

Paycheck Protection Program (PPP)

Questions from our PPP webinar:

- 1. Economic injury disaster loans (grants) (EIDL) effect on PPP loan forgiveness**
- 2. What happens if a company goes out of business after obtaining a PPP loan?**
- 3. Calculating full-time equivalent employee (FTEE) Examples**

PPP Brief Background

SBA released the PPP Forgiveness Application with Instructions on May 15, 2020.

content.sba.gov/sites/default/files/2020-05/3245-0407%20SBA%20Form%203508%20PPP%20Forgiveness%20Application.pdf

(Clickable link included below the video)

On to the Questions...

Economic injury disaster loans (or grants) (EIDL) affect on PPP Loan Forgiveness

- ◆ If received an SBA EIDL loan from 1-31-20 through 4-3-20, could apply for a PPP loan.
- ◆ If EIDL loan was ***not*** used for payroll costs, it does ***not affect*** eligibility for PPP.
- ◆ If EIDL loan ***was used*** for payroll costs, PPP loan ***must be used*** to refinance your EIDL loan.
- ◆ If the business also receives a PPP loan, or refinances an EIDL into a PPP loan, **any EIDL grant amount will be subtracted from the amount forgiven in the PPP loan.**
- ◆ Businesses cannot use EIDL for same purpose as its PPP loan. For example, if the business used EIDL to cover payroll for certain workers in May, it can't use PPP proceeds for payroll for those same employees in May, but it could have been used for payroll in a different month or for different employees in May.

On to the Questions...

What happens if a company goes out of business after obtaining a PPP?

- ◆ The PPP loans are 100% guaranteed by the SBA, require no collateral nor do they require a personal guarantee.
- ◆ Sounds like you're Scott-free if you go under, right? Maybe or maybe not.....

Be careful! In researching the question, this author discovered that some lenders may 'tack on' a PPP loan to other borrowing the client had with the same lender. In essence, this causes the PPP loan to be covered by the same collateral as other borrowing the client may have with the same lender....this is sometimes referred to as a ***dragnet clause***.

Moral of the story....did it make sense to get the PPP loan from the same bank where the borrower does his other banking and borrowing business? Perhaps the answer is 'no'.

FTEEs: Number of Employees Test

Calculating full-time equivalent employees (FTEEs)

1. If your client continues payroll during the pandemic period (in other words, business as usual, this calculation is not necessary for you)
2. Remember the goal of the PPP program is to give a business a short-term shot of adrenaline (aka money) to keep the business operating and employees paid in the short term...

FTEEs: Number of Employees Test

Calculating full-time equivalent employees (FTEEs)

Step 1 (After completing the names and ID numbers on the form)

Cash Compensation: Enter sum of gross salary, gross wages, gross tips, gross commissions, paid leave (vacation, family, medical or sick leave, not including leave covered by the Families First Coronavirus Response Act), and allowances for dismissal or separation paid or incurred during the **Covered Period** or the **Alternative Payroll Covered Period**.

- ◆ For each individual employee, total amount of cash compensation eligible for forgiveness may not exceed an annual salary of \$100K, as prorated for the Covered Period.
- ◆ Therefore, do not enter > \$15,385 in Table 1 or Table 2 for any individual employee.

FTEEs: Number of Employees Test

Calculating full-time equivalent employees (FTEEs)

Step 1 (After completing the names and ID numbers on the form)

Covered Period: Enter 8-week (56-day) Covered Period of PPP loan. First day of Covered Period must be same as PPP loan disbursement date.

For example, if Borrower received its PPP loan proceeds on 4-20-20, the first day of the Covered Period is 4-20-20 and last day of the Covered Period is 6-14-20.

FTEEs: Number of Employees Test

Calculating full-time equivalent employees (FTEEs)

Step 1 (After completing the names and ID numbers on the form)

Alternative Payroll Covered Period: For administrative convenience, Borrowers with a biweekly (or more frequent) payroll schedule may elect to calculate eligible payroll costs using the 8-week (56-day) period that begins on the first day of their first pay period *following* their PPP Loan disbursement date (the “Alternative Payroll Covered Period (**APCP**)”).

For example, if Borrower received its PPP loan proceeds on Monday, 4-20-20, and the first day of its first pay period following its PPP loan disbursement is Sunday, 4-26-20, the first day of the **APCP** is 4-26-20 and the last day of the **APCP** is Saturday, 6-20-20.

Borrowers who elect to use the **APCP** must apply the **APCP** wherever there is a reference in this application to “the Covered Period or the Alternative Payroll Covered Period.”

FTEEs: Number of Employees Test

Calculating full-time equivalent employees (FTEEs)

Step 2: Average FTEE:

Calculate the average full-time equivalency (FTEE) during the Covered Period or the Alternative Payroll Covered Period.

How: For each employee, enter average number of hours paid per week, divide by 40, and round total to nearest tenth. Maximum for each employee is capped at 1.0.

At the election of the Borrower, a **simplified method** may be used that assigns a 1.0 for employees who work 40 hours or more per week, and 0.5 for employees who work fewer hours.

FTEEs: Number of Employees Test

Calculating full-time equivalent employees (FTEEs)

Step 2: Average FTEE:

This calculation is used to determine whether Borrower's loan forgiveness amount must be reduced due to a statutory requirement concerning reductions in FTEE. Borrowers are eligible for loan forgiveness for certain expenditures during the Covered Period or Alternative Payroll Covered Period.

However, actual loan forgiveness amount that Borrower will receive may be less, depending on whether Borrower's average weekly number of FTEE during the Covered Period or Alternative Payroll Covered Period was less than during Borrower's chosen reference period.

The Borrower is exempt from such a reduction if FTEE reduction safe harbor applies.

FTEEs: Number of Employees Test

Calculating full-time equivalent employees (FTEEs)

Step 2: Average FTEE:

Chosen reference period.

For purposes of this calculation, the reference period is, at the Borrower's election, either

- (i) February 15, 2019 to June 30, 2019;
- (ii) January 1, 2020 to February 29, 2020; or
- (iii) In the case of seasonal employers, either of the preceding periods or a consecutive 12-week period between May 1, 2019 and Sept. 15, 2019.

FTEEs: Number of Employees Test

Calculating full-time equivalent employees (FTEEs)

If you end up with **same number** of employees (or more), **you're good to go.**

If you have **less employees** than 'test' period, the percentage by which you've decreased is the percentage of PPP loan proceeds that **can't be forgiven.**

For example, in the 'test' period you had 10 FTEEs and now you have 9 FTEEs; that's a reduction of 10%. Therefore, 10% of PPP loan proceeds are not eligible for forgiveness.

FTEEs: Number of Employees Test

Calculating full-time equivalent employees (FTEEs)

Step 2: Average FTE:

FTE Reduction Safe Harbor

A safe harbor under applicable law and regulation exempts certain borrowers from loan forgiveness reduction based on FTEE levels.

Specifically, Borrower is **exempt from reduction in loan forgiveness** based on FTEE described above if **both of the following conditions are met**:

- (1) Borrower reduced its FTEE levels in the period beginning Feb. 15, 2020, and ending Apr. 26, 2020; and
- (2) Borrower then restored its FTEE levels by not later than June 30, 2020 to its FTEE levels in Borrower's pay period that included Feb. 15, 2020.

Test #1: Result of Reduction in # of FTEEs

In addition to yourself, you have 3 employees, and each made \$3,000/month.

The PPP loan amount was \$22,500 ($3,000 \times 2.5$).

They were laid off in February.

Only 2 of the 3 employees were able to be hired back. FTEEs are two thirds (67%) of FTEEs in the 'test' period.

The owner is not considered in this test as an FTEE

Test #1: Result of Reduction in # of FTEEs

Over the 8 weeks (56 days) of the covered period, \$12,000 was spent on payroll for the employees and the owner took \$4,875, with the remaining funds being spent on other qualified expenses. Total “payroll” was \$16,875 which is 75% of the PPP Loan amount.

Remember: qualified expenses outside of payroll are limited to 25% of loan amount (\$5,625). Looks like the full \$22,500 is eligible for forgiveness (\$16,875 + \$5,625).

The impact of the lower number of employees however results in only 67% of total PPP loan eligible for forgiveness which equals \$15,075 ($\$22,500 * .67$).

\$7,425 will need to be paid back

Test #2: Salary/Hourly Wage Reduction

This calculation will be used to determine whether Borrower's loan forgiveness amount must be reduced due to a statutory requirement concerning reductions in employee salary and wages.

Borrowers are eligible for loan forgiveness for certain expenditures during the Covered Period or Alternative Payroll Covered Period

Actual amount of loan forgiveness Borrower will receive may be less, depending on whether salary or hourly wages of certain employees during the Covered Period or the Alternative Payroll Covered Period was less than during the period from Jan. 1, 2020 to Mar. 31, 2020

If Borrower restored salary/hourly wage levels, Borrower may be eligible for elimination of salary/hourly wage reduction amount

Test #2: Salary/Hourly Wage Reduction

Salary/Hourly Wage Reduction

Borrowers must complete a worksheet to determine whether to reduce amount of loan forgiveness for which they are eligible.

Complete salary/hour wage reduction column only for employees whose salaries or hourly wages were reduced by > 25% during the Covered Period or the Alternative Payroll Covered Period as compared to the period of Jan. 1, 2020 through Mar. 31, 2020.

Test #2: Salary/Hourly Wage Reduction

Salary/Hourly Wage Reduction

FTEE Reduction Exceptions: Indicate the FTEE of:

- (1) Any positions for which Borrower made a good-faith, written offer to rehire an employee during the Covered Period or the Alternative Payroll Covered Period which was rejected by the employee; and
- (2) Any employees who during the Covered Period or the Alternative Payroll Covered Period (a) were fired for cause, (b) voluntarily resigned, or (c) voluntarily requested and received a reduction of their hours.
- (3) In all cases, include these FTEEs only if the position was not filled by a new employee. Any FTEE reductions in these cases do not reduce the Borrower's loan forgiveness.

Impact of Salary Reduction

Use the same 3 employees from the FTEE example who made \$3,000/month.

The PPP loan amount was \$22,500 ($3,000 \times 2.5$).

Again they were laid off in February.

They are all hired back but at a reduced salary of \$2,000/month.

Remember: Must first determine if payroll was reduced by $> 25\%$. In this example, payroll is reduced for each employee by $1/3$.

Test #2: Salary/Hourly Wage Reduction

Salary/Hourly Wage Reduction

Step 1. Determine if pay was reduced > 25%.

- a. Enter average annual salary or hourly wage during Covered Period or Alternative Payroll Covered Period: \$24,000.
- b. Enter average annual salary or hourly wage between Jan. 1, 2020 and Mar. 31, 2020: \$36,000.
- c. Divide the value entered in 1a by 1b: 0.67.

If 1c is 0.75 or more, enter zero in the column above box 3 for that employee; otherwise proceed to Step 2.

Test #2: Salary/Hourly Wage Reduction

Salary/Hourly Wage Reduction

Step 2. Determine if the salary/hourly wage reduction **safe harbor** is met.

- a. Enter the annual salary or hourly wage as of February 15, 2020: \$36,000.
- b. Enter the average annual salary or hourly wage between Feb. 15, 2020 and Apr. 26, 2020: \$24,000.

If 2b is equal to or greater than 2a, skip to Step 3. Otherwise, proceed to 2c.

- c. Enter the average annual salary or hourly wage as of June 30, 2020: \$24,000.

If 2c is equal to or greater than 2a, the salary/hourly wage reduction safe harbor has been met – enter zero in the column above box 3 for that employee.

Otherwise proceed to Step 3.

Test #2: Salary/Hourly Wage Reduction

Salary/Hourly Wage Reduction

Step 3. Determine the salary/hourly wage reduction.

- a. Multiply the amount entered in 1b by 0.75: \$27,000 (\$36,000*.75)
- b. Subtract the amount entered in 1a from 3a: \$3,000 (\$27,000-\$24,000).
- c. If the employee is an hourly worker, compute total dollar amount of reduction that exceeds 25% as follows:
Enter the average number of hours worked per week between Jan. 1, 2020 and Mar. 31, 2020: _____.
- d. If hourly worker, multiply amount entered in 3b by amount entered in 3c
_____. Multiply this amount by 8: _____. Enter this value
in the column above box 3 for that employee.

Test #2: Salary/Hourly Wage Reduction

Salary/Hourly Wage Reduction

If employee is a salaried worker, compute total dollar amount of reduction that exceeds 25% as follows:

Multiply the amount entered in 3b by 8: \$24,000 (\$3,000 * 8).

Divide this amount by 52: = \$462.

Enter this value in the column above box 3 for that employee.

Impact of Salary Reduction

Over the 8 weeks (56 days) of the PPP period, \$12,000 was spent on employee payroll plus owner took \$4,875 with remainder of the PPP proceeds being spent on other qualified expenses. The non-payroll expenses are limited to 25% of loan amount (\$5,625). The full \$22,500 is eligible for forgiveness (\$16,875 + \$5,625).

The amount of PPP loan eligible for forgiveness is impacted by each employee's own compensation. The 75% (the point at which wages are not reduced by more than 25%) minimum salary is \$2,250, but the employees are only receiving \$2,000. \$250 for each employee would be deducted from forgivable amount per month or \$500 for each employee during the covered period. (The worksheet calculates \$462 which is the proper amount and is the result of using 8 over 52 weeks vs 2 mos v 12 mos)

\$21,114 is the maximum amount eligible for forgiveness. (\$22,500 - \$1,386)

Don't Forget...

The impact of the Safe Harbors and Reduction Exceptions...

- Did we get payroll back up to 'speed' by June 30?
- Do we have employees who refused to come back?
- To pay yourself (the owner).....in our examples had owner not taken payroll (\$4,875), the results would have been worse because we would not have reached 75% of loan amount being used for payroll and that percentage shortfall would have impacted the payroll amount eligible for forgiveness and also impacted the amount of other qualified expenses eligible to be forgiven.