

Legislative Update

What We Know Now

May 26, 2020

SBA Interim Rule 5/22/2020

Are salary, wages, or commission payments to furloughed employees; bonuses; or hazard pay during the covered period eligible for loan forgiveness?

Yes. The CARES Act defines the term “payroll costs” broadly to include compensation in the form of salary, wages, commissions, or similar compensation. If a borrower pays furloughed employees their salary, wages, or commissions during the covered period, those payments are eligible for forgiveness as long as they do not exceed an annual salary of \$100,000, as prorated for the covered period.

The Administrator, in consultation with the Secretary, has determined that this interpretation is consistent with the text of the statute and advances the paycheck protection purposes of the statute by enabling borrowers to continue paying their employees even if those employees are not able to perform their day-to-day duties, whether due to lack of economic demand or public health considerations. If an employee’s total compensation does not exceed \$100,000 on an annualized basis, the employee’s hazard pay and bonuses are eligible for loan forgiveness because they constitute a supplement to salary or wages, and are thus a similar form of compensation.



SBA Interim Rule 5/22/2020

“...additional wages paid to tipped employees are eligible for forgiveness.”

Employers who have employees that receive tips will have the loan forgiven for tips provided during the “covered period,” even though these come from customers, and not the employer.

The employer should keep records of tips, or if there are no such records, the employer can use “a reasonable, good-faith, employee estimate of such tips.”



SBA Interim Rule 5/22/2020

Are there caps on the amount of loan forgiveness available for owner-employees and self-employed individuals' own payroll compensation?

Yes, the amount of loan forgiveness requested for owner-employees and self-employed individuals' payroll compensation can be no more than the lesser of 8/52 of 2019 compensation or \$15,385 per individual in total across all businesses.

In particular, owner-employees are capped by the amount of their 2019 employee cash compensation and employer retirement and health care contributions made on their behalf.

Schedule C filers are capped by the amount of their owner compensation replacement, calculated based on 2019 net profit.³

General partners are capped by the amount of their 2019 net earnings from self-employment (reduced by claimed section 179 expense deduction, unreimbursed partnership expenses, and depletion from oil and gas properties) multiplied by 0.9235.

No additional forgiveness is provided for retirement or health insurance contributions for self-employed individuals, including Schedule C filers and general partners, as such expenses are paid out of their net self-employment income.



SBA Interim Rule 5/22/2020

Will a borrower's loan forgiveness amount be reduced if the borrower laid-off or reduced the hours of an employee, then offered to rehire the same employee for the same salary and same number of hours, or restore the reduction in hours, but the employee declined the offer?

No. Employees whom the borrower offered to rehire are generally exempt from the CARES Act's loan forgiveness reduction calculation. This exemption is also available if a borrower previously reduced the hours of an employee and offered to restore the employee's hours at the same salary or wages.



Specifically, in calculating the loan forgiveness amount, a borrower may exclude any reduction in full-time equivalent employee headcount that is attributable to an individual employee if:

- i. the borrower made a good faith, written offer to rehire such employee (or, if applicable, restore the reduced hours of such employee) during the covered period or the alternative payroll covered period;
- ii. the offer was for the same salary or wages and same number of hours as earned by such employee in the last pay period prior to the separation or reduction in hours;
- iii. the offer was rejected by such employee;
- iv. the borrower has maintained records documenting the offer and its rejection; and
- v. the borrower informed the applicable state unemployment insurance office of such employee's rejected offer of reemployment within 30 days of the employee's rejection of the offer.



SBA Interim Rule 5/22/2020

Borrowers should not be penalized for changes in employee headcount that are the result of employee actions and requests. Borrowers that avail themselves of this de minimis exemption shall maintain records demonstrating that each such employee was fired for cause, voluntarily resigned, or voluntarily requested a schedule reduction. The borrower shall provide such documentation upon request.



PPP Loan Forgiveness Application and Instructions Released by SBA

Paid and Incurred

Payroll costs are considered paid on the day that paychecks are distributed or the Borrower originates an ACH credit transaction. Payroll costs are considered incurred on the day that the employee's pay is earned.

Payroll costs incurred but not paid during the Borrower's last pay period of the Covered Period (or Alternative Payroll Covered Period) are eligible for forgiveness if paid on or before the next regular payroll date. Otherwise, payroll costs must be paid during the Covered Period (or Alternative Payroll Covered Period). For each individual employee, the total amount of cash compensation eligible for forgiveness may not exceed an annual salary of \$100,000, as prorated for the covered period.



Paid and Incurred

Non-payroll costs are subject to a similar “paid” and “incurred” set of rules as payroll costs, but unlike payroll costs the standard covered period must be used by the borrower to measure costs paid and incurred that are allowed to be included in the forgiveness calculation.



Most Utility expenses are straightforward. What falls under transportation is uncertain, but SBA guidelines appear to define transportation costs as gas and other auto expenses that would usually be part of the auto deductions on the business-tax return



PPP Forgiveness Application


Comprised of Four Components

PPP Loan Forgiveness
Calculation Form

PPP Schedule A

PPP Schedule A Worksheet

PPP Borrower Demographic
Information Form (optional)



Paycheck Protection Program
Loan Forgiveness Application

OMB Control Number 3245-0407
Expiration Date: 10/31/2020

PPP Loan Forgiveness Calculation Form

Business Legal Name ("Borrower")		DBA or Tradename, if applicable	
Business Address		Business TIN (EIN, SSN)	Business Phone
		() -	
Primary Contact		E-mail Address	

SBA PPP Loan Number:

Lender PPP Loan Number:

PPP Loan Amount:

PPP Loan Disbursement Date:

Employees at Time of Loan Application:

Employees at Time of Forgiveness Application:

EIDL Advance Amount:

EIDL Application Number:

Payroll Schedule: The frequency with which payroll is paid to employees is:

☐ Weekly ☐ Biweekly (every other week) ☐ Twice a month ☐ Monthly ☐ Other

Covered Period:

to

Alternative Payroll Covered Period, if applicable:

to

If Borrower (together with affiliates, if applicable) received PPP loans in excess of \$2 million, check here:

☐

Forgiveness Amount Calculation:

Payroll and Nonpayroll Costs

Line 1. Payroll Costs (enter the amount from PPP Schedule A, line 10):

Line 2. Business Mortgage Interest Payments:

Line 3. Business Rent or Lease Payments:

Line 4. Business Utility Payments:

Adjustments for Full-Time Equivalency (FTE) and Salary/Hourly Wage Reductions

Line 5. Total Salary/Hourly Wage Reduction (enter the amount from PPP Schedule A, line 3):

Line 6. Add the amounts on lines 1, 2, 3, and 4, then subtract the amount entered in line 5:

Line 7. FTE Reduction Quotient (enter the number from PPP Schedule A, line 13):

Potential Forgiveness Amounts

Line 8. Modified Total (multiply line 6 by line 7):

Line 9. PPP Loan Amount:

Line 10. Payroll Cost 75% Requirement (divide line 1 by 0.75):

Forgiveness Amount

Line 11. Forgiveness Amount (enter the smallest of lines 8, 9, and 10):

Application Example

PPP Loan: \$150,000

6 Employees total

Four 40 Hour/Week Employees

Two 35 Hour/Week Employees

1 Owner Draw

Loan Dispersed April 20th, 2020


Biweekly Payroll

Reduced Pay

Maintained Employee Headcount

Calculation Form

- General Business Info
- General PPP & EIDL Advance Info
- Payroll Schedule
- Covered Period/Alternative Payroll Covered Period
- Forgiveness Amount Calculation
 - FTA & Wage Reduction Adjustments, Potential Forgiveness Amounts, Forgiveness Amount

		Paycheck Protection Program Loan Forgiveness Application	OMB Control Number 3245-0407 Expiration Date: 10/31/2020
<u>PPP Loan Forgiveness Calculation Form</u>			
Business Legal Name ("Borrower")		DBA or Tradename, if applicable	
Business Address		Business TIN (EIN, SSN)	Business Phone
		() -	
		Primary Contact	E-mail Address

SBA PPP Loan Number: _____ Lender PPP Loan Number: _____

PPP Loan Amount: _____ PPP Loan Disbursement Date: _____

Employees at Time of Loan Application: _____

Employees at Time of Forgiveness Application: _____

EIDL Advance Amount: _____ EIDL Application Number: _____

Payroll Schedule: The frequency with which payroll is paid to employees is:

☐ Weekly ☐ Biweekly (every other week) ☐ Twice a month ☐ Monthly ☐ Other _____

Covered Period: _____ to _____

Alternative Payroll Covered Period, if applicable: _____ to _____

If Borrower (together with affiliates, if applicable) received PPP loans in excess of \$2 million, check here: ☐

Forgiveness Amount Calculation:

Payroll and Nonpayroll Costs

Line 1. Payroll Costs (enter the amount from PPP Schedule A, line 10): _____

Line 2. Business Mortgage Interest Payments: _____

Line 3. Business Rent or Lease Payments: _____

Line 4. Business Utility Payments: _____

Adjustments for Full-Time Equivalency (FTE) and Salary/Hourly Wage Reductions

Line 5. Total Salary/Hourly Wage Reduction (enter the amount from PPP Schedule A, line 3): _____

Line 6. Add the amounts on lines 1, 2, 3, and 4, then subtract the amount entered in line 5: _____

Line 7. FTE Reduction Quotient (enter the number from PPP Schedule A, line 13): _____

Potential Forgiveness Amounts

Line 8. Modified Total (multiply line 6 by line 7): _____

Line 9. PPP Loan Amount: _____


Line 10. Payroll Cost 75% Requirement (divide line 1 by 0.75): _____

Forgiveness Amount

Line 11. Forgiveness Amount (enter the smallest of lines 8, 9, and 10): _____

Loan Forgiveness Application

PPP Loan Forgiveness Calculation Form (top half)

 **Paycheck Protection Program
Loan Forgiveness Application** **OMB Control Number 3245-0407
Expiration Date: 10/31/2020**

PPP Loan Forgiveness Calculation Form

Business Legal Name ("Borrower")	DBA or Tradename, if applicable	
ABC Company		
Business Address	Business TIN (EIN, SSN)	Business Phone
1234 Main St	12-3456789	() -
Beverly, MA 01915	Primary Contact	E-mail Address
	Ethan Thomas	ethomas@gmail.com

SBA PPP Loan Number: XXXXXXXX Lender PPP Loan Number: XXXXXXXX

PPP Loan Amount: \$150,000 PPP Loan Disbursement Date: 4/20/2020

Employees at Time of Loan Application: 6

Employees at Time of Forgiveness Application: 6

EIDL Advance Amount: EIDL Application Number:

Payroll Schedule: The frequency with which payroll is paid to employees is:

☐ Weekly ☒ Biweekly (every other week) ☐ Twice a month ☐ Monthly ☐ Other

Covered Period: 4/20/2020 to 6/14/2020

Alternative Payroll Covered Period, if applicable: 4/26/2020 to 6/20/2020

If Borrower (together with affiliates, if applicable) received PPP loans in excess of \$2 million, check here: ☐



Loan Forgiveness Application

PPP Loan Forgiveness Calculation Form(bottom half)

Forgiveness Amount Calculation:

Payroll and Nonpayroll Costs

Line 1. Payroll Costs (enter the amount from PPP Schedule A, line 10):

Line 2. Business Mortgage Interest Payments:

Line 3. Business Rent or Lease Payments:

Line 4. Business Utility Payments:

Adjustments for Full-Time Equivalency (FTE) and Salary/Hourly Wage Reductions

Line 5. Total Salary/Hourly Wage Reduction (enter the amount from PPP Schedule A, line 3):

Line 6. Add the amounts on lines 1, 2, 3, and 4, then subtract the amount entered in line 5:

Line 7. FTE Reduction Quotient (enter the number from PPP Schedule A, line 13):

Potential Forgiveness Amounts

Line 8. Modified Total (multiply line 6 by line 7):

Line 9. PPP Loan Amount:

Line 10. Payroll Cost 75% Requirement (divide line 1 by 0.75):

Forgiveness Amount

Line 11. Forgiveness Amount (enter the smallest of lines 8, 9, and 10):

You need to have
schedule A and
schedule A worksheet
filled out to complete
this portion



PPP Schedule A Worksheet

- Employee's Name
- Employee ID
- Cash Compensation
- Average FTE
- Salary/Hourly Wage Reduction
- FTE Reduction Safe Harbor



**Paycheck Protection Program
Loan Forgiveness Application**

OMB Control Number 3245-0407
Expiration Date: 10/31/2020

PPP Schedule A Worksheet

Table 1: List employees who:

- Were employed by the Borrower at any point during the Covered Period or the Alternative Payroll Covered Period whose principal place of residence is in the United States; and
- Received compensation from the Borrower at an annualized rate of less than or equal to \$100,000 for all pay periods in 2019 or were not employed by the Borrower at any point in 2019.

Employee's Name	Employee Identifier	Cash Compensation	Average FTE	Salary / Hourly Wage Reduction
FTE Reduction Exceptions:				
Totals:		Box 1	Box 2	Box 3

Table 2: List employees who:

- Were employed by the Borrower at any point during the Covered Period or the Alternative Payroll Covered Period whose principal place of residence is in the United States; and
- Received compensation from the Borrower at an annualized rate of more than \$100,000 for any pay period in 2019.

Employee's Name	Employee Identifier	Cash Compensation	Average FTE
Totals:		Box 4	Box 5

Attach additional tables if additional rows are needed.

Loan Forgiveness Application

PPP Loan Forgiveness Schedule A Worksheet



Paycheck Protection Program Loan Forgiveness Application

OMB Control Number 3245-0407
Expiration Date: 10/31/2020

PPP Schedule A Worksheet

Table 1: List employees who:

- Were employed by the Borrower at any point during the Covered Period or the Alternative Payroll Covered Period whose principal place of residence is in the United States; and
- Received compensation from the Borrower at an annualized rate of less than or equal to \$100,000 for all pay periods in 2019 or were not employed by the Borrower at any point in 2019.

Employee's Name	Employee Identifier	Cash Compensation	Average FTE	Salary / Hourly Wage Reduction
Chloe Hall	XXXX	\$5,750.00	0.9	0
Ava Miller	XXXX	\$8,200.00	0.9	\$482.50
Harper Williams	XXXX	\$9,600.00	1	\$262.50
Amelia Taylor	XXXX	\$9,230.00	1	\$577.69
FTE Reduction Exceptions:				
Totals:		Box 1 \$32,780	Box 23.8	Box 3 \$1,302.69

Table 2: List employees who:

- Were employed by the Borrower at any point during the Covered Period or the Alternative Payroll Covered Period whose principal place of residence is in the United States; and
- Received compensation from the Borrower at an annualized rate of more than \$100,000 for any pay period in 2019.


Employee's Name	Employee Identifier	Cash Compensation	Average FTE
Carter Anderson	XXXX	\$15,385	1
Aiden Hill	XXXX	\$15,385	1
Totals:		Box 4 \$30,770	Box 5 2

Attach additional tables if additional rows are needed.



PPP Schedule A

- PPP Schedule A Worksheet, Table 1 Totals
- PPP Schedule A Worksheet, Table 2 Totals
- Non-Cash Compensation Payroll Costs
- Compensation to Owners
- Total Payroll Costs
- FTE Reduction Calculation

	Paycheck Protection Program Loan Forgiveness Application	OMB Control Number 3245-0407 Expiration Date: 10/31/2020
<u>PPP Schedule A</u>		
<u>PPP Schedule A Worksheet, Table 1 Totals</u>		
Line 1. Enter Cash Compensation (Box 1) from PPP Schedule A Worksheet, Table 1:	<input type="text"/>	
Line 2. Enter Average FTE (Box 2) from PPP Schedule A Worksheet, Table 1:	<input type="text"/>	
Line 3. Enter Salary/Hourly Wage Reduction (Box 3) from PPP Schedule A Worksheet, Table 1: If the average annual salary or hourly wage for each employee listed on the PPP Schedule A Worksheet, Table 1 during the Covered Period or the Alternative Payroll Covered Period was at least 75% of such employee's average annual salary or hourly wage between January 1, 2020 and March 31, 2020, check here <input type="checkbox"/> and enter 0 on line 3.	<input type="text"/>	
<u>PPP Schedule A Worksheet, Table 2 Totals</u>		
Line 4. Enter Cash Compensation (Box 4) from PPP Schedule A Worksheet, Table 2:	<input type="text"/>	
Line 5. Enter Average FTE (Box 5) from PPP Schedule A Worksheet, Table 2:	<input type="text"/>	
<u>Non-Cash Compensation Payroll Costs During the Covered Period or the Alternative Payroll Covered Period</u>		
Line 6. Total amount paid by Borrower for employer contributions for employee health insurance:	<input type="text"/>	
Line 7. Total amount paid by Borrower for employer contributions to employee retirement plans:	<input type="text"/>	
Line 8. Total amount paid by Borrower for employer state and local taxes assessed on employee compensation:	<input type="text"/>	
<u>Compensation to Owners</u>		
<input type="text"/>		

Loan Forgiveness Application

PPP Loan Forgiveness Schedule A

<u>PPP Schedule A</u>	
<u>PPP Schedule A Worksheet, Table 1 Totals</u>	
Line 1. Enter Cash Compensation (Box 1) from PPP Schedule A Worksheet, Table 1:	<u>\$32,780</u>
Line 2. Enter Average FTE (Box 2) from PPP Schedule A Worksheet, Table 1:	<u>3.8</u>
Line 3. Enter Salary/Hourly Wage Reduction (Box 3) from PPP Schedule A Worksheet, Table 1: If the average annual salary or hourly wage for each employee listed on the PPP Schedule A Worksheet, Table 1 during the Covered Period or the Alternative Payroll Covered Period was at least 75% of such employee's average annual salary or hourly wage between January 1, 2020 and March 31, 2020, check here <input type="checkbox"/> and enter 0 on line 3.	<u>\$1,302.69</u>
<u>PPP Schedule A Worksheet, Table 2 Totals</u>	
Line 4. Enter Cash Compensation (Box 4) from PPP Schedule A Worksheet, Table 2:	<u>\$30,770</u>
Line 5. Enter Average FTE (Box 5) from PPP Schedule A Worksheet, Table 2:	<u>2</u>
<u>Non-Cash Compensation Payroll Costs During the Covered Period or the Alternative Payroll Covered Period</u>	
Line 6. Total amount paid by Borrower for employer contributions for employee health insurance:	<u>\$2,500</u>
Line 7. Total amount paid by Borrower for employer contributions to employee retirement plans:	<u>\$2,500</u>
Line 8. Total amount paid by Borrower for employer state and local taxes assessed on employee compensation:	<u>\$2,500</u>
<u>Compensation to Owners</u>	
Line 9. Total amount paid to owner-employees/self-employed individual/general partners: This amount may not be included in PPP Schedule A Worksheet, Table 1 or 2. If there is more than one individual included, attach a separate table that lists the names of and payments to each.	<u>\$14,350</u>



Loan Forgiveness Application

PPP Loan Forgiveness Calculation Form

Total Payroll Costs

Line 10. Payroll Costs (add lines 1, 4, 6, 7, 8, and 9):

\$85,400

Full-Time Equivalency (FTE) Reduction Calculation

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, check here ☐, skip lines 11 and 12 and enter 1.0 on line 13.

Line 11. Average FTE during the Borrower's chosen reference period:

5

Line 12. Total Average FTE (add lines 2 and 5):

5.8

Line 13. FTE Reduction Quotient (divide line 12 by line 11) or enter 1.0 if FTE Safe Harbor is met:

1



Loan Forgiveness Application

PPP Loan Forgiveness Calculation Form

<u>Payroll and Nonpayroll Costs</u>	
Line 1. Payroll Costs (enter the amount from PPP Schedule A, line 10):	\$85,400
Line 2. Business Mortgage Interest Payments:	\$5,000
Line 3. Business Rent or Lease Payments:	\$5,000
Line 4. Business Utility Payments:	\$3,000
<u>Adjustments for Full-Time Equivalency (FTE) and Salary/Hourly Wage Reductions</u>	
Line 5. Total Salary/Hourly Wage Reduction (enter the amount from PPP Schedule A, line 3):	\$1,302.69
Line 6. Add the amounts on lines 1, 2, 3, and 4, then subtract the amount entered in line 5:	\$97,097
Line 7. FTE Reduction Quotient (enter the number from PPP Schedule A, line 13):	1
<u>Potential Forgiveness Amounts</u>	
Line 8. Modified Total (multiply line 6 by line 7):	\$97,097
Line 9. PPP Loan Amount:	\$150,000
Line 10. Payroll Cost 75% Requirement (divide line 1 by 0.75):	\$113,897
<u>Forgiveness Amount</u>	
Line 11. Forgiveness Amount (enter the smallest of lines 8, 9, and 10):	\$97,097



We are answering your questions live on the air right now.

Please submit questions through the **Q&A function**,
not the chat option at the bottom of your screen.



Questions?

Please email:

questions@dominionpayroll.com

For resources, updates, webinar schedule, and FAQ's, please visit our

[COVID-19 Updates & Resources page](#)



As requirements change and laws are passed, we will update you as soon as possible.

Don't forget to wash your hands!

