January 1 through February 29, 2020. Your FTE count at February 15, 2020 has no bearing on this part of the calculation. Where the February 15, 2020 date becomes relevant is in qualifying for Safe Harbor from the reduction calculation above. If what you are asking is whether you qualify for the Safe Harbor rule based on your circumstances, it is difficult to assess due to the timing of the events. You state only that you had a resignation and a layoff in February; if the resignation happened prior to February 15, 2020, it does not qualify you for an FTE exception. If after February 15, 2020, then it would, thereby reducing your February 15 FTE baseline to 27 since you did not backfill the position. Separately, because you laid off an employee in March, you reduced your FTE during the February 15 through April 26, 2020 period, which makes the Safe Harbor potentially available to you. The key now becomes whether you have restored your FTE count to the February 15 level as of the earlier of the date you file your forgiveness application or December 31, 2020.

## **FTE Reduction Factor — Exclusions**

### **I have two employees who asked for and were granted reduced work schedules during the Covered Period. Does that count as a headcount reduction?**

Any employee who voluntarily requested and received a reduction of their hours does not count as an FTE reduction. You should list them at the bottom of Table 1 on the line that says “FTE reduction exceptions” in Box 2 and include their average FTE prior to the reduced work schedule going into place. For example, they worked 32 hours per week on average normally, but following their voluntary reduction they were down to 16 hours a week. You should enter 0.8, or 32/40 in Box 2 for that employee.

### **I had an employee go out on disability and another one take maternity leave. Does that count against me as an FTE reduction?**

There is not specific guidance that has been issued to date in either the FAQs, the IFRNs or the loan forgiveness application itself that specifically addresses disability and maternity leaves. It is possible that these qualify as “voluntarily reduced hours” but that is not clear. We expect additional guidance to be forthcoming.

### **I had an employee resign. I tried to replace them during the Covered Period but did not succeed in finding a qualified candidate. Will this count against me as an FTE reduction? (Response Updated)**

No. In the case of an individual fired for cause or who voluntarily resigned, it will not count against you if the position was not filled by a new employee. In such case you should enter the position as an FTE reduction exception at the bottom of Table 1 and count the FTE value in Box 2 only if the person who left earned less than \$100,000 on an annualized basis during any single pay period in 2019. You may also exclude any employees who rejected a written offer to restore a prior reduction in hours to prior levels (assuming pay was also offered to be restored to prior levels). Finally, you are also allowed to exclude anyone who was an employee at February 15, 2020, was subsequently laid off, rejected a good faith written offer to be rehired, and you were unable to hire similarly qualified employees for the unfilled position on or before December 31, 2020.

### **I had several employees who went out on leave under the Families First Coronavirus Relief Act. Do I have to count those people as reduced FTEs?**

No, you do not. You would put those down as FTE reduction exceptions at the bottom of Table 1 in Box 2, so long as those people earned in any pay period in 2019 an annualized amount less than \$100,000.

### **I had to terminate two individuals for cause during the Covered Period. Does that count against my FTE reduction?**

Any employees who were fired for cause or voluntarily resigned and were not backfilled during the Covered Period will not count against your FTE reduction calculation. You should enter those positions as an FTE reduction exception at the bottom of Table 1 for Box 2 if during any period in 2019 they did not earn an annualized rate greater than \$100,000.

**If payroll was reduced because people resigned, but were not laid off, does that affect forgiveness? (Response Updated)**

The FTE Reduction Factor specifically excludes from the baseline period any FTEs who were fired for cause, resigned and were not replaced, or asked for and received a reduction in their hours (which we believe includes FMLA leaves). The Salary Reduction Factor also excludes such employees by listing them at the bottom of Table 1 of the Schedule A Worksheet with no reduction listed.

**Our business had to change direction to save the company, so when we re-hired, we brought in different kinds of talent than we had before the layoff. Does that affect our FTE Reduction Factor?**

The FTE Reduction Factor does not discriminate between the individuals or the types of jobs; it only counts noses, no matter whose nose it is.

**What documentation is needed to substantiate a legitimate decrease in the number of FTEs, such as people not wanting to come back due to fear of exposure to COVID-19 or lack of sufficient business activity to require the employee?**

For employees who were laid off or furloughed and refused, for whatever reason, to return to work, you need to have both the offer to be reinstated (preferably, a formal offer letter) and their refusal in writing. In the case of insufficient business activity, you should be able to show a significant decrease in revenue or other relevant operating statistics during the Covered Period as compared to the same period in the prior year.

**If we elect to take the eight-week period, are we precluded from using the "unable to return to business activities" excuse for reduction in FTEs? (Response Updated)**

No, you are not precluded. Because the test is for sanitation, social distancing, or any other safety requirement related to COVID-19 to have been established or guidance issued by the Secretary of HHS, the Director of the CDCP or OSHA during the period beginning on March 1 and ending December 31, 2020, the eight-week Covered Period clearly falls within this applicable time frame. To be clear, however, restrictive requirements issued by health departments or other government officials at the state, county or city level do not meet this test; only federally issued mandates apply.

**Does the FTE reduction exclusion for being unable to restore business because of social distancing apply if our business has declined because most of our customers are "unable to return to business activities"?**

This is a tricky one and likely to be interpreted differently by different reviewers. By the letter of the law, your customers clearly have an exclusion available to them because they are unable to return to business activities. However, your business does not face that hurdle — you are able to work, you just don't have sufficient work as you once did. Our interpretation would be that this does not meet the exclusion test as defined, but again, this is subject to potential future guidance.

**We have a small office of five employees. Two employees left the company of their own will. Do we need to replace them in order to get loan forgiveness?**  
(Response Updated)

No, in the broadest sense as you posed the question. Loan forgiveness is not solely a function of the number of your employees; that merely modifies your loan forgiveness amount. As it relates to just the FTE Reduction Factor calculation, if you replace them, you would count your FTEs accordingly. If you do not replace them during the Covered Period, either because you are unable to find suitable replacements or you simply don't have sufficient work to justify hiring replacements, then you will be allowed to exclude the two positions from your FTE calculation.

**If we offered a job to a potential employee and they refused, will that help in our FTE?**

Yes, you would need to document both the offer and the refusal in writing to show that you attempted to fill the position but were unable to do so.

**Do we get penalized on forgiveness for employees who went on FMLA (birth of child) or pregnancy disability (i.e. non-COVID or business-related reasons)?**

Though FMLA is not specifically addressed in the forgiveness application or guidance to date, it is a reasonable interpretation to include FMLA in the exclusion category of "asked for and received a reduction in hours", in this case to 0 hours. Thus, you would not be penalized.

## **FTE Reduction Factor — Effect of Layoffs/Furloughs**

**I furloughed employees but did not lay them off. Does that count against my FTE Reduction Factor?**

Yes, it counts. Furloughs and layoffs are given equal treatment in the Paycheck Protection Program for purposes of the FTE reduction calculation.

**We will have spent all our PPP money during our initial eight-week period that ends on June 14. Based on this would it be safe to make staff reductions as of June 15? Or do we need to wait until June 30 or December 31? (Response Updated)**

You would be safe to reduce staff on June 15 without impact to your forgiveness calculations. Staff reductions that occur after the end of your Covered Period are permitted.

**What happens if work has not returned and employees are let go after June 30? (Response Updated)**

If your initial eight-week Covered Period ends before June 30 and you have exhausted your PPP funds, any layoffs after June 30 will not affect your forgiveness calculations. Under the new rules of the Flexibility Act, if you elect to use the full 24 weeks available to spend your PPP funds, employee reductions after June 30 will impact your FTE and Salary/Wage Reduction Factors subject to possible Safe Harbor qualifications by the earlier of the date you submit your forgiveness application or December 31.

**If we elect to take the 24-week Covered Period, does that mean we have to keep our head count for the entire Covered Period or risk the reduction because of lowered FTE?**

Yes. The numerator in the FTE Reduction Factor calculation specifically uses the average FTEs during the Covered Period, whether eight weeks or 24 weeks.

**We will run out of PPP funds at approximately 16 weeks and will have to furlough people. What effect will this have on our forgiveness?**

If you choose the eight-week Covered Period, it will have no effect because the reduction occurs after the end of the period. On the other hand, if you choose the 24-week option, it will reduce your average FTEs during your Covered Period and have a resulting negative impact to your forgiveness total.

**Do layoffs after the Covered Period have any impact on the forgiveness calculation?**

No. The FTE Reduction Factor looks only at average FTEs during the Covered Period as compared to a prior period. It does not consider any changes after the Covered Period.

**Our prior Covered Period of eight weeks has passed, and the funds have been exhausted. All funds were used entirely for payroll. Now, we need to layoff some employees due to reduction in business. This will reduce the FTE count. How does this affect the PPP loan forgiveness with the extended Covered Period?**

If you have used all PPP funds during the eight-week period, there is no advantage to elect a 24-week Covered Period. To the contrary, there is actually a disadvantage to do so for this very reason. Any layoffs that take place after the Covered Period will not affect your FTE Reduction Factor calculation. If you opted for the eight-week window and did the layoffs afterwards, you will not have your forgiveness reduced for this reason. But if instead you chose 24 weeks, any reduction during the 24 weeks will negatively impact forgiveness.

## Safe Harbor for Forgiveness Reduction Factors

### **If I rehire people by December 31 does that get me Safe Harbor from the FTE reduction calculation?**

The Safe Harbor rule for FTE reduction applies only to the average FTEs that a borrower had between February 15 and April 26 and compares that number to the FTEs that the business had during the February 15 pay period. If the average during the February 15 to April 26 period is less than the February 15 FTE amount, then the Safe Harbor applies if the February 15 FTE count was restored no later than December 31.

### **I reduced my staff on May 1 and my Covered Period began May 5. After receiving my PPP funds, I hired my staff back on June 1 and kept them through December 31. Does that give me Safe Harbor? (Response Updated)**

No. The Safe Harbor only applies to the calculation related to FTEs from February 15 to April 26, 2020 being less than FTEs at February 15 and is unrelated to the dates of your Covered Period. Those are the only dates that apply to Safe Harbor.

### **Do I qualify for Safe Harbor if I restore my FTE count on December 30?**

Yes, so long as your FTE count between February 15 and April 26 on average is less than your FTE count at February 15.

### **If we chose to proceed with the eight-week option, do we have to continue with staff levels until December 31 or June 30 for Safe Harbor? (Response Updated)**

If you did not have any FTE reductions during your eight-week Covered Period, you are not required to maintain staff levels until either June 30 or December 31; you may make whatever changes you deem necessary after your Covered Period without affecting your forgiveness amount. That said, if you did have an FTE reduction during your Covered Period such that you need Safe Harbor, the June 30 date is no longer available for Safe Harbor purposes. The key dates now are December 31, 2020 and the date you submit your forgiveness application to the lender. By the earlier of those dates, you will need to have restored any FTE or salary/wage reductions back to the level of February 15, 2020 in order to qualify for Safe Harbor (assuming that you had reductions during the February 15 to April 26 period as compared to February 15).

### **Between February 15 and April 26, 2020, we did in fact have lower FTE than at February 15, however at the end of our Covered Period on June 11, our FTE count was the same as February 15. With the Safe Harbor date change from June 30 to December 31, can we use the June 11 FTE numbers to qualify for Safe Harbor? (Response Updated)**

To qualify for Safe Harbor, you will need to use your FTE numbers based on the earlier of the date you submit your forgiveness application to the lender or December 31, 2020. Do not use the FTE total as of the end of your Covered Period to determine if you have Safe Harbor.

**If we have a project that temporarily bumps the FTE count above the baseline period for more than one pay period, does that qualify for restoring the FTEs before December 31? (Response Updated)**

No. Current rules are that the restoration will be determined based on your FTE count as of either the date you file for forgiveness or December 31, 2020, whichever is earlier. It does not matter if you restored before either of these dates, only if you have restored at the earlier of these two specific dates. Nothing yet has been issued that indicates there is any minimum amount of time required to have restored FTE levels in order to get Safe Harbor.

**We can reduce hours any amount so long as we restore by December 31, right? (Response Updated)**

As it applies to the FTE Reduction Factor calculation, yes, so long as your FTE count is back to its February 15, 2020 level and you have not yet filed your forgiveness application.

**If we furloughed 35 employees and brought them back, plus hired another 20 employees within that 24-week period, will that be factored in?**

Yes. This action would affect your Safe Harbor calculation and, assuming it met the February 15 test, eliminate any FTE Reduction Factor calculation.

**If our company has a reduction in FTEs since the quarantines began, what options do we have as to the actual date we need to return to that same FTE total?**

To qualify for Safe Harbor, you will need to restore your FTE total by the earlier of the date you submit your forgiveness application or December 31, 2020.

**Our loan funded on April 16 and we will most likely exhaust our funds with our next payroll cycle on June 16. Since business has not picked up at all, we will need to furlough an FTE. What date can we do the termination and be able to fully forgive their payroll without getting disqualified because we let them go too early?**

If you choose an eight-week Covered Period, that ended on June 10. Your June 16 payroll cycle is past the Covered Period, meaning you would only be able to get forgiveness on the amount you incurred through June 10. You would be free to furlough the employee at any time after 6/10. If you determined that you needed the entire cost of the June 16 payroll, then you would have changed the picture significantly: your 24-week Covered Period will run through September 30 and any furlough you do during those 24 weeks will impact your FTE Reduction Factor. Model this carefully.

**If I needed to increase my FTE by one, is it as simple as hiring a full-time employee the day before June 30?**

If you're asking for purposes of qualifying for Safe Harbor, the June 30 restoration date is no longer in play; that date has shifted to December 31, or the date you file for forgiveness if before then. But yes, the application currently asks for the FTE count as of the earlier of those two dates. No guidance has yet been issued to indicate there is any minimum time frame for maintaining a restored number of FTEs to get Safe Harbor. On the other hand, if you are asking for purposes of calculating any FTE reduction, then hiring one day before the end of your Covered Period will have minimal effect. The reduction calculation uses average FTEs over the course of the Covered Period, not at a single point in time.

## **Safe Harbor for Demonstrating Need for the Loan**

### **My loan was for less than \$2 million. Does that mean I will not get audited?**

The \$2 million Safe Harbor rule applied only to the certification of need for the loan at the time that you applied for the loan. That Safe Harbor rule does not apply to any review or audit that may be conducted on the use of funds during the Covered Period or subsequent forgiveness calculations.

### **I borrowed more than \$2 million. I understand that means I will absolutely be audited, but what do I need to do to prepare for that?**

You need to be prepared to show your rationale for the original loan application, because you certified that you had a need for the funds due to economic uncertainty. Separately, you should also gather and keep all the documentation necessary to substantiate your use of funds because that is a separate audit which you're also likely to undergo. You need to keep all of this documentation for six years.

### **I'm over the \$2 million loan. I had other sources of borrowing available to me. Would I be eligible for partial forgiveness?**

This is really a question of whether you were eligible for the money in the first place. This is subject to review by the SBA and if they determine the borrower lacked "necessity" for the PPP loan, then all forgiveness will be eliminated. Conversely, if "necessity" is deemed met, then all standard forgiveness rules apply.

## Other

### **Applying for Forgiveness**

#### **What documentation will I be required to submit to the bank with my forgiveness application? (Response Updated)**

The bank will provide you a very specific list along with instructions for completing the application for forgiveness near the end of your Covered Period. According to the instructions for the forgiveness application produced by the SBA, on page 6 there's a complete list of documents that each borrower must submit with the application as well as other documents that the borrower must maintain but is not required to submit. On the EZ form, this list is found on page 4. This documentation includes support for payroll costs, including tax forms such as a 941, as well as documentation for FTE calculations and all non-payroll costs.

#### **How much time do I have after the end of my Covered Period to file my forgiveness application? (Response Updated)**

Borrowers have 10 months from the end of their Covered Period to apply for forgiveness.

#### **If I've used the funds within my eight weeks, do I have to wait until December 31 to apply for forgiveness just so I can see if we can restore our FTEs? (Response Updated)**

No. You can elect to use the eight-week Covered Period.

#### **If we choose 24 weeks, but use up the money by July 1, can we apply for forgiveness in July? (Response Updated)**

Based on current guidance, no. You will need to wait for the 24 weeks to elapse before filing your forgiveness application.

#### **If we use the 24-week Covered Period, we should be more than able to justify 100% forgiveness of our loan amount with our payroll costs only. Can we then reduce our application paperwork and submit only payroll costs, not interest nor utility costs?**

Yes, but it's unlikely your paperwork will be reduced much. You will still have to list your staff, one at a time, to show that you did not reduce wages. You will also need to provide FTE calculations, unless future guidance indicates otherwise.

#### **In the most current loan forgiveness application on the SBA website, the Schedule A worksheet asks for "cash compensation" but should that include health insurance and retirement costs as well? (Response Updated)**

No. Review the entire application, particularly Schedule A, where all payroll costs are calculated. Line 1 and line 4 ask for cash compensation from the tables. Lines 6 and line 7 on Schedule A ask for employer portion of health insurance and retirement costs. If using the EZ form, there is no Schedule A worksheet and all payroll costs, including health insurance and retirement costs, should be listed on line 1.

### **What website do I use to download the application?**

You can find the main and the EZ application, along with instructions for both application forms and all Interim Final Rules, on the Treasury Department website: <https://home.treasury.gov/policy-issues/cares/assistance-for-small-businesses>

### **I'm confused as to whether I can use the new EZ application form. How do I know if I qualify?**

A borrower qualifies to use the EZ form if any one of the three conditions below applies:

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 had no employee costs included in the calculation of their loan amount.
2. The borrower has no employees who meet the Salary/Hourly Wage Reduction Factor requirement AND had no reductions in the number of their employees or the average paid hours of employees between January 1, 2020 and the end of the borrower's Covered Period.
3. The borrower has no employees who meet the Salary/Hourly Wage Reduction Factor requirement AND 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.

There are several important nuances to note in each of these:

1. In the first criterion, the test essentially is no employees in 2019 and none at the time of loan application either. The loan at that point was one for owner replacement compensation only.
2. The second criterion raises several interpretation questions that future guidance must clarify. The Salary Reduction test is clear. The second part of the test requires no reductions in employees or average paid hours since the beginning of the year. If an employee resigns and it takes the business four weeks to replace them, does that qualify as a "reduction" since it happened during the time period? If a single employee takes two hours of unpaid time to see a doctor, such that they were paid for only 38 hours that week, is that a "reduction" in average hours paid? What time period, specifically, is a borrower to compare the "average paid hours since January 1, 2020" against to know if there was a reduction?
3. "The same level of business activity" in the third criterion is also undefined to date. Also unclear is the time period during which a borrower must have been "unable to operate" at that level. Is "during the Covered Period" a period of a day, a week, or ongoing throughout? Also be aware that this test appears to be limited solely to requirements issued at the federal level, meaning restrictions placed on businesses at the city, county or state level will not meet this test.

The SBA has promised additional guidance that hopefully will clarify these important eligibility questions.

## **Auditability of the Loan**

**I've heard that a best practice for a business is to keep the PPP money in a separate bank account. Is this required, or could I just put my money into a separate cash account in my general ledger and keep track of it that way?**

It is not required to set up a separate bank account to hold your PPP money. You can keep track of it in your accounting records to provide a clean audit trail.

**Our payroll accounts are at a different bank than the one holding the PPP money. Do we need to show bank transfers that have the funds going out of the PPP account directly to the payroll account, or can we just show our payroll records to document our allowable uses of the PPP funds without showing the actual bank transfers?**

You need to be able to show a clean audit trail of the use of funds. While direct bank transfers are not required, they do provide a clear path. Absent such transfers, you will need to provide the payroll records and demonstrate that you did not use the PPP funds for unauthorized purposes.

**If we paid non-payroll costs from our general account, can we just transfer amounts from our PPP loan account at a later date to show that PPP money ultimately paid for the expense?**

Yes. Just remember you'll need to show copies of the invoices paid, and evidence the cash was actually disbursed and received by a payee. Provide an audit trail from invoice to payment.

## Definitions

### **What does it mean if an expense is allowed but not forgiven? Isn't that the same thing or does "not allowed" indicate a future penalty or something?**

Interest payments on non-mortgage debt obligations are "allowed" by Section 1102, paragraph 36(F)(i)(VII) of the CARES Act, which is part of the section that originated the PPP program. However, those payments are not included in the list of "forgivable" expenses by Section 1106, which details the forgiveness aspect of the law. Therefore, they are "allowable" but not "forgivable". The fact that these particular costs may not be included in forgiveness does not suggest there will be future penalties associated with spending PPP funds on them; it just means you will need to pay the money back as part of the loan repayments.

### **Is it incurred AND paid during the period, or incurred OR paid? (Response Updated)**

Forgivable expenses include qualified expenses both incurred and paid in the loan Covered Period. In addition, guidance allows costs that were incurred prior to loan funding but are paid during the Covered Period to be included ("paid but not incurred in the period"). This applies to costs from the immediately contiguous period prior to funding, not to pre-existing liabilities from earlier periods. Further, costs that are incurred before the end of the Covered Period but not paid until after it ends are also eligible to be included ("incurred but not paid in the period"). However, to include any costs "incurred but not paid", the borrower must pay those costs in the next immediate billing cycle following the end of the Covered Period and provide evidence of payment in their supporting documentation.

## Calculations

**In the webinar, the forgiveness calculation examples for ABC Co. and XYZ Co. included three potential forgiveness figures, of which the lowest would be the forgiven amount. Since one of these forgiveness figures was based solely on the payroll costs, does this mean that rent and utilities can never be included in the final forgiven figure? (Response Updated)**

This “proportionate rule” that is based solely on payroll costs is used to determine the allowable amount of non-payroll costs in situations where payroll makes up less than 60% of total spend. By “grossing up” the actual payroll costs (dividing by 0.60), the borrower is able to determine the amount of non-payroll costs — such as rent and utilities — that are allowed to be forgiven (in other words, the difference between the grossed-up total and the payroll costs themselves).

**If we don’t have a salary or FTE reduction, can we get forgiveness for utilities and mortgage interest?**

Yes. The reduction factors potentially reduce total forgiveness but do not specifically block forgiveness for non-payroll costs. Assuming your salary costs are at least 60% of the total amount forgiven, you’ll have up to 40% of the amount forgiven left to allocate to other non-payroll allowable expenses.

**If the basis of the original PPP loan was payroll/health insurance only, can you later claim other expenses (utilities, postage meter, copier) for forgiveness purposes? (Response Updated)**

Yes. The loan can be used for other, specifically listed, non-payroll expenses up to a certain amount. Note that postage would not be an allowable expense, but a lease on a postage meter machine would be allowable.

**Given the 24-week period, we may spend two or three times the amount of the PPP loan in forgivable expenses. Can we start out with a gross forgiveness amount of, say, 150% of the PPP loan amount, and have the reduction factors subtract from that 150%, so that we still could get 100% of the loan forgiven?**

No. You cannot claim forgiveness greater than your loan amount. Forgiveness relates solely to how you spent the PPP loan proceeds, not to how much you spent in aggregate on payroll and other authorized uses in 24 weeks, regardless of source. In your situation, clearly you will have spent all the PPP funds, along with a significant portion of operating funds you held independently from the PPP funds. You can’t claim forgiveness on your use of non-PPP funds.

**After the 24-week period, I will have spent 100% of the proceeds on payroll and payroll related costs. Should I still submit the costs for rent and utilities in my forgiveness application? (Response Updated)**

You'll still need to fill out the application, but it's possible those other expenses won't be necessary, or even applicable to increasing your forgiveness. However, you will want to be certain that you have calculated all payroll costs and forgiveness properly if you choose to skip including the non-payroll costs.

**If we opt for the 24-week period, and exhaust all loan funds prior to the end of 24 weeks (say by week 12), do we need to continue tracking/outlining all covered expenses? (Response Updated)**

Yes. We recommend you continue to track allowable and forgivable expenses until you have done the math and determined that you've maximized your potential loan forgiveness. If you exhaust the funds on non-payroll expenses, it may be strategically wise to reallocate the funds spent in an earlier period, in order to report a higher percent of funds used on payroll.

**If economic uncertainty changed during the course of the application process and/or eight-week period, does that affect eligibility for forgiveness?**

Maybe, depending on your loan size. The SBA has deemed that any borrower with a loan under \$2 million automatically had uncertainty, so in this case you are fine. However, if your loan was over that mark, the SBA has said they will audit all such loans for proof of economic uncertainty at the time of loan application. If they conduct that audit and find that the case for economic uncertainty was insufficient, then they may reject all forgiveness.

**At the time we applied for a PPP loan in April, we had guaranteed funding only until May 10 and had no way of knowing whether it would be extended beyond that date. Since then, our funding has been extended twice with no gaps. Are we at risk of failing the economic uncertainty test?**

If your loan was less than \$2 million, you're fine. If larger, you will need to be able to document the uncertainty you indicate you had. Given what you describe, it is reasonable to conclude that you had sufficient uncertainty, but the SBA is the arbiter of that and they have not provided any guidance as to what constitutes "necessity" for the loan or how much available liquidity was enough or not enough. We continue to hope for guidance on this important issue.

## **Deductibility of Expenses**

**Is the amount of the loan that I have forgiven considered taxable income?**  
(Response Updated)

The forgiven loan proceeds are not taxable as income.

**Will expenses that are forgiven be deductible business expenses for tax purposes?**

No. At this time, these expenses will be added back to taxable profit in the tax preparation process.

**By not allowing the expenses to be deducted on our taxes, doesn't the IRS position effectively make PPP forgiveness taxable?**

No. Forgiven loan proceeds are not taxable. Therefore, by adding back the forgivable expenses paid, this a net-zero tax effect.

## **Length of the Covered Period**

**If we choose an eight-week Covered Period, does it have to be a consecutive eight-week period?**

Yes.

**Why would I want to choose the eight-week Covered Period instead of the 24 weeks? (Response Updated)**

While the extension is intended to enable businesses to spend more of their loan proceeds, for many sectors of the economy shut-downs or slow-downs may persist through much of the rest of the year. In such instances, it is quite possible that a business that has maintained its employees through the eight weeks may be unable to sustain those employees for the full 24 weeks. This could result in a layoff midway through the 24 weeks that will cause the FTE Reduction Factor to reduce their overall forgiveness, which could have been avoided had they chosen the eight-week option.

**When do we need to choose between an eight-week or 24-week period? (Response Updated)**

There is no rush to make this decision. Borrowers have 10 months after the last day of the loan Covered Period to submit the application for forgiveness, and only on the application itself do they need to declare their choice.

**Can we choose a Covered Period between eight weeks and 24 weeks (for example 16 weeks) to use the PPP funds? Or is it just either eight weeks OR 24 weeks? (Response Updated)**

Borrowers can select either eight or 24 weeks and those are the only specified options.

**If it takes me 12 weeks to expend all my loan funds, do I have to measure my FTEs over 24 weeks? Or can I match the FTE calculations against the time it takes to use all the funds? (Response Updated)**

The average FTE calculation will apply to the entire 24-week period. This is a complicated answer, and more guidance may be forthcoming.

**Does the new 24-week period apply to loans that were funded prior to June 5?**

Yes. Borrowers can elect to use the 24-week period for any PPP loan regardless of funding date.

**Is the 24-week period an automatic extension or do we have to apply for it?**

Borrowers will notify the SBA of their election via the loan forgiveness application. Nothing needs to be done now to elect it.

**If we aren't happy with the eight-week forgiveness approval we receive, can we change our forgiveness period from eight to 24 weeks afterwards?**

No. Evaluate both options and select the most advantageous Covered Period before submitting your application.

**The final day of our Covered Period is today. With the changes in the program, do we need to have spent the money by today or spent it and pulled it out of the designated account that holds the PPP funds?**

You will need to demonstrate that you actually used the PPP funds, so for a cleaner audit trail you would want to show that you reimbursed your payroll account with PPP funds.

## **Start Date for the Covered Period**

### **Our Covered Period started on a Friday. What constitutes a week?**

In your case, your weeks are Friday through Thursday for either eight or 24 weeks beginning the Friday that you received your PPP funds.

### **When does the Covered Period begin, the loan date or the funding date? Our loan is dated May 1, but we were funded May 7.**

The Covered Period begins on the day of funding, regardless of the date the documents were prepared or signed.

### **Does the 24-week period start on February 15 or start on the date we receive the funds?**

The Covered Period begins on the day of funding. February 15 has no relationship to any borrower's Covered Period, only the various Safe Harbor rules.

### **We received the PPP loan, but we're not open for business. Can we change the start of our Covered Period to be the date when we are officially open?**

No. You have the money. You cannot change the loan funding date, which is when your Covered Period officially begins regardless of business status. The Flexibility Act addresses this situation: it may be beneficial to elect the 24-week loan Covered Period and take the time to rehire.

## **Forgiveness Threshold**

**The joint statement issued by the SBA and Treasury on June 8 states: “If a borrower uses less than 60 percent of the loan amount for payroll costs during the forgiveness Covered Period, the borrower will continue to be eligible for partial loan forgiveness, subject to at least 60 percent of the loan forgiveness amount having been used for payroll costs.” What happens if we don’t hit the 60% threshold?**

You will still be eligible for partial loan forgiveness. If you do not spend at least 60% of the loan proceeds on payroll expenses, your forgiveness amount will be reduced by limiting the amount of non-payroll costs that are forgiven until the 60/40 ratio is achieved.

### **Can a company use the 60/40 rule, but still use the eight-week period?**

Yes. The 60/40 rule applies to all loans regardless of funding date or length of Covered Period.

## Loan Repayment

### **If I don't use all my money, do I have to give it back? (Response Updated)**

Any money not spent during the Covered Period will convert into the remaining principal of your note which amortizes at one percent over two years (five years for new loans issued after the enactment of the PPP Flexibility Act, beginning June 5, 2020). For loans issued prior to enactment of the Flexibility Act, it is up to the borrower and lender to agree to extend the terms beyond the original two years to as long as five years. You will not be required to make any payments against the note until the date the forgiveness amount has been reimbursed from the SBA to the lender. Note that the lender has a 60-day window to render a forgiveness decision once the borrower's application has been received, and the SBA has an additional 90 days to finalize the forgiveness and reimburse the bank following the lender's decision process.

### **Can I prepay my loan balance?**

Yes. There are no prepayment penalties if you prefer to prepay the balance.

### **Are there any restrictions on the use of any money that I have left over during the remainder of the term of the loan? (Response Updated)**

Based on the terms of the PPP Flexibility Act, 60% of all loan proceeds need to be used for payroll costs, which includes any loan proceeds that are left over after the Covered Period and the forgiveness. There has been no guidance yet issued as to the use of the remaining non-payroll funds.

### **Do any unused funds still accrue interest at 1% even if we have deferred principal payments?**

Yes, the interest on the entirety of the loan begins accruing at the time the loan was disbursed to you. The SBA will pay the accrued interest to the lender on the amount that is forgiven when they complete the forgiveness process. The borrower will be responsible for all accrued interest on the unforgiven portion of the loan, regardless of when repayments begin.

### **On a two-year repayment term, does the first payment of the note start after the loan forgiveness application has been processed and total loan forgiveness has been defined?**

Yes. Your lender will notify you of your payment obligation as soon as the forgivable amount has been approved by the SBA and the bank has received the forgiveness funds from the SBA to lower your outstanding principal.

### **If we elect the 24-week forgiveness period, will we be obligated to start paying on the loan prior to getting forgiveness?**

No. Payments will commence after the loan balance has been determined and the forgivable amount has been deducted from the principal.

**When will we be required to start paying back our remaining loan amount? I'd like to submit our forgiveness calculations 30 days prior to avoid more work.**

Borrowers who have a portion of their loan remaining after forgiveness will be required to start repaying once the forgiveness process is completed, meaning when the bank receives the forgiveness amount from the SBA and can apply it to your loan.

**We received a PPP loan of about \$520,000 in late April. About \$200,000 of this loan came from 1099 employees, which we now know should not have been included so most likely we will not meet the 60% threshold. Do we have the option to pay back the \$200,000 (1099 employee part) now, and reset the amount used in the forgiveness calculation to \$320,000 so we can meet the 60% threshold? If not, do you suggest to just convert the loan to a two-year or five-year loan?**

No, paying back the portion of the loan earmarked for unauthorized 1099 contractors will not help you meet the 60% threshold. That said, understand that forgiveness calculations apply the 60% threshold to the amount you spent, not to the amount of the loan itself. So, if you did not spend the extra \$200,000 and instead only spent \$320,000, your payroll costs threshold will be \$192,000 (60% of \$320,000). Assuming you hit this mark, all of the \$320,000 would be forgivable if you had no other reductions. This would leave the unspent \$200,000 as remaining principal on your loan. This would be required to be paid back within two years of your loan origination unless your bank agreed to extend the term to five years. This requires mutual agreement; you can't simply declare a different term. Of course, there is no pre-payment penalty, so if you opted instead to simply return the remaining \$200,000 after you received forgiveness, you would owe nothing.

**Do the revised repayment rules — after the bank receives forgiveness dollars from the SBA — only apply to new loans made after July 5, or all PPP loans? If for all PPP loans, what about the repayment terms in the promissory note I signed (payments starting in month seven)?**

This revised repayment rule applies to all loans regardless of when they originated (and for what it's worth, the date for "new" loans is June 5, not July 5). If you have any questions about your loan documents, you should contact your loan officer.

## Other

### What are the changes to the PPP program being enacted by the PPP Flexibility Act? (Response Updated)

Major changes to the PPP program include:

- Borrowers now have 24 weeks to use their PPP funds, extended from the original eight weeks
- The forgiveness threshold requiring 75% of funds to be spent on payroll was lowered to 60%
- The deadline for re-hiring workers in order to qualify for Safe Harbor from the reduction factors was moved from June 30 to December 31
- Employers can exclude from the FTE Reduction Factor calculation any positions that, during the period between February 15 and December 31, they were unable to fill because they either: could not find qualified employees to hire; or, could not restore their business to a comparable level of activity because of social distancing or other federal health guidance
- For new loans issued after this amendment takes effect, the payback period for any unused funds was extended from two years to five, with repayments to begin upon receipt of a final forgiveness determination from the SBA and reimbursement of the forgiveness amount from the SBA to the lender. For existing loans, it is up to the borrower and lender to agree to an extension to five years
- Granting of forgiveness will no longer disqualify a business from electing to take payroll tax deferrals under the CARES Act
- Borrowers have 10 months from the end of their Covered Period to apply for forgiveness

### **Now that I have 24 weeks available for my Covered Period, can I apply for more PPP money?**

No, you cannot. The purpose behind the extension to 24 weeks was to give businesses a better opportunity to spend the entirety of the PPP loan they were originally granted. By SBA rules, lenders are not permitted to make any further disbursements on PPP loans once they have filed Form 1502 with the SBA, which was required to be submitted by May 29.

### **A few of our owners hold their shares as part of a trust that they will receive at the age of 25. Does it matter that none are of age yet?**

No, age is not a criterion used in the forgiveness program.

### **How does the PPP process affect the sale of a business? Can a business be sold before the end of the Covered Period or loan forgiveness?**

The PPP loan must be used by the entity that applied for the loan, and forgiveness applications must be submitted by the borrowing entity. Therefore, a merger that eliminates a taxpayer or impacts staff payroll may have a significant effect on forgiveness and on the timing of the application for forgiveness.

**If we have affiliates that will opt for the eight-week period, but other affiliates need longer, do each get treated separately?**

If there were separate loan applications, yes. If there was one application, no. There is only one forgiveness application to be submitted per loan and one Covered Period option choice to make for each loan.

## Payroll Tax Deferral

### **Does the payroll tax deferral only include the employer portion of FICA?**

It includes the employer portion of OASDI, commonly known as Social Security tax, not the Medicare portion. For clarity, that is 6.2% up to a wage limit of \$137,700 in 2020.

### **We use ADP so taxes are filed under their tax ID. ADP is debiting our account for ER FICA. Is there a way for us to defer those taxes?**

If you are using ADP in a “PEO” capacity, then you are a co-employer. You must notify them that you want to elect to defer those taxes. They will ask you to sign a document regarding your understanding that the deferred taxes are going to be due December 31, 2021 and December 31, 2022, and that you understand your responsibility to pay.

### **If I do not need to take advantage of the tax deferral for financial purposes, should I still take advantage of it? It is eventually going to be due.**

You are effectively paying the bill before it's due. It is your choice if you wish to continue to do so or to elect the deferral.

### **Does the deferral ever have to be repaid? It says deferral which means pay later, so I am confused.**

Yes, this tax is due later. 50% is due December 31, 2021 and 50% is due December 31, 2022.

### **As a cash basis taxpayer, are the payroll taxes still deductible in the year they are incurred if they are not paid (i.e. deferred)?**

No. As a cash basis taxpayer, you'll deduct expenses when paid. You'll book this as a liability and at tax time your tax CPA will adjust.

### **How do I go about getting the payroll tax deferral?**

If you use a payroll service, you'll need to notify them of your election to defer so they can make the adjustment. If you do payroll on your own, you'll book the liability as you always do, but you won't pay it. You'll let the liability accrue on your balance sheet through December 31, 2020. No election needs to be filed with the government.

### **How does deferring the FICA payment affect quarterly filings we have to make?**

When your quarterly form 941 is filed, there will be a place to notify the IRS of the amount that you are deferring and paying on the later due dates.

### **If a business with a PPP loan closes down, can that company continue to defer all the payroll taxes through 2020?**

No. If an employer account is being shut down, and the payroll returns are being designated “final,” the tax will be due at that time.

### **Can a business with a PPP defer all the payroll taxes through 2020?**

Yes. All businesses can defer the employer portion of Social Security payroll tax, regardless of whether they have a PPP. Remember, the payroll tax deferral is not the same as the PPP. It's a separate CARES Act benefit under section 2302.

**The form we received from our payroll provider to defer payroll taxes includes a note that penalties will be assessed by the IRS on taxes not deposited once the PPP loan is forgiven. Does this mean the date we receive notice the PPP is forgiven, or will it go back to the last day of the eight or 24 weeks? I also found this on the IRS website: "Employers that received a Paycheck Protection Program loan may not defer the deposit and payment of the employer's share of Social Security tax that is otherwise due after the employer receives a decision from the lender that the loan was forgiven. (See FAQ 4)."**

You can safely ignore both of those advisories. The PPP Flexibility Act (H.R. 7010, Section 4(a)) abolished this rule by striking this paragraph that was in the original CARES Act: "EXCEPTION. — This subsection shall not apply to any taxpayer if such taxpayer has had indebtedness forgiven under section 1106 of this Act with respect to a loan under paragraph (36) of section 7(a) of the Small Business Act..."

## Other CARES Act Loans

**Am I eligible for Title IV, also known as Main Street loans, if have a PPP loan and when can I get one? (Response Updated)**

Yes. You should be eligible for Title IV or Main Street loans.

**I have a PPP. Can I also have an EIDL loan? (Response Updated)**

Yes. You can get an EIDL loan provided you use the EIDL loan proceeds for different purposes than you use the PPP loan proceeds.

**If the \$10,000 EIDL grant (the advance, not the EIDL loan) is used exclusively for rent and utilities and the PPP loan is used exclusively for payroll, why would the PPP loan amount that is forgiven be reduced by \$10,000?**

In the instructions to the new loan forgiveness application, on page two it reads: "Line 11: Enter the smallest of lines 8, 9, or 10. Note: If applicable, SBA will deduct EIDL Advance Amounts from the forgiveness amount remitted to the Lender."