



# Paycheck Protection Program (PPP) Loan Forgiveness

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# Agenda

1. Introduction to PPP loan and forgiveness - Todd
2. Introduction of firm and presenters - Todd
3. What application is right for me - Chad
  - a) PPP Loan forgiveness Application SBA Form 3508 (06/20)
  - b) PPP Loan forgiveness Application SBA Form 3508EZ (06/20)
4. Documentation requirements - Chad
5. Key Terminology Owner-employee rules - Candus
6. Full Time Equivalent - Candus
  - a) Calculations
  - b) Exemptions/Safe Harbors
7. Tax Implications - Todd
8. Key Dates/Resources Candus
9. Q & A

# Paycheck Protection Program Facts

- The total amount of available funds in the first round of funding was \$349 billion. That money was exhausted in just 14 days.
- An additional \$310 billion was approved on April 24, 2020.
  - A month into the second round there was still more than \$120 billion left unallocated to small businesses.
- In total, more than 5.1 million businesses received PPP funds before the program ended.

# Paycheck Protection Program Facts

- The program closed effective August 8, 2020 with no new applications accepted.
- The SBA will forgive loans if all employee retention criteria are met and the funds are used for eligible expenses.
- PPP loans have an interest rate of 1% if entity does not qualify for loan forgiveness.
  - Loans issued prior to June 5, 2020 have a maturity of two years.
  - Loans issued after June 5, 2020 have a maturity of five years.
    - Discuss repayment terms with your lender, potentially extending the two year term to five years.

# Applications – EZ vs Long Form

- Form 3508EZ
  - Self-employed individuals who had no employees at the time of the PPP loan application automatically qualify
  - The Borrower did not reduce annual salary or hourly wages of any employee by more than 25 percent during the Covered Period
    - **AND** The Borrower did not reduce the number of employees or the average paid hours of employees between January 1, 2020 and the end of the Covered Period
  - The Borrower did not reduce annual salary or hourly wages of any employee by more than 25 percent during the Covered Period
    - **AND** The Borrower was unable to operate during the Covered Period at the same level of business activity as before February 15, 2020, due to COVID-19.

# Applications – EZ vs Long Form

- Form 3508 (Long Form)
  - FTE Calculation
  - Salary & Wage Reduction Calculation

# Required documentation

- Payroll
  - Report with total wages & hours by employee for the period 01/01/20 to 03/31/20
  - Report with total wages & hours by employee for the PPP loan covered period
    - (Date of Distributions + 56 days) OR (alternate payroll covered period)
  - Tax Forms (or equivalent third-party payroll service provider reports) for the periods that overlap with the covered period or alternative payroll covered period
    - Payroll tax filings reported or will be reported to the IRS (Form 941)
    - State quarterly business and individual employee wage reporting and unemployment insurance tax filings reported or that will be reported to relevant state (State Withholding, and State unemployment)

# Required documentation

- Full time equivalent (FTE)
  - Average Number FTE Employees on payroll per month between 02/15/19 to 06/30/19
  - Average Number FTE employees on payroll per month between 01/01/20 to 02/29/20
  - Seasonal employer can use FTE Employees on payroll per month during a consecutive 12 week period between 05/01/19 to 09/15/19



# Required documentation

- Mortgage Interest
  - Date(s) paid vendor paid, amount(s) paid(interest portion only)
  - Copy of lender amortization schedule and receipts or cancelled checks verifying eligible payments from the covered period; or lender account statement from
  - February 2020 and all months of covered period.

# Required documentation

- Rent or lease payments
  - Copy of current lease agreement 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.
- Business utility payments
  - Copy of invoices from February 2020 and those paid during the covered period and receipts, cancelled checks, or account statements verifying those eligible payments.

# Key Terminology

- Utilities
  - Sec.1106(a)(5)
    - Electricity
    - Water
    - Gas
    - Transportation
    - Telephone
    - Internet
  - Interim Final Rule Additional Eligibility Criteria and Requirements for Certain Pledges of Loans (originally posted 4/14/20) (Revision 08/04/20)
    - Fuel used when driving a business vehicle
- Payroll costs
  - Gross wages
  - Company paid
    - Retirement contribution (401K, IRA)
    - Health, dental, vision Insurance premiums
    - Health Savings contributions
    - State and Local company taxes
      - State unemployment
      - Modified Business Tax (NV)
- Ineligible payroll costs
  - Company paid Social Security & Medicare taxes
  - Federal unemployment taxes (FUTA)
  - Workers compensation insurance

# Key Terminology

- Related party rent
  - Is allowed, but can be limited.
  - Limited to the mortgage interest paid on the property during the covered period.
  - Example
    - Rent paid \$2,500 during covered period to Holdings LLC from Operating Inc.
    - Holdings LLC is a related party.
    - Holdings LLC has a mortgage on the building it leases and paid interest of \$500 during the covered period.
    - Only \$500 is eligible for forgiveness.
- Accrued Interest on PPP Loan
  - Timely file a forgiveness application.
  - No loan payments until the forgiveness amount is paid to the lender by the SBA.
  - Fully forgiven loans have no interest due by borrower.
  - Interest accrues from date of disbursement.
  - Interest on any amount of loan that is not forgiven is paid by borrower.

# Owner Compensation Eligible for Forgiveness

## Owner-employee definition

- <https://home.treasury.gov/system/files/136/PPP--Loan-Forgiveness-FAQs.pdf>
- FAQ#8

	8 Weeks	24 weeks
Non-owner EE	15,385	46,154
Owner-employee	15,385	20,833

- S Corporations:
  - Additional limitations of 2019 cash compensation x 2.5/12.
  - Example if in 2019 only \$50,000 of wages were paid to owner the max according to the chart is \$15,385, and 20,833, but due to low compensation the limit is actually \$10,417
- S Corp & C Corp
  - Exempt owners with less than 5% ownership are not subject to the owner-employee compensation rule.

# Owner Compensation Eligible for Forgiveness

## Non-Cash Compensation of Owners

	Eligible?		
	Health & other Ins	Retirement	State & Local Tax (3)
Self-employed (Schedule C/F)	No	No	No
General Partner	No	No	No
S Corp owner-employee	No(1)	Yes (2)	Yes
Family member of 2% S Corp Owner (4)	No(1)	Yes	Yes
C Corp Owner-Employee	Yes	Yes (2)	yes

(1) S Corp owner-employee and members health insurance would have been included in 2019 W-2 wages

(2) Retirement capped at 2.5/12 of 2019 contributions

(3) Taxes assessed on compensation (State unemployment, MBT (NV))

(4) Family attribution rules of 26 U.S.C 318 apply.

# Full Time Equivalent Employees (FTE)

- Any employees working at least 40 hours per week are counted as 1.0 FTE
- Any employee working less than 40 hours per week, you are given two options to calculate their full-time equivalency.
  1. Determine the number of hours the employee worked per week and divide by 40, rounding to the nearest tenth
  2. For each employee who worked less than 40 hours per week, they are automatically assigned a full-time equivalency of 0.5.

(This is the simplified approach which allows you to skip the math, but it could result in a lower FTE amount than if you choose the manual calculation provided in the previous option)

# Full Time Equivalents (FTE)

- Loan forgiveness will be reduced if the average number of FTEs during the covered period is less than the average number of FTEs for either of the following base
  - The period beginning on February 15, 2019 through June 30, 2019 or
  - The period beginning on January 1, 2020 and ending on February 29, 2020
  - A seasonal employer that elects to use a 12-week period between May 1, 2019 and Sept. 15, 2019



# Full Time Equivalents - Exceptions

- An employee who was offered a chance to return to a position but refused.
- An employee who was fired for cause or voluntarily resigned.
- An employee who voluntarily requested and received a reduction in hours

# Full Time Equivalents – Safe Harbor

The borrower is exempt from the reduction in loan forgiveness based on FTE employees

1. If the borrower, in good faith,
  - unable to operate between Feb. 15, 2020, and the end of the Covered
  - same level of business activity as before Feb. 15, 2020
  - due to compliance given by government, national and local. (i.e. HHS, OSHA, etc.)
    - Restaurants, bars, etc.
2. If both of the following conditions are met:
  - the borrower reduced its FTE employee levels in the period beginning Feb. 15, 2020, and ending April 26, 2020; and
  - the Borrower then restored its FTE employee levels by not later than Dec. 31, 2020 to its FTE employee levels in the Borrower's pay period that included Feb. 15, 2020.

# Qualified Expenses – 8 vs. 24 Weeks

- Loans received before June 5, 2020 have the option to choose between the 8 week and 24 week covered period.
  - Loans received on or after June 5, 2020 will be required to use the 24 week covered period.
- 8 Weeks
    - 60% – Payroll Expenses
    - 40% - Rent/Mortgage, Business Loan Interest, Utilities
  - 24 Weeks
    - 60% - Payroll Expenses
    - 40% - Rent/Mortgage, Business Loan Interest, Utilities

# Salary & Wage Reduction Examples = reduction in loan forgiveness

## Example 1: Salary reduction

Covered period in weeks (A)	24	8
Employee salary per week during Q1 2020	1,000	1,000
Employee salary per week during covered period	700	700
Reduction in salary/week	300	300
Threshold of 25%	250	250
Excess salary reduction per week (B)	50	50
Reduction in loan forgiveness = (A) times (B)	1,200	400

## Example 2: Hourly wage reduction

Covered period in weeks (A)	24	8
Employee hourly wage during Q1 2020	20	20
Employee hourly during covered period	14	14
Reduction in hourly wage	6	6
Threshold of 25%	5	5
Excess wage reduction (B)	1	1
Hours per week (C)	10	10
Reduction in loan forgiveness = (A) times (B) times (C)	240	80

# Effect of CARES Act on PPP Forgiveness

- CARES Act
  - FMLA & SICK pay
  - These gross wages are **not** eligible for forgiveness.
  - Example. During the covered period, John received wages of \$15,000; however \$1,600 was COVID sick pay. Only \$13,400 is eligible as payroll costs included in forgiveness calculation.
- Payroll Tax Deferral
  - Allows the employer to defer employer social security payments until 12/31/21 & 12/31/22.
  - Original rule required that deferral stop at the time of forgiveness.
  - New rule can defer all employer-required social security payments through 12/31/20.
- EIDL Advance/Grant
  - Will reduce the amount of PPP forgiveness.

# 2020 Tax Implications

- Per IRS Notice 2020-32, expenses reimbursed by a forgiven PPP loan are non-deductible.
- Forgiveness of the PPP loan proceeds will not be taxable but qualifying expenses for which loan proceeds were used will not be deductible and those expenses will be reduced on the books.
- Example:
  - A company receives \$100,000 of PPP loan proceeds and spends the entire amount on qualified expenses eligible for forgiveness.
  - The forgiveness of the \$100,000 loan is tax free.
  - As a result, the company must reduce the expenses for the qualified payroll and other expenses that are forgiven by \$100,000 resulting in the company being in the same position as if the forgiveness was taxable.

# Qualified Business Income Deduction Tax Implications

- Because expenses paid for using PPP loan proceeds are deductible, the business has the option to allocate, to a certain degree, what nondeductible expenses to use the forgivable funds for in order to maximize the tax benefit.
- The Qualified Business Income Deduction (QBID) can be negatively affected due to the reduction in payroll expenses by decisions to allocate forgiven expenses between payroll costs, interest, rent and utilities. The 60% payroll cost threshold must be met; however, if the business has sufficient interest, rent and utility expenses to cover the remaining 40% of the loan proceeds, the business should reduce those costs instead of payroll costs.

# QBI Details

Taxable Income Before the QBID	Qualified Trade or Business (QTB)	Specified Service Trade or Business (SSTB)
MFJ above \$415,000 Others above \$207,500	The QBI Component is fully subject to the limitations.	QBI is phase out to \$0.
MFJ between \$315,000 and \$415,000 Others between \$157,500 and \$207,500	The QBI Component is partially subject to the limitations.	QBI is partially phased out, then the QBI component is partially subject to the limitations.
MFJ below \$315,000 Others below \$157,500	The QBI component is not limited.	

If the owner or partner in a business has income greater than the above threshold levels than there will be a limitation on his/her 2020 QBI deduction amount. The QBI limitation is the greater of 50% of qualifying wages or 25% of qualifying wages plus 2.5% of the basis of qualified property.



# Determination:

- If the QBI limitations are applicable to your business it will generally be more beneficial for a business that received a PPP loan to use the 24 week covered period rather than the 8 week covered period in order to have time to incur sufficient non-payroll expenses.
- Using the 24 week covered period should give the business ample time to cover the 60% payroll requirement and have sufficient interest, utilities and rent expense to cover the remaining 40% of the loan proceeds.

# Deadlines and Due Dates

- Borrowers Forgiveness Application
  - 10 Months after end of the loan covered period.
  - For example, if the last day of the 24-week period for a borrower is November 1, 2020, the forgiveness application would need to be filed by September 1, 2021.
  - Payment for any portion of loan deem ineligible for forgiveness will not be required until after the forgiveness application is submitted
- Lenders (Banks)
  - 60 days to Process PPP loan forgiveness applications and submit to SBA
- SBA
  - 90 days to review the lenders submittals
  - For example, borrower submit forgiveness application on 09/01/21 Lender has until 11/01/21 to submit and SBA has until 02/01/2022 to approve.

# Resources

- <https://home.treasury.gov/system/files/136/PPP-Forgiveness-Application-3508EZ.pdf>
- <https://home.treasury.gov/system/files/136/3245-0407-SBA-Form-3508-PPP-Forgiveness-Application.pdf>
- <https://home.treasury.gov/system/files/136/PPP--Loan-Forgiveness-FAQs.pdf>
- <https://future.aicpa.org/resources/article/sba-paycheck-protection-program-ppp-faqs>
- <https://www.accountingtoday.com/news/aicpa-and-cpa-com-provide-ppp-loan-forgiveness-tool>



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# Thank You!

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**If you have any questions please contact**

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