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Updated: August 24, 2020

Last week the Treasury and SBA issued updated guidance and forgiveness applications to include the changes from the [PPP Flexibility Act of 2020](#).

Regulations have continued to mostly favor PPP borrowers and have hopefully stabilized. In anticipation of the banks beginning to release forgiveness applications in July, we have summarized the process and calculations in the following sections (*click topics to jump to desired section*):

1. [Forgiveness Application Process](#)
2. [Deciding Between 8-week & 24-week Covered Period](#)
3. [Calculating Forgiveness: Borrowers without Employees](#)
4. [Calculating Forgiveness: Borrowers with Employees](#)
5. [Determining Which Application to Use for Forgiveness](#)
6. [Unforgiven Loan Terms](#)
7. [Further Reading](#)

We have also prepared a sample PPP EZ forgiveness calculator which is available for download [here](#).

We will continue to monitor the guidance and direction from the various banks and work with each client individually as needed. Please do not hesitate to reach out with any additional questions or concerns.

Be Well!
The Kanes

FORGIVENESS APPLICATION PROCESS

- **STEP 1: Choose 8-week or 24-week Covered Period** *(Detail Below)*
- **STEP 2: Calculate Forgiveness Amount** *(Detail Below)*
- **STEP 3: Collect and Organize Supporting Documentation**
 - **Collect Documentation:** [Click to Download The Kane Firm Checklist](#)
 - **Neatly Organize and Label Documentation:** We recommend making it as easy as possible for the bank employees to tie out or match up the numbers on your application with your back up.
 - We recommend that you provide a summary worksheet detailing the components of each number on your application with a reference to the back up documentation.
 - The back up should be organized in the same order as they appear on the worksheet and cross referenced.
- **STEP 4: Stay in Contact with your Banker** - Watch out for when they will open the application process and any training resources they may have. We are anticipating most banks will open the process in mid to late July.
- **STEP 5: Complete and Submit Your Application.** Your application for forgiveness is due 10 months after the last day of your 8-week or 24-week covered period. If the application is not submitted by this point, the PPP will fully convert into a loan.

DECIDING BETWEEN 8-WEEK & 24-WEEK COVER PERIOD

8-week COVERED PERIOD

Consider the 8-week Period If:

- Loan origination was before June 5, 2020.
- You have employees
- You do not have FTE nor Wage Reduction Concerns in the 8-weeks
- You paid or Incurred Qualified Costs in an amount close or equal to the loan amount.
 - Remembering (minimum 60% on Payroll Costs / maximum 40% on Non-Payroll Costs)

RECAP:

AUGUST 4, 2020 UPDATE: FAQ's released on August 4, 2020 newly preclude borrowers from accelerating Health Insurance and Retirement payments for periods outside the covered/alternative periods. [Aug 4 FAQ, Page 4](#)

MAGICAL PHRASE: "PAID OR INCURRED." We believe that these three words will allow business owners to include significantly more expenses in the forgiveness calculation than originally anticipated. This includes:

- **More than 8-weeks of cash compensation.**
- **Late paid rent, utilities, or mortgage interest.** *For instance, April or May rent paid late but during the covered period.*
- **Prepayment of rent or utilities.** *So long as payments are made within the 8-week cover period. Mortgage interest is excluded from this. The 40% cap on nonpayroll costs is expected to prevent excessive inclusion.*
- **Payroll cost and nonpayroll costs incurred but paid after the covered period.** *For instance, a utility bill with a service period overlapping with the covered period but not paid until after the covered period.*

Advantages of 8-week Period:

- **Peace of Mind.** Forgiveness will be based on the regulations published at the time of the application review. Filing for forgiveness sooner rather than later avoids further readjustment from changing regulations. Locking in forgiveness now also isolates your forgiveness from any additional economic turbulence as we navigate through the pandemic.
- **Shorter Employee Retention Period.** For some it may be much easier to maintain full staff levels for an 8-week period versus a 24-week period, avoiding reduction calculations.

- **Additional Bank Funding.** Businesses with debt covenants or working towards obtaining additional bank funding may need to have forgiveness determined sooner rather than later to meet their bank's lending requirements.

24-week COVERED PERIOD

Consider the 24-week Period If:

- You do not have employees
- You were shut down or had significant employee reduction during the 8-week period
- Loans Made after 6/5/20 must use 24-week Period
- BONUS NOTE: [The guidance released on 6/22 \(page 9\)](#) allows borrowers to apply for forgiveness before the end of their covered period.

Advantages of 24-week Period:

- **Borrowers Without Employees.** Using the 24-week period, these borrowers will be able to achieve full forgiveness on owner compensation alone. Non-Payroll costs will not need to be calculated.
- **Qualified Costs Expanded.** With an increased 24-week period and retention of "paid or incurred" language, it will be much more likely that an employer will have enough qualified costs to obtain 100% forgiveness.

As noted above, you will have the ability to apply for forgiveness as soon as you spend 100% of the funds on qualified costs.

OPEN QUESTIONS:

- **Switching Covered Periods.** There is uncertainty as to whether a borrower can apply for forgiveness using an 8-week period but switch to a 24-week period if some expenses were disallowed.
- **Avoid Potential Tax Year Problem.** The IRS ruled that expenses paid for with forgiven PPP funds are not tax deductible. This prevents doubling up on the tax benefit. However, with the new timelines, it is possible that forgiveness for some borrowers will not be determined until tax season 2021 or later. Guidance is needed to for the circumstance that the loan forgiveness amount is not determined until after tax filing deadlines. Additionally, the additional interplay with existing tax law. **At this time, we would recommend obtaining forgiveness during 2020.**

Forbes continues to publish quality PPP analyses. Alan Gassman also covered this topic. [What PPP Loan Borrowers Should Consider When Choosing Between The 8- Or 24-Week Forgiveness Period.](#)

CALCULATING FORGIVENESS: BORROWERS WITHOUT EMPLOYEES

This group of borrowers will be able to apply for full forgiveness. (Assumes your loan amount was 2.5 months of 2019 net income, capped at \$20,833).

1. **Covered Period.** Plan to use the 24-week covered period.
2. **Make Owner Compensation Payments.** Within the 24-week covered period, issue yourself payments totaling the amount of the loan.
3. **EZ Application.** Apply using [Form 3508EZ](#), listing your owner's compensation on Line 1. Payroll costs.
4. **Documentation.** Expect to provide copies of canceled checks or bank statements showing the payments to the owner.

Reminder: While not calculated on the application, the amount the SBA remits to the lender will be reduced by the amount of any EIDL advance amount received.

CALCULATING FORGIVENESS: BORROWERS WITH EMPLOYEES

[Download Sample Forgiveness Calculator for the EZ Application](#)

STEP 1: Choose your Payroll Cost Period

Reminder: Non-payroll costs will always follow the covered period.

- **Covered Period (8).** Loan Origination Date + 55 Days
 - Only an option for loans made before 6/5/20.
- **Covered Period (24).** Loan Origination Date + 167 Days
 - Loans Made after 6/5/20 must use 24-week Period
- **Alternate Period (8).** First Date of Pay Period After Loan Origination + 55 Days
 - Pay frequency must be every other week or more frequent.
- **Alternate Period (24).** First Date of Pay Period After Loan Origination + 167 Days
 - Pay frequency must be every other week or more frequent.

STEP 2: Calculate Qualified Payroll Costs Paid or Incurred

- **Download your payroll reports for the period chosen.**
 1. **Start:** Look at the pay dates on your reports. Start with the first payroll paid within your chosen period
 2. **End:** Look at the payroll period end dates on your reports. The last report will be the last payroll end date within your chose period.
- **Summarize Employee Wages & Employer State Taxes in Excel.** *If you have employees that will exceed \$15,385 or \$46,154 in the chosen period or you are concerned of wage reductions, we recommend preparing an excel to calculate forgivable payroll costs for each employee. If you do not have either of these concerns, you can calculate payroll costs across the entire business.*
 - **Wages.** For each employee input their gross wages from your payroll reports.
 - **Employee Wage Caps:**
 - 8-week Period: Forgivable wages cannot exceed \$15,385.
 - 24-week Period: Forgivable wages cannot exceed \$46,154.

- **S-Corp Owner Employee Wage Cap:** A ~~20% or more~~ owner-employee's wage cap is equal to:
 - 8-week Period: 8/52 of 2019 Gross Wages + 2019 Employer Retirement Contributions, not to exceed \$15,385
 - 24-week Period: 2.5/12 of 2019 Gross Wages + 2019 Employer Retirement Contributions, not to exceed \$20,833

August 24, 2020 Update: Owner-employees with less than 5% Ownership are not subject to this cap. See Page 5, Section 1 of [PPP Interim Final Rule – Treatment of Owners and Forgiveness of Certain Nonpayroll Costs.](#)

- **C-Corp Owner Employee Wage Cap:** A ~~20% or more~~ owner-employee's wage cap is equal to:
 - 8-week Period: 8/52 of 2019 Gross Wages + 2019 Employer Health Contributions + 2019 Employer Retirement Contributions, not to exceed \$15,385
 - 24-week Period: 2.5/12 of 2019 Gross Wages + 2019 Employer Health Contributions + 2019 Employer Retirement Contributions, not to exceed \$20,833

August 24, 2020 Update: Owner-employees with less than 5% Ownership are not subject to this cap. See Page 5, Section 1 of [PPP Interim Final Rule – Treatment of Owners and Forgiveness of Certain Nonpayroll Costs.](#)

- **State Tax.** For each employee input the State Tax paid by the employer. This is usually state disability and unemployment. Employer portions are often denoted with an “ER” prefix.
- **Employer Portion of Health Insurance and Retirement Benefits.** For each employee, input the health and retirement benefits paid by the employer. *Do not include 20% or more owner-employee.*
- **Total your Capped Wages Plus Employer State Tax Plus Employer Paid Benefits.** This is the employee portion of wage costs.
- **Double Check.** Confirm that you did not include any of the following:
 - Employee Withholdings (Payroll Reports may say “EE Tax”)
 - Federal Employer Tax (FICA)
 - Employee Portions of Health or Retirement Benefits
 - Owner 2020 Benefits
 - Worker’s Compensation Premiums
- **Schedule C Filers (Sole Proprietors or Single Member LLC).** Add in Owner Compensation **payments made in the period.**
 - 8-week Period: 8/52 of 2019 Net Profit, not to exceed \$15,385
 - 24-week Period: 2.5/12 of 2019 Net Profit, not to exceed \$20,833
- **Partnerships.** For each owner, add a portion of 2019 Self-Employment Income **payments made in the period.**

- List Self-Employment Income (Line 14 on K-1)
 - SUBTRACT Section 179 Deduction (Line 12 on K-1)
 - SUBTRACT Unreimbursed Partner Expenses (1040 Schedule E, Labeled “UPE”)
 - Multiple the Sum of the above by .9235.
 - 8-week Period: Multiple the result by 8/52, not to exceed \$15,385.
 - 24-week Period: Multiply the result by 2.5/12, not to exceed \$20,833
- **Total the Employee Portion of Wage Costs Plus Owner Compensation.** This is your total Payroll Cost.

STEP 3: Calculate Qualified Non-Payroll Costs Paid or Incurred

Reminder: Non-payroll costs will always follow the covered period.

- **Summarize & Total All of the Non-Payroll Costs Paid.** Detail and total non-payroll costs **paid** between your loan origination date through the end of your covered period (55 or 167 days). Contracts for these costs must have a start date prior to 2/15/20 to be eligible. These costs include:
 1. **Interest Payments** on Business Mortgage for Real and Personal Property (Examples: Land, Buildings, Equipment, Furniture, etc.)
 2. **Rent Payments** on Business Real and Personal Property (Examples: Office Rent, Storage Rent, Server Room Rental, Printer/Copier Leases)

August 24, 2020 Updates:

- The portion of rent expenses/mortgage interest offset by a sublet are not forgivable. See Page Section 2a of [PPP Interim Final Rule – Treatment of Owners and Forgiveness of Certain Nonpayroll Costs](#).
 - Rent payments to related parties are capped at the amount of mortgage interested owed during the covered period. See Page Section 2b of [PPP Interim Final Rule – Treatment of Owners and Forgiveness of Certain Nonpayroll Costs](#).
3. **Utility Payments** on electricity, gas, water, telephone, or internet access for the business.
 - ~~Transportation Costs are included under utility payments. The SBA and treasury have yet to define this term. [Non-authoritative sources](#) interpret this as fuel costs for business vehicles.~~
 - **Transportation Costs Defined on Aug 4, 2020:** A service for the distribution of transportation refers to transportation utility fees assessed by state and local governments. Payment of these fees by the borrower is eligible for loan forgiveness.

See Page 7 Question 6 of [FAQ Released on August 4, 2020](#).

Note: Plan to subtotal each of the 3 categories to report on the application.

- **Summarize & Total All of the Non-Payroll Costs Incurred.**
 1. List one month of qualified expenses paid before the loan origination date.
 2. Calculate the portion of the expenses incurred during but paid prior to receiving the loan. For example:
 - Loan origination: 4/21/20
 - April Rent of \$5,000 was paid on 4/1/20
 - 10 Days of Rent (4/21/20 – 4/30/20) was incurred during the covered period.

- Therefore, \$1,667 of rent was incurred during the covered period and is eligible for forgiveness. = $\$5,000 * (10 \text{ Days} / 30 \text{ Days})$
3. Calculate the portion of the expenses incurred during but paid after the covered period. For example:
 - Covered Period End: 6/15/20
 - June Gas Bill of \$500 was paid on 7/15/20
 - 15 Days of Gas (6/1/20 – 6/15/20) was incurred during the covered period.
 - Therefore, \$250 of gas was incurred during the covered period and is eligible for forgiveness. = $500*(15/30)$
- **Total the Non-Payroll Costs Paid + Incurred.** This is your total Non-Payroll Cost

STEP 4: Total Potential Forgiveness Amount

- **Total the Payroll Costs + Non-Payroll Cost.** This is the total of your costs qualified for forgiveness.

STEP 5: Check for Reductions

- **Amount of EIDL Advance** – *While not calculated on the application, the amount the SBA remits to the lender will be reduced by the amount of any EIDL advance amount received.*
- **Payroll costs must comprise of 60% of the Forgiveness Amount.**
 1. Calculate Payroll Percentage: $\text{Payroll Cost} / \text{Total Qualified Costs}$

If the result is less than 60%, you may have a reduction calculation (Line 7 on the EZ Form, Line 10 on the Full Form).

- **FTE Reduction**
 1. **Forgiveness of qualified expenses is reduced by the % of FTE reduction.** If you have not reduced the number of employees or average paid hours of your employees between 1/1/20 and end of covered period, no reduction will occur.

2. FTE can be calculated one of two ways:

- **Standard:** For each employee, enter the average number of hours paid per week, divide by 40, and round the total to the nearest tenth. The maximum for each employee is capped at 1.0.
- **Simplified:** A simplified method that assigns 1.0 for employees who work 40 hours or more per week and 0.5 for employees who work fewer hours may be used at the election of the Borrower.

The simplified method may be advantageous to borrowers with employees working less than 20 hours / week during the covered period.

3. **Reference Periods.** This is an average calculation across all employees comparing the covered or alternate period with one of the following reference periods:

- Average FTE for 1/1/20 through 2/29/20

-OR-

- Average FTE for 2/15/19 through 6/30/19

Seasonal Employers Only:

- Average FTE for 1/1/20 through 2/29/20

-OR-

- Average FTE for 2/15/19 through 6/30/19

-OR-

- A consecutive twelve-week period between 5/1/19 through 9/15/19.

4. Exemptions & Safe-Harbors:

- Borrower is exempt from reduction if FTE employee levels are restored on or before 12/31/20.
- Exceptions include employees fired for cause, voluntarily resigned, voluntarily requested reduction in hours or rejected a written, good faith offer to return. *Note: If offer rejected, the employer must report such information to the unemployment insurance office within 30 days.*
- Two Safe Harbors will also exempt borrowers from forgiveness reduction:
 - Business was unable to operate between February 15, 2020, and the end of 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 for sanitation, social distancing, or any other worker or customer safety requirement related to COVID-19.
 - The Borrower is exempt from the reduction in loan forgiveness based on a reduction in FTE employees described above if both of the following conditions are met: (a) the Borrower reduced its FTE employee levels in the period beginning February 15, 2020, and ending April 26, 2020; and (b) the Borrower then restored its FTE employee levels by not later than December 31, 2020 to its FTE employee levels in the Borrower's pay period that included February 15, 2020.

• Wage Reduction

1. Forgiveness of qualified expenses is reduced by the amount of wage reduction in excess of 25%.

If average annualized salary or hourly wage was not decreased between Q1 2020 and the covered period/alternate period in excess of 25%, no reduction will occur. Per the FAQ's published on Aug 4, 2020, only wages and salaries are evaluated for the purposes of reductions. Tips, commissions, etc. are not taken into account. [Aug 4, 2020 FAQ Page 10.](#)

2. Reference Period. This is an average calculation for each employee comparing the covered or alternate period with one reference Period: **1/1/20 – 3/31/20**

3. Included Employees. This calculation only applies to employees who made less than \$100,000 in 2019. Employees new in 2020 making \$100,000 or more are included.

4. Safe Harbors.

- If average annual salary or hourly wage on **2/15/20** is less than or equal to that between **February 15, 2020 and April 26, 2020**, borrower will be exempt from forgiveness exception.
- If average annual salary or hourly wage on **2/15/20** is less than or equal to that on **12/31/20** borrower will be exempt from forgiveness exception.

DETERMINE WHICH APPLICATION TO USE FOR FORGIVENESS

- **EZ Loan Forgiveness Application Form 3508EZ** can be used if you meet one of the following criteria:
 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 did not include any employee salaries in calculation of the loan amount.
 2. During the covered/alternate period, the borrower did not reduce annual salary or wages of any employee more than 25% and did not reduce the number of employees or the average paid hours of employees.
 - Wages – as compared to 1/1/20 – 3/31/20
 - Wages – Excludes employees that made more than \$100,000 in 2019
 - Number of Employees – As compared to 1/1/20 - 2/29/20 or 2/15/19 - 6/30/19
 3. During the covered/alternate period, the Borrower did not reduce annual salary or wages of any employee more than 25% compared to Q1 2020 and the borrower was unable to operate during the covered period at the same level of business activity as before 2/15/20 due to compliance with guidance issued by HHS, CDC or OSHA.

[Checklist for Using SBA Form 3508EZ](#)
[Form 3508EZ](#)
[Form 3508EZ Instructions](#)

- **Full Loan Forgiveness Application** must be used if you do not meet one of the above criteria.

[Loan Forgiveness Application Revised June 16, 2020](#)
[Loan Forgiveness Instructions Revised June 16, 2020](#)

UNFORGIVEN LOAN TERMS.

- **Terms.**
 - Loan Approved After 6/5/20: Fixed Rate of 1% interest for 5 years
 - Loan Approved Before 6/5/20: Fixed Rate of 1% interest for 2 years
 - With option to renegotiate with your bank for 5-year term.
- **First Payment.** The date forgiveness is remitted to the lender.
- **Prepayment.** You can prepay the loan at any time without penalty.

FURTHER READING

- **Kane Firm Resources:**

[Click to Download the Kane Firm Checklist](#)
[Sample Forgiveness Calculator \(EZ Form\)](#)
[COVID-19 Business Resources](#)

- **Online Guides & Commentary**

[SBA Changes PPP Loan Rules On August 24 - Hurting Some, Helping Others At Random](#)
[SBA Makes Further Changes to PPP Rules in August 4th FAQs](#)
[What PPP Loan Borrowers Should Consider When Choosing Between The 8- Or 24-Week Forgiveness Period.](#)
[PPP Loan Forgiveness Applications Can Now Be Submitted As Soon As Monies Are Spent](#)
[We Received Our PPP Funds, Now What? SBA Provides Additional Guidance Regarding Loan Forgiveness](#)
[U.S. Chamber of Commerce Guide to PPP Loan Forgiveness](#)

- **SBA Documents & Authoritative Resources**

[Checklist for Using SBA Form 3508EZ](#)
[Form 3508EZ](#)
[Form 3508EZ Instructions](#)
[Loan Forgiveness Application Revised June 16, 2020](#)
[Loan Forgiveness Instructions Revised June 16, 2020](#)
[FAQ Published on August 4, 2020](#)

[Paycheck Protection Program Flexibility Act of 2020](#)

[PPP Interim Final Rule - Revisions to Loan Forgiveness Interim Final Rule and SBA Loan Review Procedures Interim Final Rule](#)
[PPP Interim Final Rule on Revisions to the Third and Sixth Interim Final Rules](#)
[Interim Final Rule - Forgiveness](#)
[PPP Interim Final Rule – Treatment of Owners and Forgiveness of Certain Nonpayroll Costs.](#)