

Coronavirus Aid, Relief, and Economic Security (“CARES”) Act Summary – Applying for Paycheck Protection Program Loan Forgiveness

This summary focuses on Loan Forgiveness of the Paycheck Protection Program established under the CARES Act that may affect business owners, including self-employed individuals and independent contractors. It is not intended to cover all provisions of the act or its potential impacts. For more information on the Payroll Protection Program, please refer to the [SBA website](#) (clickable link). This material will be updated as additional information becomes available.

The information provided is not written or intended as specific tax or legal advice. MassMutual, its subsidiaries, employees, and representatives are not authorized to give tax or legal advice. Individuals are encouraged to seek advice from their own tax or legal counsel. work with an estate planning team, including their own personal legal or tax counsel.

Summary as of: 05/27/2020

Table of Contents

Common questions you may have	2
How is the forgiveness amount determined?	3
What costs are includible in payroll costs?	3
What nonpayroll costs can be included in the loan forgiveness?	4
How are the potential loan forgiveness reductions computed?	5
What certifications must I make in the Loan Forgiveness Application?	6
What documentation must I provide to the lender?	7
What documentation must I keep but do not need to provide to the lender?	8
Is there any additional information requested?	8

COMMON QUESTIONS YOU MAY HAVE

Your PPP loan may be forgiven, in whole or in part, if certain requirements are met. This summary is being provided for informational purposes. Please reach out to your personal tax and legal advisors with any questions related to your specific situation.

When can I apply for PPP loan forgiveness?

You can apply as soon as your Covered Period or the Alternative Payroll Covered Period ends. Your eligibility for loan forgiveness will be evaluated in accordance with the PPP regulations and SBA guidance issued through the date of your application. Guidance issued after the date of your application will not apply to the evaluation of your application for loan forgiveness.

What are the Covered Period and Alternative Payroll Covered Period?

- Covered Period. The Covered Period is the eight-week period beginning on the PPP Loan Disbursement Date. For example, if you received your PPP loan period on Monday, April 20, 2020, the first day of the Covered Period is April 20 and the last day of the Covered Period is Sunday, June 14. The loan documents may have an estimated disbursement date. The actual date the loan is disbursed must be used as the Loan Disbursement Date.
- Alternative Payroll Covered Period. If you have a biweekly or more frequent payroll schedule, you may use an Alternative Payroll Covered Period to calculate your eligible payroll costs. The Alternative Payroll Covered Period begins on the first day of your pay period following the date you received the first disbursement of your PPP loan. For example, if you received your PPP loan on Monday, April 20, and the first day of your first pay period following the PPP loan disbursement is Sunday, April 26, the first day of the Alternative Payroll Covered Period is April 26 and the last day of the Alternative Payroll Covered Period is Saturday, June 20. The Alternative Payroll Covered Period is used only to determine payroll costs; it does not apply to other allowable expenses.

Do I apply to the SBA or the lender for loan forgiveness?

You apply to your lender (or the lender servicing your loan). You do not apply to the SBA.

What form do I use to apply for loan forgiveness?

The SBA has released [Form 3508, Paycheck Protection Program Loan Forgiveness Application](#) (clickable link). Your lender may have a specific form or online system that they require you to use.

Can the lender have additional requirements for loan forgiveness?

Yes, lenders can have additional requirements. You should contact your lender for any additional requirements.

Should I consult my attorney or CPA before submitting the Loan Forgiveness Application to the lender?

You should consider consulting your attorney or CPA for guidance in completing the Loan Forgiveness Application and for any questions on the PPP that relate to your specific situation before submitting the application to your lender.

HOW IS THE FORGIVENESS AMOUNT DETERMINED?

The forgiveness amount is the lesser of the Modified Total, the actual PPP loan amount, and the Payroll Cost 75% Requirement.

How is the Modified Total determined?

The Modified Total is the total allowable costs, reduced (if required) by the Salary/Hourly Wage Reduction, and multiplied (if required) by the Full-Time Equivalency (FTE) Reduction. This results in the FTE Reduction reducing all allowable costs.

How is the Payroll Cost 75% Requirement computed?

The Payroll Cost 75% Requirement is computed by dividing the total payroll costs before the Salary/Wage Reduction by 0.75. For example, if a borrower's payroll costs during the Covered Period are \$30,000 then the Payroll Cost 75% Requirement will limit that borrower's forgiveness amount to \$40,000. Note that the Modified Total may be even lower than this amount. The Payroll Cost 75% Requirement may limit the amount of loan forgiveness but failure to use 75% of the PPP loan for payroll costs does not result in none of the loan being forgiven.

What costs are includible in the Forgiveness Amount Calculation?

The following categories of costs are included in the Forgiveness Amount Calculation:

- Payroll costs
- Business mortgage interest payments
- Business rent or lease payments
- Business utility payments

WHAT COSTS ARE INCLUDIBLE IN PAYROLL COSTS?

Payroll costs include the following items:

- Cash compensation paid during the Covered Period or Alternative Payroll Covered Period (limited to \$15,385 per employee, which is an annual salary of \$100,000, prorated for the Covered Period or Alternative Payroll Covered Period). Only cash compensation is limited to an annualized \$100,000. Payroll costs are considered incurred on the day that the employee's pay is earned.
- Employer contributions for employee health insurance
- Employer contributions to employee retirement plans
- Employer state and local taxes assessed on employee compensation (such as state unemployment taxes)
- Compensation paid to owners (limited to the lower of \$15,385 or 8/52 of their 2019 compensation)

What information must be provided about employees whose compensation is included in the forgiveness computation?

- The Loan Forgiveness Application requires each employee included in the cash compensation to be listed separately, either on a worksheet or an equivalent report from your payroll system or payroll processor
- For employees whose 2019 annualized compensation was less than \$100,000, the dollar amount of any salary or hourly wage reduction must be reported
- Each employee's average Full-Time Equivalency (FTE) (discussed below) must be reported
- The amount paid to owner-employees/self-employed individuals/general partners must be reported separately from compensation paid to non-owners

What retirement plan contributions can I include in payroll costs?

The SBA has not provided any guidance on how the allowable retirement plan contributions are computed for purposes of PPP loan forgiveness. The Application refers to payroll costs "paid or incurred". You may be able to include contributions for 2019 and 2020 paid during the Covered Period or Alternative Payroll Covered Period in payroll costs. Benefits paid to participants under a nonqualified deferred compensation plan may qualify as payroll costs. You should consult with your tax advisor or attorney for guidance. There is not an express requirement to prorate annual health insurance costs and retirement plan payments.

What expenses are excluded from payroll costs for sole proprietors, self-employed, and independent contractors?

Health insurance contributions and retirement plan contributions for sole proprietors, self-employed, and independent contractors are excluded from payroll costs for purposes of the loan forgiveness computation.

If my business is a sole proprietorship or taxed as a partnership, do I need to pay myself the amount of my earnings that are eligible to be included in the loan forgiveness?

Yes, you must submit documentation with the application showing the amounts paid to you during either the Covered Period or Alternative Payroll Covered Period. If you elect to use the Alternative Payroll Covered Period, you will need to make payments to yourself at least biweekly.

WHAT NONPAYROLL COSTS CAN BE INCLUDED IN THE LOAN FORGIVENESS?

You can include business mortgage interest, business rent or lease payments, and business utility payments that are paid or incurred during the Covered Period.

What business mortgage interest payments can be included in the loan forgiveness?

You can include interest on business mortgages incurred before February 15, 2020. The mortgages can be for either real property or personal property. Prepayments and principal payments cannot be included.

What business rent or lease payments may be included in the loan forgiveness?

You may include business rent or lease payments for real or personal property if the lease agreement was in force before February 15, 2020.

What business utility payments may be included in the loan forgiveness?

The Loan Forgiveness Application states that covered utility payments include business payments for a service for the distribution of electricity, gas, water, transportation, telephone, or internet access if the service began before February 15, 2020. The SBA has not defined what is included in "transportation", "telephone", or "internet access."

When must nonpayroll costs be paid?

Eligible nonpayroll costs must be paid during the Covered Period or incurred during the Covered Period and paid on or before the next regular billing date, even if the billing date is after the Covered Period. Costs that were both paid and incurred can only be counted once. Nonpayroll costs cannot be counted using the Alternative Payroll Covered Period.

HOW ARE THE POTENTIAL LOAN FORGIVENESS REDUCTIONS COMPUTED?

There are potential reductions in the loan forgiveness amount for reductions of more than 25% in salary and hourly wage and reductions in FTE employees.

How is the adjustment in loan forgiveness for salary and hourly wages reduction computed?

A computation must be made for each employee whose annualized compensation is less than \$100,000 and whose salary or hourly wages were reduced to determine if the reduction was more than 25%

- For each employee whose salary or hourly wage reduction was more than 25%, the total reduction in their pay during the Covered Period or Alternative Payroll Covered Period is computed
- Total the salary/hourly wage reduction for all employees affected

The total reduction reduces the amount of the potential loan forgiveness unless the salary and hourly wage reduction safe harbor applies.

Is there a safe harbor for the salary and hourly wages reduction?

Yes, if an employee's salary or hourly wage was restored to their salary or hourly wage on February 15, 2020 by either April 26 or June 30, the salary and hourly wage reduction does not apply for that employee.

How is an employer's number of Full-Time Equivalency employees computed?

First, each employee's average Full-Time Equivalency during the Covered Period or Alternative Payroll Covered Period is determined by dividing the average number of hours paid per week by 40 and rounding to the nearest tenth. The maximum for each employee is limited to 1.0. You can elect a simplified method that uses 1.0 for employees who work 40 hours per week or more and 0.5 for employees who work less than 40 hours.

Then, the FTEs are totaled. The employer's FTE employee headcount is the total of all employees' FTE.

How is the adjustment in loan forgiveness for any reduction in Full-Time Equivalency employees computed?

You can use the number of FTE employees per month in either the period from February 15, 2019 through June 30, 2019 or the period from January 1, 2020 through February 29, 2020 ("Elected Reference Period"). The steps are:

Step 1: Determine ratio of FTE employees

$$\frac{\text{Average monthly FTE employees during Covered Period or Alternative Payroll Covered Period}}{\text{Average monthly FTE employees during the Elected Reference Period}}$$

Step 2: Multiply ratio determined in Step 1 by the total of payroll costs plus nonpayroll costs less the total salary and hour wage reduction amount = Modified Total

This amount is compared to the PPP loan amount and the Payroll Cost 75% Requirement to determine the actual loan forgiveness amount.

Can any positions be excluded from the FTE reduction computation?

Yes, you may exclude the following positions from the computation if they were not filled by a new employee:

- Any positions for which you made a good-faith, written offer to rehire an employee during the Covered Period or Alternative Payroll Covered Period that was rejected by the employee
- Any employees who during the Covered Period or Alternative Payroll Covered Period
 - Were fired for cause
 - Voluntarily resigned
 - Voluntarily requested and received a reduction of their hours

Are there any safe harbors for the FTE reduction?

Yes. You are exempt from the loan forgiveness reduction based on FTE employees if:

- You reduced your FTE employee levels in the period beginning February 15, 2020 and ending April 26, 2020 and
- You then restored your FTE employee levels by not later than June 30, 2020 to your FTE employee levels in your pay period that included February 15, 2020.

WHAT CERTIFICATIONS MUST I MAKE IN THE LOAN FORGIVENESS APPLICATION?

You or your authorized representative must certify (by initialing) in good faith to all of the following:

- The amount that you are requesting be forgiven:
 - Was used to pay costs eligible for forgiveness
 - Includes all applicable reductions for FTE employee reductions and salary/hourly wage reductions
 - Does not include nonpayroll costs that exceed 25% of the forgiveness amount requested, and
 - Does not exceed eight weeks' worth of 2019 compensation for any owner-employee or self-employed individual/general partner, limited to \$15,385 per individual
- You understand that if the funds were knowingly used for unauthorized purposes, the federal government may pursue recovery of loan amounts and/or civil or criminal fraud charges
- You have accurately verified the payments for which you are requesting forgiveness
- You have submitted to the lender the required documentation verifying the payroll costs and eligible payments and the existence of obligations and service prior to February 15, 2020.
- The information provided in the Application and the information provided in all supporting documents and forms is true and accurate in all material respects. You understand that knowingly making a false statement to obtain a guaranteed loan from SBA is punishable under the law, including under 18 USC 1001 and 3571 by imprisonment of not more than five years and/or a fine up to \$250,000; under 15 USC 645 by imprisonment of not more than two years and/or a fine of not more than \$5,000; and if submitted to a federally insured institution, under 18 USC 1014 by imprisonment of not more than thirty years and/or a fine of not more than \$1,000,000
- The tax documents you have submitted to the lender are consistent with those you have or will submit to the IRS and/or state tax or workforce agency. You also understand, acknowledge, and agree that the lender can share the tax information with the SBA's authorized representatives, including authorized representatives of the SBA Inspector General, for the purpose of ensuring compliance with PPP requirements and all SBA reviews
- You understand, acknowledge, and agree that SBA may request additional information to evaluate your eligibility for the PPP loan and for forgiveness, and that failure to provide information requested by the SBA may result in the SBA determining that you were ineligible for the PPP loan or a denial of your Loan Forgiveness Application

WHAT DOCUMENTATION MUST I PROVIDE TO THE LENDER?

What is required to document payroll costs?

The following documentation to verify the eligible cash compensation and non-cash benefit payments from the Covered Period or Alternative Payroll Covered Period:

- Bank account statements or third-party payroll service provider reports documenting the amount of cash compensation paid to employees
- 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 that will be reported, to the IRS (typically, Form 941)
 - State quarterly business and individual employee wage reporting and unemployment insurance tax filings reported, or that will be reported, to the relevant state
- Payment receipts, canceled checks, or account statements documenting employer contributions to employee health insurance and retirement plans included in the forgiveness amount

What is required to document FTE?

Documentations showing, at your election:

- Average number of FTE employees on payroll per month between February 15, 2019 and June 30, 2019
- Average number of FTE employees on payroll per month between January 1, 2020 and February 29, 2020
- For a seasonal employer, average number of FTE employees on payroll per month between February 15, 2019 and June 30, 2019; between January 1, 2020 and February 29, 2020; or any consecutive twelve-week period between May 1, 2019 and September 15, 2019

The time period must be the same time period used to determine FTEs for purposes of the FTE reduction test. Documents may include payroll tax filings reported, or that will be reported, to the IRS (typically, Form 941).

State quarterly business and individual employee wage reporting and unemployment insurance tax filings reported, or that will be reported, to the relevant state. Documents may cover periods longer than the specified time period.

What is required to document nonpayroll costs?

You must provide documentation verifying existence of the obligations/services prior to February 15, 2020 and eligible payments from the Covered Period.

- For business mortgage interest payments: Copy of lender amortization schedule and receipts or canceled checks verifying eligible payments from the Covered Period; or lender account statements from February 2020 and the months of the Covered Period through one month after the end of the Covered Period verifying interest amounts and eligible payments
- For business rent or lease payments: Copy of current lease agreement and receipts or canceled checks verifying eligible payments from the Covered Period or lessor account statements from February 2020 and the Covered Period through one month after the end of the Covered Period verifying eligible payments
- For business utility payments: Copies of invoices from February 2020 and those paid during the Covered Period and receipts, canceled checks, or account statement verifying the eligible payments.

Do lenders need to verify the information I provided?

No, they may rely on the borrower's representations. However, lenders may choose to require detailed information and corroboration to support forgiveness.

WHAT DOCUMENTATION MUST I KEEP BUT DO NOT NEED TO PROVIDE TO THE LENDER?

What is required to document employee information and the FTE Reduction Safe Harbor?

- PPP Schedule A Worksheet (part of the Loan Application) or its equivalent
- Documentation supporting the listing of each individual employee whose annualized earnings were less than \$100,000, the "Salary/Hourly Wage Reduction" calculation, if necessary
- Documentation showing any employee who received compensation at an annualized rate of more than \$100,000 during any single pay period in 2019
- Documentation concerning any employee job offers and refusals, firings for cause, voluntary resignations, and written requests by any employee for reductions in work schedule
- Documentation supporting the FTE Reduction Safe Harbor computation

What documentation concerning the PPP Loan Application and Loan Forgiveness Application must be kept?

All records relating to your PPP loan must be kept, including:

- Documentation submitted with your PPP Loan Application
- Documentation supporting your certifications as to the necessity of the loan request and your eligibility for a PPP loan
- Documentation to support your Loan Forgiveness Application
- Documentation showing your material compliance with PPP requirements

How long must I keep the required documentation?

You must retain all documentation in your files for six years after the date the loan is forgiven or repaid in full.

Who must I permit to see the documentation?

You must permit authorized representatives of SBA, including representatives of its Office of Inspector General, to access the files upon request.

IS THERE ANY ADDITIONAL INFORMATION REQUESTED?

Borrowers have the option to provide demographic (veteran, gender, race, ethnicity) information about each of the borrower's owners, key employees, grantors of a trust that owns the borrower, and the officers and directors of borrowers that are nonprofit organizations.