

FREQUENTLY ASKED QUESTIONS ABOUT THE SMALL BUSINESS ASSOCIATION'S PAYCHECK PROTECTION PROGRAM- FORGIVENESS PROCESS

The following Frequently Asked Questions are provided for informational purposes. Due to the evolving nature of the loan program, this information is subject to change without notice. This information does not constitute legal advice and First Bank recommends that you consult with your legal, accounting and tax professionals to address any specific questions you may have.

Timelines:

- 1) How long does a borrower have to apply for forgiveness, is it still June 30th?
June 30th was the former date to apply for forgiveness and that date no longer applies. Borrowers have 90 days from the last day of the Covered Period to apply for forgiveness by completing the SBA Forgiveness Application (3508) including Schedule A, and supplying all required documentation to their lender.
- 2) How long does the bank have to approve the forgiveness request?
Banks have 60 days to validate the requested forgiveness amount, after a complete forgiveness package is received, and to request forgiveness funds from the SBA.
- 3) How long does the SBA have to approve the forgiveness request?
The SBA has 90 days to review, approve, and supply forgiveness funds.

Covered Period and Alternative Payroll Covered Period:

- 1) What is the Covered Period? **(New 6/8/20)**
The Covered Period is 8 weeks (56 days) from the date the PPP loan is funded.
The PPP Flexibility Act has provided 24 weeks for the Covered Period.
- 2) What is the Alternative Payroll Covered Period? **(New 6/8/20)**
The Alternative Payroll Covered Period is the period beginning on the first payroll date after the PPP loan is funded and running a consecutive 56 days or 8 weeks. **The PPP Flexibility Act has provided 24 weeks for the Alternative Payroll Covered Period.**
- 3) Does the use of the terms “paid or incurred” mean that a borrower is able to use more than eight weeks of payroll cost for forgiveness purposes?
Yes. The addition of the word “incurred” does extend the allowable payroll cost outside of the 8 week covered period. Example: A borrower has a bi-weekly payroll schedule (every other week). The borrower’s eight-week covered period begins on June 1 and ends on July 26. The first day of the borrower’s first payroll cycle that starts in the covered period is June 7. The borrower may elect an alternative payroll covered period for payroll cost purposes that starts on June 7 and ends 55 days later (for a total of 56 days) on August 1. Payroll costs paid during this alternative payroll covered period are eligible for forgiveness. In addition, payroll costs incurred during this alternative payroll covered period are eligible for forgiveness as long as they are paid on or before the first regular payroll date occurring after August 1. Payroll costs that were both paid and incurred during the covered period (or alternative payroll covered period) may only be counted once.

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- 4) How do I determine whether to use the Covered Period or Alternative Payroll Covered Period?
We recommend that you calculate both options and choose the one that best benefits your business as both options allow for paid and incurred payroll expenses.
- 5) Does the use of the terms “paid or incurred” mean that a borrower is able to use more than covered period of non-payroll costs for forgiveness purposes?
Example using 8 week covered period; the same would hold true for a 24 week covered period. Yes, the use of the word “incurred” does extend the allowable non-payroll costs outside of the 8 week covered period. Example: A borrower’s covered period begins on June 1 and ends on July 26. The borrower pays its May and June electricity bill during the covered period and pays its July electricity bill on August 10, which is the next regular billing date. The borrower may seek loan forgiveness for its May and June electricity bills, because they were paid during the covered period. In addition, the borrower may seek loan forgiveness for the portion of its July electricity bill through July 26 (the end of the covered period), because it was incurred during the covered period and paid on the next regular billing date.
- 6) How do I determine the reference period for a business that began on 1/1/20?
You would use the reference period 1/1/20-2/29/20.
- 7) **The PPP Flexibility Act extends the covered period from 8 weeks to 24 weeks. Is there an option to choose a covered period between 8 weeks and 24 weeks? (New 6/8/20)**
We are awaiting the final rules from the SBA before we have clarification if the covered period can be between 8 weeks and 24 weeks.

Payroll Expenses for Cash Contributions component of Forgiveness calculation:

- 1) What is included in Payroll Expenses?
The following categories are included:
 - Gross Salary
 - Gross Wages
 - Gross Commission or similar compensation
 - Gross Tips or the equivalent based on employer records of past tips, or reasonable good-faith estimate
 - Paid leave not including leave covered by the Families First Coronavirus Response Act
 - Allowances for separation or dismissal
 - Payment for provision of employee benefits consisting of group health coverage, including insurance premiums, and retirement
 - Payment of state and local taxes assessed on compensation of employees
- 2) Are Commissions included?
Yes, gross commissions are included.

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3) Are Bonuses allowable and included?

Bonuses are not excluded. 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. We recommend you document the bonuses.

4) Is Workman's Compensation included?

Yes, workman's compensation is considered an insurance premium and can be included.

5) **Are other insurance expenses like General Liability Insurance an insurance expense?
(New 6/8/20)**

Only employee related insurance expenses are an allowable payroll expense for forgiveness. General Liability would not be included.

6) Are 1099 employees included?

No, 1099 employees are not included in the Schedule A Worksheet. They are not included in the FTE count nor can their costs be included in the Cash Contribution component. 1099 employees were eligible to apply for their own PPP Loan.

7) Can 401K expenses be pre-paid?

Payroll expenses that are paid and incurred are allowable expenses.

8) If we hold money in a money market for PTO that employees accrue can that be included?

Yes, the payroll cost for PTO is an allowable expense that the business actually paid.

9) What is the maximum or cap for self-employed individuals and owner-employees?

No more than the lesser of 8/52 of 2019 compensation or \$15,385 per individual in total across all businesses. 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.

- Owner Employees: Capped by the amount of their 2019 employee cash compensation and employer health care contributions made on their behalf.
- Schedule C filers: capped by the amount of their owner compensation replacement, calculated based on 2019 net profit.
General Partners: 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.

10) **Will the \$15,385 maximum compensation be increased to align with the 24 week covered period? (NEW 6/8/20)**

We have not seen the final rule yet, but we assume the amount will be adjusted to the \$100,000 annual cap annualized over a 24 week period or \$46,153.

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11) Can I use more than 60% of the PPP funds for payroll and still qualify for forgiveness?

(New 6/8/20)

Yes, the minimum amount to qualify for full forgiveness is 60%, you can certainly use more than 60% of the loan proceeds for payroll and be eligible for forgiveness.

12) If I use less than 60% of the PPP funds for payroll costs, may I still qualify for forgiveness?

Yes, but the full amount of the loan will not be forgiven. To receive full loan forgiveness, a borrower must use at least 60 percent of the PPP loan for payroll costs. For example, if a borrower receives a \$100,000 PPP loan, and during the covered period the borrower spends \$54,000 (or 54 percent) of its loan on payroll costs, then because the borrower used less than 60 percent of its loan on payroll costs, the maximum amount of loan forgiveness the borrower may receive is \$90,000 (with \$54,000 in payroll costs constituting 60 percent of the forgiveness amount and \$36,000 in non-payroll costs constituting 40 percent of the forgiveness amount).

13) Can we include 'old' payroll taxes we are currently paying?

Yes, as they are being paid in the covered period.

14) We have a simple IRA with 3% matching by the end of the year, can we include the 3% matching for the employees that made contributions to their plan during the 8 week period, although the 3% matching has not been paid yet?

If you accrue the contribution, you can include the amount paid or incurred during the 8 week period. Incurred expenses must be paid at next scheduled payment date. We recommend documenting past practices on paying and accruing these contributions and remain consistent with past practices. Making the cash contribution in the covered period would provide justification.

15) We give a housing allowance as part of payroll but we pay the landlord directly can we include this as payroll costs?

If this allowance is documented in the employment agreement, and you can provide that documentation we believe you can include it.

16) When identifying the payroll cost for forgiveness, can you use what you pay to part-time people, even if it was only FTE on the original application?

Yes, the Schedule A Worksheet has guidance for tracking the cash compensation and FTE calculations. You would include all employees both full time and part time.

17) Is there any impact if the employees are now working from home?

No, the work location of the employee is not a factor in the calculations.

Other Allowable Expenses:

1) What are the non-payroll eligible expenses?

Mortgage Interest paid or incurred including interest on debt incurred before 2/15/20 and secured by real or personal property.

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Rent or lease expense paid or incurred on obligations incurred before 2/15/20.
Utility costs paid or incurred including; water, gas, electric, telephone, internet and transportation for which service began before 2/15/20.

- 2) Are internet fees included in utilities?
Yes, internet fees can be included in utilities expense.
- 3) Are cell phone fees included in utilities?
Yes, the IFR did not exclude cell phones so this is an allowable expense for telephone utility.
- 4) What is allowed for transportation expense?
We are expecting additional guidance on transportation expense from the SBA.
- 5) Can rent be prepaid for the year?
Expenses need to be paid and incurred in the Covered Period.
We don't believe prepaying rent would be an allowed expense.
- 6) Are equipment leases included?
Yes, equipment leases can be included in the rent/ lease category.
- 7) Can we include parking paid to our landlord as a rent expense?
If this is part of the rental agreement it can be included. The rent agreement must be included in the documentation provided along with proof of payment.
- 8) Are CAM and property taxes paid as part of rent considered 'business rent'?
We are still awaiting guidance on this.
- 9) My business has significant costs for hosting services via Azure. Can these costs be included as non-payroll eligible costs such as utility or rental?
No, this expense should not be considered a rental or lease cost nor a utility cost.
- 10) Are we allowed to use the non-payroll portion of the PPP for equipment lease or loan payments or pay interest on those loans with these funds? (New 6/8/20)**
Non Payroll Expense includes rent or lease expense paid or incurred during the covered period. Equipment lease expense would be included. The principal portion of the loan payments are not permitted.

Documentation:

- 1) How do we substantiate rent and utility payments?
SBA guidance regarding business rent and lease payments includes providing copies of current lease agreements and receipts or cancelled checks verifying eligible payments from the covered period; or lessor account statements from February 2020 and from the covered period through one month after the end of the covered period verifying eligible payments.

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Business Utility payments include copies of invoices from February 2020 and those paid during the covered period and receipts, cancelled checks, or account statements verifying those eligible payments.

2) Will the SBA Form 3508 be updated to reflect the changes made by the PPP Flexibility Act? (New 6/8/20)

Yes. We are awaiting updated forms as well as Interim Final Rule from the SBA.

3) For the extension from 8-weeks to 24-weeks, is it automatic or are there forms/additional requirements? (New 6/8/20)

We are awaiting update to form 3508 and the Interim Final Rule from the SBA.

Loan Forgiveness Review:

1) Under what circumstances, would the loan forgiveness be denied?

Borrower must provide all documentation to validate the information provided on the Forgiveness Request Application (SBA 3508). The SBA has the right to review any loan and determine if the borrower was eligible to participate in the program. If the SBA determines that the borrower was not eligible then they can disallow the forgiveness and require the loan be paid in full.

The forgiveness amount can be reduced based on statutory requirements concerning:

- Reductions in employee salary and wages
- Reductions in payroll and payroll costs from the reference period to the covered period
- Reductions in full-time equivalent employees
- And the ratio of payroll costs to other costs (minimum of 60% to payroll and max 40% to other)

Economic Impact Disaster Loan (EIDL)

1) We received an EIDL loan concurrently with the PPP Loan. How does EIDL impact PPP?

It should not impact the PPP loan, if you received any EIDL grant and properly considered that when applying for the PPP there should be no impact.

Other:

1) Has it been determined yet if the amount forgiven will be classified as taxable revenue during the tax year it is forgiven? (New 6/8/20)

This issue still needs to be addressed. The CARES Act specifically stated the PPP Loan Forgiveness was not a taxable event; however, the IRS rules provide that the expenses that offset the loan forgiveness cannot be used as a taxable expense. Congress will need to act on this issue.

How do I determine my First Bank Relationship Manager?

Contact your nearest branch manager; or contact First Bank Service Center 1-800-760-2265; or request help through the Contact Us form on www.Firstbanks.com



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