

## *Frequently Asked Questions (FAQs)*

### General Information and Definitions

#### 1. What is the Paycheck Protection Program?

The Paycheck Protection Program (“PPP”) is a temporary loan program created by the U.S. Small Business Administration (“SBA”) under the Coronavirus Aid, Relief, and Economic Security Act (“CARES” Act). The PPP was designed to incentivize small businesses to keep their workers on the payroll despite the financial downturn caused by the COVID-19 pandemic. Certain businesses applied for and received these loans from SBA-participating lenders between April 3, 2020 and August 8, 2020.

#### 2. What is a Covered Loan?

A Covered Loan is a loan made under the PPP. The loan is eligible for partial or full forgiveness if the funds are used in a specified period of time for payroll expenses, interest on mortgages, rent, and certain utilities. At least 60% of the forgiveness amount must be used for payroll expenses.

#### 3. What is a Covered Mortgage Obligation?

A Covered Mortgage Obligation is any debt that a business owed on a mortgage for real or personal property, in the course of ordinary business, and which was incurred before February 15, 2020. Real property includes land and improvements to land, such as real estate and buildings. Personal property includes farm equipment, appliances, furniture, and other tangible items that do not qualify as real property.

#### 4. Can I include advanced mortgage interest or principal payments in my Loan Forgiveness Application?

No. Prepayments, including advanced mortgage interest payments, are specifically excluded from loan forgiveness under the CARES Act. Any payments of principal on mortgage obligations are also not eligible for forgiveness.

#### 5. What is a Covered Rent Obligation?

A Covered Rent Obligation is a payment owed on a lease or rental agreement for real or personal property that was in force before February 15, 2020.

#### 6. What is a Covered Utility Payment?

A Covered Utility Payment is a payment made for these services: electricity, gas, water, phone, internet access and transportation (including transportation utility fees). The service(s) must have begun before February 15, 2020 to qualify as a Covered Utility Payment.

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## 7. What are Payroll Costs?

Payroll Costs are the total amount of compensation paid to employees whose principal residence is in the United States. Compensation includes salary, wages, tips, or similar compensation, not in excess of \$100,000 annualized pay to any one employee. This means a maximum pay amount of \$15,385 per employee for an eight-week Covered Period, or \$46,154 per employee for a 24-week Covered Period.

Compensation also includes: vacation pay; parental, medical, or sick leave; allowance for dismissal or separation; required payments for group health care benefits (including insurance premiums); payment for retirement benefits; and state or local taxes that were assessed on the compensation of employees. Housing stipends or allowances can be counted towards Payroll Costs if included as part of compensation.

Payroll Costs do not include: compensation in excess of \$100,000 annualized for an individual employee, certain taxes imposed or withheld during the Covered Period, contributions to retirement and health benefits deducted from employees' pay or otherwise paid by employees; contributions to retirement or health benefits accelerated from periods outside the Covered Period or Alternative Payroll Covered Period; qualified sick leave wages for which a credit is allowed under Section 7001 of the Families First Coronavirus Response Act, or qualified family leave wages for which a credit is allowed under Section 7003 of the Families First Coronavirus Response Act.

## 8. How is the Covered Period determined?

The Covered Period is the 8 or 24 weeks following the date of disbursement of your Covered Loan. For loans approved before June 5, 2020, you can choose either an 8 or 24-week Covered Period. For loans approved on or after June 5, 2020, you will automatically have a 24-week Covered Period.

The first day of the Covered Period is the same day you received PPP funds. The Covered Period ends 24 weeks after it begins (unless you qualify for and select an eight-week Covered Period) or on December 31, 2020, whichever comes first. For businesses that use a bi-weekly or more frequent payroll schedule, you may choose an Alternate Covered Period for payroll. See FAQ 10.

## 9. Which Covered Period length is appropriate for my business?

The eight-week Covered Period may enable borrowers to receive their loan forgiveness sooner and help employers that would struggle to maintain staffing for the 24-week Covered Period. Conversely, the 24-week period allows more time to retain or rehire employees if necessary. Consult with your legal and/or financial advisor for advice on which Covered Period you should select.

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## 10. Is there another way to determine the Covered Period?

Yes, but only for businesses that use a biweekly or more frequent payroll schedule. Those businesses may calculate eligible Payroll Costs using an Alternative Payroll Covered Period. This alternative period begins on the first day of the first pay period after the PPP Loan distribution date. The Alternative Payroll Covered Period is for Payroll Costs only; Covered Mortgage Obligations, Covered Rent, or Covered Utilities are not determined using this schedule and are subject to the Covered Period described in FAQ 9.

## 11. What is Form 3508EZ?

In an effort to streamline the loan forgiveness process, businesses that fall into any one of the following categories are eligible to use the shortened Loan Forgiveness Application, Form 3508EZ. For full descriptions of these categories, see the PPP Loan Forgiveness Application [Form 3508 Instructions](#) for Borrowers.

Self-employed individuals with no employees;

Businesses that did not reduce the salary or wages of any employee by more than 25% and did not reduce the number of employees or average paid hours for their employees;

Businesses that experienced reductions in business activity as a result of health directives related to COVID-19 and did not reduce salary or wages of any employee by more than 25%.

Businesses using form 3508EZ will be required to make the same representations and certifications that the loan was justified and used appropriately.

## Forgiveness Eligibility

### 12. What part of my Covered Loan will be forgiven?

The SBA will potentially forgive the amount that your business used during the Covered Period for Payroll Costs, payments for interest on any Covered Mortgage Obligation, and payments made for Covered Rent Obligations and Covered Utilities up to the full principal amount of your loan. Payroll Costs must account for at least 60% of the forgiveness amount. If Nonpayroll Costs (Covered Mortgage Obligations, Covered Rent, and Covered Utility Payments) are more than 40% of the total forgiveness amount, the maximum amount of forgiveness you qualify for is reduced proportionally.

### 13. Is loan forgiveness available for owner-employees' and self-employed individuals' payroll compensation?

Yes, compensation for owner-employees and self-employed individuals is included within Payroll Costs, but it is subject to limits imposed by the CARES Act. Such compensation is capped at a certain percentage of the individual's 2019 compensation across all businesses. For an eight-week Covered Period, the cap is eight weeks' worth of your 2019 net profit, with a maximum of \$15,385. For a 24-week Covered Period, the cap is two and a half months' worth of your 2019 net profit, for a maximum of \$20,833.

Compensation calculations for owner-employees or partners varies, in each case subject to the maximum caps mentioned above.

If you are the owner-employee of a C-corporation, your maximum payroll expense is the amount of your 2019 employee cash compensation and employer-retirement and health insurance contributions made on your behalf.

If you are the owner-employee of an S-corporation, your maximum payroll expense is the amount of your 2019 employee cash compensation and employer-retirement contributions made on your behalf. Employer health insurance contributions made on your behalf cannot be separately added because those payments are already included in your employee cash compensation.

If you are a schedule C or F filer, your maximum payroll expense is the amount of your owner compensation replacement, calculated based on 2019 net profit.

If you are a general partner, your maximum payroll expense is your 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.

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For self-employed individuals, including Schedule C or F filers and general partners, retirement and health insurance contributions are included in net self-employment income and cannot be separately added to payroll calculations.

For more detailed explanations, click [here](#) to see Question #8 of the Loan Forgiveness Payroll Costs FAQs published by the SBA on August 11, 2020.

#### **14. Can I receive forgiveness for eligible costs that are paid after the Covered Period?**

Yes. Eligible Nonpayroll Costs must be: (1) paid during the Covered Period, or (2) incurred during the Covered Period and paid on or before the next regular billing date, even if that date is after the Covered Period. In the second case, only the portion of the costs incurred during the Covered Period qualify for forgiveness (so the amount eligible for forgiveness may not be the entirety of the expense paid on or before the billing date immediately following the Covered Period). Similarly, eligible Payroll Costs that you incurred, but did not pay during the Covered Period or Alternative Payroll Covered Period, may be forgiven if you pay them on or before the next regular payroll date.

#### **15. I renewed a lease and refinanced my mortgage loan after February 15, 2020. Are these costs still eligible for forgiveness?**

Yes. If a lease that existed prior to February 15, 2020 would have expired on or after February 15, 2020 and was renewed, the lease payments made on the renewed lease during the Covered Period are eligible for loan forgiveness. Similarly, if a mortgage loan on real or personal property that existed prior to February 15, 2020 is refinanced on or after February 15, 2020, the interest payments on the refinanced mortgage loan during the Covered Period are eligible for loan forgiveness.

## Calculating Payroll Costs

### 16. Who qualifies as a full-time employee?

Full-time employees are those who work 40 hours or more, on average, each week.

### 17. How do I calculate the total number of my business's full-time employees?

An employee who works an average of 40 or more hours a week counts as 1.0 full-time employee. Employees who work less than 40 hours per week (part-time employees) are calculated by dividing the average number of hours worked by 40. For example, a part-time employee that averages 24 hours per week each counts as 0.6 employees (24 divided by 40 equals 0.6). Alternatively, a borrower may choose to count all part-time employees as 0.5 employees. If you opt to count any part-time employees in this way, you have to count all of your part-time employees in this way, even if they work varied hours on average each week. The part-time employees' proportions are added together to determine an equivalent number of full-time employees.

### 18. How is the Reference Period for Line 11 of Schedule A determined?

You choose your desired Reference Period. You may choose either: (a) February 15, 2019 to June 30, 2019; (b) January 1, 2020 to February 29, 2020; or (c) for seasonal employers, either of the first two periods or any consecutive 12-week period between May 1, 2019 and September 15, 2019.

### 19. When calculating Payroll Costs, how should I account for federal taxes deducted from employee pay?

Under the CARES Act, Payroll Costs are not reduced by taxes that are deducted from an employee's gross wages. For example, an employee who earned \$4,000 in gross wages would be counted as for \$4,000 in Payroll Costs, even if she owed \$500 in federal taxes. However, any employer-paid payroll taxes imposed are excluded from Payroll Costs.

### 20. If I increased wages for tipped employees during the Covered Period, am I eligible for forgiveness on the higher wage amount?

Yes. If you compensated for loss of tips by increasing the wages of your tipped employees, those increased wages will count toward your forgivable Payroll Costs.

## Reductions to Forgiveness Amounts

### 21. Why might I not receive full loan forgiveness?

The CARES Act requires certain reductions in your loan forgiveness amount based on reductions in full-time equivalent employees or in employee salary and wages during the Covered Period. Additionally, reductions will occur if you fail to spend at least 60% of your PPP funds on Payroll Costs during the Covered Period or fail to provide documentation to substantiate your forgivable expense amounts. Lastly, the amount of loan forgiveness cannot exceed the principal balance of the Covered Loan outstanding at the time you apply for forgiveness.

### 22. What is an EIDL advance? How does it impact my loan forgiveness?

EIDL stands for Economic Injury Disaster Loan advance, for which small business owners were able to apply for up to \$10,000. This advance is different from the loans disbursed under the PPP. If you received an EIDL advance, the amount of that advance will be deducted from the forgiveness amount when it is paid to the Lender. As a result, you may not receive 100% forgiveness, even if you otherwise qualify. For more details, see Questions #1 – 3 of the EIDL FAQs published by the SBA on August 11, 2020, available [here](#).

### 23. How much will my loan forgiveness amount be reduced if I fail to meet the 60% Payroll Costs threshold during the Covered Period?

Even if you do not meet the 60% threshold for Payroll Costs, you may still receive partial forgiveness. Your forgiveness amount will be lowered to the point that Payroll Costs make up 60% of the total forgiveness amount.

For example, if you receive a \$100,000 loan and spend \$54,000 (or 54 percent) of the loan on payroll costs during the Covered Period, then the maximum loan forgiveness you can receive is \$90,000 (with \$54,000 in Payroll Costs constituting 60 percent of the forgiveness amount and \$36,000 in eligible Nonpayroll Costs constituting 40 percent of the forgiveness amount).

### 24. How will a reduction in the number of full-time employees affect the amount of loan forgiveness?

A reduction in full-time employees during the Covered Period will reduce the amount eligible for loan forgiveness. The reduction is calculated by dividing the average number of full-time employees during the Covered Period by the average number of full-time employees before the Covered Period, and then multiplying that amount by the original forgiveness amount.

For example: If you normally employ 100 full-time (or full-time equivalent) employees, but during the Covered Period you only employ 50 full-time (or full-time equivalent) employees, you would divide 50/100 for a result of 0.5. You would then multiply that number by your forgiveness amount to determine the total

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forgiveness you are entitled to. You may be exempt from this reduction based on certain circumstances (see FAQs 26 - 29). For more details, see Question #1 of the Loan Forgiveness Reductions FAQs published by the SBA on August 11, 2020, available [here](#).

## 25. How will reductions in salary or wages affect the amount of loan forgiveness?

Your amount of loan forgiveness will be lowered by the amount of any reduction in excess of 25% of the total salary or wages of any employee who did not receive, during any single pay period of 2019, wages or salary that would amount to an annualized rate of pay of \$100,000 or more. You must reduce the amount of total forgiveness requested by the dollar amount of wages or salary reductions in excess of 25% when comparing the Covered Period to the Reference Period (see FAQ 18). This reduction must be calculated on an individual employee basis rather than considering all employees together. You may be exempt from this reduction based on certain circumstances (see FAQ 30).

The salary/wage reduction here applies only to the decline in employee salary and wages that is not attributable to the reduction of full-time employees accounted for in the previous question. This ensures that you will not be punished doubly for the same employee's decreased pay.

For example, you may have a full-time salaried employee whose pay was reduced during the Covered Period from \$50,000 per year to \$35,000 per year, despite remaining a full-time employee. If you did not restore that employee's salary by December 31, 2020, you may face a reduction in your forgiveness amount. For more detailed examples, see Question #4 of the Loan Forgiveness Reductions FAQs published by the SBA on August 11, 2020, available [here](#).

## 26. If I laid off an employee and later offered to rehire them, but they declined, will I receive a reduction in my loan forgiveness amount?

No. If you made a good-faith, written offer of employment for the same salary/wages and hours as the employee's last pay period prior to dismissal, and the employee rejected employment, you will not receive a reduction in the total loan forgiveness amount. You will need to maintain records of this interaction to prove the attempt to rehire the employee and their rejection of the offer.

Note that you are required to inform the applicable state unemployment insurance office of any rejected rehire offer within 30 days of that rejection. You must also retain record of this interaction.

## 27. Will I receive a reduction if an employee was fired for cause or chose to leave the business?

No. Your loan forgiveness amount will not be reduced if an employee was fired for cause, voluntarily resigned, or requested a reduced schedule during the Covered Period or Alternative Payroll Covered Period.

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**28. Will my loan forgiveness be reduced if I am unable to find suitable employee replacements?**

No. If you are unable to rehire former employees and cannot fill their roles with similarly qualified persons, that former employee will not count against you when determining the full-time employee total used when calculating any reduction of loan forgiveness.

**29. Will my loan forgiveness be reduced if I am unable to operate at the same level as pre-pandemic due to health and safety concerns?**

No. You will not face reductions if employee(s) cannot be rehired due to compliance with official standards, as established by the U.S. Department of Health and Human Services, the Centers for Disease Control and Prevention, or the Occupational Safety and Health Administration, relating to worker or customer safety requirements concerning COVID-19. The circumstances of reduction in business can be a direct or indirect result of the health and safety guidelines, but you must maintain documentation and your good faith determinations regarding these circumstances.

**30. If I restore reductions in employee salaries and wages, can I avoid a reduction in my loan forgiveness amount?**

Yes. If you restore some or all salaries and wages by December 31, 2020, you are exempt from loan forgiveness reductions for those employees whose compensation has been returned to previous levels.

## Application Processing

### 31. What documents do I have to submit with my Application?

To apply for forgiveness from your PPP loan, you will have to provide documentation supporting your claims. This includes documentation of employees on payroll and their pay rates, payroll tax filings, and receipts verifying payments on mortgage obligations, rent, and utilities. See the Required Documentation tab for more information about what to submit with your Application.

You must keep all documentation regarding your PPP loan and subsequent forgiveness for six years following forgiveness and/or repayment of the loan. The SBA may request any related documents for auditing or other purposes during this time.

### 32. What guidelines apply to my Loan Forgiveness Application?

Your Application will be reviewed under forgiveness guidelines that are in effect at time of its submission.

### 33. Can I apply for loan forgiveness before the end of the Covered Period?

Yes, you can apply for forgiveness before the end of the Covered Period, assuming you have already used the full amount of the loan proceeds for which you will apply for forgiveness. If you plan to apply for forgiveness before your Covered Period ends, however, and have reduced any employee's salaries or wages by more than 25 percent, you must account for the excess salary reduction for your full Covered Period when calculating the forgiveness amount, regardless of when you apply.

### 34. Why did I receive a notice asking for more information?

We reviewed your Application and its supporting documents and found that you are missing the items listed on your notice. To complete your Application, you must provide the missing items within 21 days of the date of notice. We will then review your response to determine whether it completes your Application.

### 35. The SBA is reviewing my PPP Loan. What does that mean?

The SBA may choose to review your PPP Loan in its discretion and at any point. While an SBA review is ongoing, we cannot approve an Application submitted to us. We can only deny it without prejudice. Once the SBA review is complete, we will make a final determination on your Application.

### 36. When is the latest I can file my Loan Forgiveness Application?

You may file any time on or before the maturity date of the loan, however, you will have to begin making payments on the loan 10 months after the last day of the Covered Period if you have not yet applied for forgiveness at that time.

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### 37. When will I know if my Covered Loan will be forgiven?

Within 60 days of receiving a completed Application, subject to review by the SBA, we will notify you of the amount of the Covered Loan we have determined is eligible for forgiveness. The SBA has an additional 90 days to review your Application and has the right to overrule our determination. If your Application is not complete, we will issue a notice to you stating what items you need to submit to finish your Application.

### 38. Can I challenge the decision for my Loan Forgiveness Application?

If we deny your forgiveness application in full, you may request that the SBA review that decision. You must make this request within 30 days of receiving our denial determination. We will notify you if the SBA decides it will not review your denial. If the SBA accepts the request, it will notify you of the results of its review. Our decision that you qualify for only partial forgiveness is not reviewable.

If the SBA determines that (a) you are an ineligible borrower under PPP, (b) you are ineligible for the loan amount received or PPP proceeds were used for unauthorized purposes, (c) you are not entitled to the forgiveness amount we have decided, or (d) we are correct that you are not entitled to any forgiveness, you may appeal the SBA's decision to the Office of Hearings and Appeals ("OHA").

### 39. What happens after my loan is forgiven?

If the SBA agrees with our forgiveness determination, it will remit the forgiveness amount to us within 90 days after we submit the Application to the SBA. We will notify you when we receive those funds. The amount for which the Covered Loan is forgiven will be considered a canceled debt.

### 40. If any part of my loan is not forgiven, how long do I have to pay back the remaining balance?

If any portion of a loan granted before June 5, 2020 is not forgiven, you must repay the remaining balance on or before the two-year maturity of the loan. If the loan was approved on or after June 5, 2020, the loan must be repaid on or before the five-year maturity. In either case, we will notify you of the monthly payment amount and when those payments begin. For loans approved before June 5, 2020, you may request that we match the five-year term given to later loans.

### 41. Do I have to complete the Demographic Information Form?

No. The PPP Borrower Demographic Information Form is optional. If you want to complete the form, you may click the Return to Demographic Information button that is available when filling out your Application. The information you provide on this page will be sent to the SBA with your Loan Forgiveness Application.

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#### 42. What consequences could I face if I improperly use PPP funds?

If you do not use PPP funds for authorized purposes, SBA will direct you to repay the loan amount. If you knowingly used the PPP funds for unauthorized purposes, then additional liability, such as fraud, will be issued. Furthermore, knowingly making false statements to obtain forgiveness for an SBA loan can result in a maximum of five years in prison and/or a \$250,000 fine.

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