

# **PPP Forgiveness Guide**

*Note: Full Guidance has not yet been provided with respect to defining the full forgiveness calculation or an FTE. What is provided here is for purposes of a general overview and final rules are pending from the US Treasury.*

**Check the US Treasury website for updates to the forgiveness calculation.**

<https://home.treasury.gov/>

<https://home.treasury.gov/system/files/136/PPP--Fact-Sheet.pdf>

## **What is the forgiveness amount?**

The PPP loan forgiveness is based upon the eight-week period beginning with the origination of the loan. The sum of the following enter into the forgiveness computation: payroll costs (described above), including group health care benefits and retirement benefits, mortgage interest payments, rent, and utility payments. The mortgage, rent agreements, and utility agreements must have been in place before February 15, 2020.

After computing that total, there may be reductions for non-payroll costs and for items mentioned in question 15. Non-payroll costs are limited to 25% of the forgiveness amount.

## **How is the reduction in the loan forgiveness determined?**

The maximum forgiveness of the loan is reduced based upon employee retention and average pay.

The maximum loan forgiveness amount is multiplied by a fraction that measures employee retention based on the average number of full-time equivalent employees (FTEs). The borrower chooses which fraction to use. The numerator of both fractions is the average number of FTEs employed during the eight-week period. The denominator is either:

1. The monthly average FTEs for February 15, 2019, through June 30, 2019; or
2. The monthly average FTEs for January 1, 2020, through February 29, 2020.

In addition, the maximum loan forgiveness amount is further decreased if any employee's pay has declined by more than 25% during the eight-week period, relative to the most recent completed quarter (this should be the first quarter of 2020). Employees who earned an annualized pay of more than \$100,000 during any single 2019 pay period are excluded from this computation.

In the event you had a reduction of employees during the period from February 15, 2020, through April 26, 2020, as long as you rehire those employees no later than June 30, 2020, the FTE calculation for the number in the fraction will treat those rehired employees as if they were included in the FTE for the entire 8-week period. Please note that while a delayed rehire date

won't cause issues with the employee retention fraction, it may cause you to spend less than the required 75% threshold on payroll costs, and therefore would result in a reduction in the amount of loan forgiven.

Both the average reduction in FTE and reduction in pay must be restored to eliminate the reduction in loan forgiveness.

Most guidance from the SBA and U.S. Department of the Treasury has been related to matters associated with loan sizing thus far, and we expect significant guidance on the forgiveness calculations will be forthcoming.

## How are FTEs computed?

Other employee limit provisions of the Small Business Act (SBA Act) are not based upon FTEs; they are based upon head count as described above. The CARES Act Sections 1102 and 1106 do not define FTEs. Guidance has not yet been provided with respect to defining an FTE.

One approach may be to reference the Internal Revenue Code. For example, CARES Act Section 1106(e) discusses an eligible recipient seeking loan forgiveness. The recipient must document the number of FTEs on payroll and pay rates based upon payroll tax filings reported to the IRS.

CARES Act Section 2301(c)(3), which pertains to the employee retention credits, defines a full-time person by referencing IRC Section 4980H. A full-time employee is an individual who works an average of at least 30 hours per week. A full-time equivalent employee is determined by adding the hours of part-time employees on a monthly basis and dividing by 120 [IRC Section 4980H(c)(2)(E)]. Until guidance is received otherwise, we suggest using this computation to determine the FTEs for those employees who work fewer than 30 hours per week. Employees working at least 30 hours per week are counted as full-time employees.

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## The conditions of the Paycheck Protection Program

Let's first review the terms of the PPP.

The loan amount is based on your average monthly payroll cost for 2019. You can receive 2.5 times that amount, to help cover eight weeks of payroll.

### **The funds from the PPP can be used for the following purposes:**

- Payroll—salary, wage, vacation, parental, family, medical, or sick leave, health benefits

- Mortgage interest—as long as the mortgage was signed before February 15, 2020
- Rent—as long as the lease agreement was in effect before February 15, 2020
- Utilities—as long as service began before February 15, 2020

All expenses that fall under those categories are eligible for forgiveness. The following conditions will also apply:

### 1. Eight weeks of coverage

**Eligible expenses are those that are incurred over eight weeks**, starting from the day the first payment was made by your lender. This is not necessarily the date on which you signed your loan agreement.

Depending on your payroll schedule, you may want to adjust the timing of your payroll date to accommodate as many payroll cycles as possible.

For example, if your PPP loan gets deposited in your bank account on April 15, you could only use the funds on expenses incurred during the eight weeks following April 15.

### 2. The 75/25 rule

**At least 75% of your loan must be used for payroll costs.** Payments to independent contractors cannot be included in the payroll costs.

### 3. Staffing requirements

**You must maintain the number of employees on your payroll.**

Here is the calculation you can use to determine if you've met this requirement:

First, determine the average number of full-time equivalent employees you had for:

- The 8-week period following your initial loan disbursement, (**A**)
- February 15, 2019 to June 30, 2019, (**B1**)
- and January 1, 2020 to February 29, 2020. (**B2**)

Take **A** and divide that by **B1**. Do the same with **B2**. Take the largest number you obtain. If you're a seasonal employer, you must divide by **B1**.

- If you get a number equal to or larger than 1, you successfully maintained your headcount and meet this requirement.
- If you get a number smaller than 1, you did not maintain your headcount and your forgivable expenses will be reduced proportionately.

#### **4. Pay requirements**

**You must maintain at least 75% of total salary.**

This requirement will be individually assessed for every employee that did not receive more than \$100,000 in annualized pay in 2019.

If the employee's pay over the 8 weeks is less than 75% of the pay they received during the most recent quarter in which they were employed, the eligible amount for forgiveness will be reduced by the difference between their current pay and 75% of the original pay.

#### **5. Rehiring grace period**

You can rehire any staff that were laid off or put on furlough and reinstate any pay that was decreased by more than 25% to meet the requirements for forgiveness. You have until June 30th to do so.