

Paycheck Protection Program Forgiveness Updates and Other Loan Programs Q&A

By Susan J. Markey | June 18, 2020

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Question Asked	Answer Provided
If employees worked overtime prior to covid, and they are now working only 40 hours per week, is that considered a reduction in hours?	If you use the simplified calculation method and count each employee working 40 or more hours as an FTE, a reduction in overtime should not reduce your FTE count.
If we are an s corporation that is an ESOP. Would the CEO (he is the original owner) be considered an employee now not the owner and would qualify for the \$46,154 payroll cost amount?	If the CEO owns shares, it seems that he will be subject to the owner-employee limitations.
So if we did layoffs on March 20th and when we received our funding on april 17th we attempted to bring back all employees the following monday April 20th but not all returned, would we still be able to use the EZ form?	Yes, if you were unable to rehire similarly qualified employees on or before December 31, 2020.
What if you run out of PPP loan proceeds after the 8-week period but before the 24-week period?	Then you are eligible for forgiveness of the entire proceeds, so long as you did not reduce number of employees or salary/wages for employees earning less than \$100K during the covered period.

<p>On the PPP Loan forgiveness, we've been told Utilities includes Transportation costs. Can you verify that and define what is included in that cost? Fuel? Auto Mileage Reimbursements?</p>	<p>No guidance has been given on transportation costs, beyond a statement that it would include the cost of gas in a business vehicle.</p>
<p>Does the deferral of employer payroll taxes include both Social Security and Medicare, or just one of them?</p>	<p>It is the employer's share of the social security taxes.</p>
<p>What if our business was restricted by COVID health directives and therefore our tipped employees could not achieve the same overall wages (hourly pay plus tips) that they were achieving previously?</p>	<p>If the business has been unable to return to pre-February 15, 2020 level of business due to compliance with COVID-19 regulations or guidance issued by the Department of Health and Human Services, Centers for Disease Control and Prevention, or Occupational Safety and Health Administration between March 1 and December 1, 2020, you would be relieved from a reduction in forgiveness.</p>
<p>We reduced employee hours until we received the PPP loan. As soon as we had the loan we returned them to full time pay. Can I still use the EZ version?</p>	<p>Your covered period begins on the date the loan funds were received, so you are likely eligible to use the EZ application.</p>
<p>So S corp owner/employees are not allowed to use up to \$100,000 for the forgiveness application?</p>	<p>While it is totally not clear, it appears that a S-corporation shareholder will be deemed an owner-employees of a S corporation, and there are two limitations that apply. First, the maximum cost for 2020 is capped at 2.5 months of an annualized \$100,000 salary, or \$20,833 (or \$15,384 for a borrower using the 8-week covered period). Second, the forgivable amount is limited to 2.5 months of the 2019 compensation of the owner-employee (which is mean to prevent the owner from increasing their compensation during the covered period to maximize forgiveness)</p>
<p>How are owners' wages for a C-corp handled?</p>	<p>While it is totally not clear, it appears that a C-corporation shareholder will be deemed an owner-employees of a C corporation, there are two limitations that apply. First, the maximum cost for 2020 is capped at 2.5 months of an annualized \$100,000 salary, or \$20,833 (or \$15,384 for a borrower using the 8-week covered period). Second, the forgivable amount is limited to 2.5 months of the 2019 compensation of the owner-employee (which is mean to prevent the owner from increasing their compensation during the covered period to maximize forgiveness)</p>

<p>Are C Corp employees who own 5% of the corporation owner employees? If they earn over \$100,000 can they be paid \$46,154 over the 24-week period? Or are they limited to \$20,833?</p>	<p>While it is totally not clear, it appears that a C-corporation shareholder will be deemed an owner-employees of a C corporation, there are two limitations that apply. First, the maximum cost for 2020 is capped at 2.5 months of an annualized \$100,000 salary, or \$20,833 (or \$15,384 for a borrower using the 8-week covered period). Second, the forgivable amount is limited to 2.5 months of the 2019 compensation of the owner-employee (which is mean to prevent the owner from increasing their compensation during the covered period to maximize forgiveness)</p>
<p>What is the definition of an owner employee? Do C corp owners fall into this category or are they just treated as regular employees?</p>	<p>No definition has been provided, but it appears that C corporation owner-employees fall into this category.</p>
<p>What is status of IRS determining deductibility of Forgiveness expenses....no change?</p>	<p>No clarification from Congress on this issue yet, so the IRS position that it is not deductible stands.</p>
<p>Any news about who are "owners" of a C-Corp?</p>	<p>No definition has been provided, but it appears that C corporation owner-employees fall into this category.</p>
<p>What, if any, is the advantage of using the 8-week period rather than the 24-week period?</p>	<p>If you have not used all of the funds on the 8-week period, I do not see any reason it is desirable.</p>
<p>If we choose the 24-week period do we have to wait for the 24-weeks to end prior to applying for forgiveness? or can we apply at a mid point (ex. 12 weeks) if we have used the funds at that point?</p>	<p>This is not clear at this point, and is likely a matter of lender policy.</p>
<p>I understand there is an 8 or 24-week period to be used in computing whether the loan will be forgiven. Is there any discretion on the start date or does it have to be the day the loan was received?</p>	<p>For nonpayroll expenses, you begin counting the period on the date that the funds were received. For payroll expenses, you either begin counting on the date that the funds were received or if the borrower uses a payroll cycle of biweekly or more frequently, you may elect to use the alternative covered period and begin counting payroll costs on the first day of the first pay period following receipt of the loan funds.</p>
<p>what if you end up using some interim period, say 12 weeks? do you prorate?</p>	<p>No provision for prorating has been provided at this time.</p>
<p>Do we have to ask for extended time to spend funds or is it automatic for loans funded prior to act signing?</p>	<p>It is automatic.</p>

<p>If you extend beyond the 8-week period, do you HAVE to extend the full 24-weeks, or can you extend to say 10 or 12 weeks?</p>	<p>It appears to be either 8 or 24-weeks.</p>
<p>If you opt to use the extended covered period, can you apply for forgiveness before the 24-weeks is over?</p>	<p>It appears that you could, but it is not totally clear and may depend on lender policy.</p>
<p>Can you spend more than 60% on payroll?</p>	<p>Yes, the rule is that at least 60% of eligible expenses during the covered period must be spent on payroll. Spending more than 60% meets this test.</p>
<p>Is cash compensation gross pay or net pay?</p>	<p>Specific payroll inclusions and exclusions are listed in FAQ 8 and 16 here: https://www.sba.gov/sites/default/files/2020-06/Paycheck-Protection-Program-Frequently-Asked-Questions_05%2027%2020-508.pdf</p>
<p>Can you use the pay date of payroll or do you have to use pay period dates?</p>	<p>For payroll expenses, you either begin counting on the date that the funds were received or if the borrower uses a payroll cycle of biweekly or more frequently, you may elect to use the alternative covered period and begin counting payroll costs on the first day of the first pay period following receipt of the loan funds.</p>
<p>How do you handle an EDIL advance on your PPP forgiveness application?</p>	<p>The advance amount is entered and subtracted from the ultimate forgiveness amount.</p>
<p>Can you file the EZ application version with number of employees at any time up to December 31, 2020 like the full application</p>	<p>It appears that you can, but it is not completely clear.</p>
<p>Do payroll costs cover 401k funding and safe harbour contributions?</p>	<p>Yes.</p>
<p>For a church, they pay ministers a housing allowance is that deductible for the forgiveness expense.</p>	<p>Yes, a housing stipend is considered to be cash compensation.</p>

<p>If a business received an EIDL loan advance, does this affect PPP forgiveness?</p>	<p>Yes, the advance is subtracted from the forgivable amount.</p>
<p>I am an S Corp owner but I am also an employee. Are S Corp Payrolls excluded from eligibility?</p>	<p>While it is totally not clear, it appears that a S-corporation shareholder will be deemed an owner-employees of a S corporation, and there are two limitations that apply. First, the maximum cost for 2020 is capped at 2.5 months of an annualized \$100,000 salary, or \$20,833 (or \$15,384 for a borrower using the 8-week covered period). Second, the forgivable amount is limited to 2.5 months of the 2019 compensation of the owner-employee (which is mean to prevent the owner from increasing their compensation during the covered period to maximize forgiveness)</p>
<p>My business depends on school/youth sports being able to play. Social distancing has affected these activities. Does this situation qualify for the FTE exception?</p>	<p>Most likely. If the limitations result from compliance with COVID-19 regulations or guidance issued by the Department of Health and Human Services, Centers for Disease Control and Prevention, or Occupational Safety and Health Administration between March 1 and December 1, 2020, then you are eligible.</p>
<p>If you use 100% of the PPP Loan for Employee wages, does that mean that 100% of the loan is forgivable?</p>	<p>If the payroll is paid during the covered period, and you do not reduce the number of employees or the wages of employees earning less than \$100K during the covered period, yes.</p>
<p>For loan forgiveness can you use 9 or 10 weeks of payroll or only either 8-weeks or 24-weeks?</p>	<p>It appears to be either 8 or 24-weeks.</p>
<p>Can you use EZ Form if you laid off employees but brought them back during covered period?</p>	<p>No. You are only permitted to use the application if you can check one of the three boxes on Page 1 of the instructions. https://home.treasury.gov/system/files/136/PPP-Loan-Forgiveness-Application-Form-EZ-Instructions.pdf</p>

<p>Please clarify S-corp owners. Are they counted on the application with "owner-employees" on line 9 of schedule A or with employees in Table 1 of the worksheet? And do we list actual wages paid to S-corp owner which are less than the cap?</p>	<p>While it is totally not clear, it appears that a S-corporation shareholder will be deemed an owner-employees of a S corporation, and there are two limitations that apply. First, the maximum cost for 2020 is capped at 2.5 months of an annualized \$100,000 salary, or \$20,833 (or \$15,384 for a borrower using the 8-week covered period). Second, the forgivable amount is limited to 2.5 months of the 2019 compensation of the owner-employee (which is mean to prevent the owner from increasing their compensation during the covered period to maximize forgiveness)</p>
<p>Can mileage reimbursement be used for non-payroll costs?</p>	<p>Unclear at this time.</p>
<p>Presenter mentioned S-corp owners might not count--is that for wages or health insurance?</p>	<p>While it is totally not clear, it appears that a S-corporation shareholder will be deemed an owner-employees of a S corporation, and there are two limitations that apply. First, the maximum cost for 2020 is capped at 2.5 months of an annualized \$100,000 salary, or \$20,833 (or \$15,384 for a borrower using the 8-week covered period). Second, the forgivable amount is limited to 2.5 months of the 2019 compensation of the owner-employee (which is mean to prevent the owner from increasing their compensation during the covered period to maximize forgiveness). The owner-employee's benefits are unlikely to be covered.</p>
<p>Do all FTE's need to be working the week of 12/31/2020 or just considered a "current" employee? We are a construction company and our crews are historically not working during that week.</p>	<p>You do not need to wait until 12/31/2020 to apply for forgiveness. You may apply and set forth your number of employees as of the date of application for purposes of the rehiring safe harbours before that date.</p>
<p>Do you have to formally elect/advise that your company plans to shift from 8-week covered time to the new Flex Act 24-week?</p>	<p>No, you reflect the period on the forgiveness application.</p>
<p>What site can we go to download the new Forgiveness Application?</p>	<p>https://www.sba.gov/document/sba-form--paycheck-protection-program-loan-forgiveness-application-revised-6-16-2020</p>
<p>I've read that the bankers lobby wants all loans of less than \$150,000 automatically forgiven. Is this a fair assumption at this time?</p>	<p>This is still just a proposal and has not yet become law.</p>

<p>Are bonuses included in payroll costs?</p>	<p>It appears that they are included so long as the other criteria are satisfied and annualized compensation does not exceed \$100,000, etc.</p>
<p>If the loan was calculating using only payroll costs for a schedule C filer and schedule c owner income was excluded, how does that impact the forgiveness calculation.</p>	<p>Schedule C filers should receive full forgiveness.</p>
<p>What utilities can be claim? water, electricity, cell phone, landline, is that correct?</p>	<p>Proceeds used to pay for electricity, gas, water, transportation, telephone, or internet access are eligible for forgiveness, so long as service began prior to February 15, 2020.</p>
<p>How do we elect for the 24-week instead of the original 8-week covered period? James M. from JFS of the Desert, Palm Springs, CA</p>	<p>You simply reflect the 24-week period on your forgiveness application.</p>
<p>Is the entire union fringe benefit package included?</p>	<p>This is unclear, but likely only if the package consists of eligible items of cash and non-cash compensation.</p>
<p>If the S Corporation owner takes a weekly payroll check, are they eligible?</p>	<p>While it is totally not clear, it appears that a S-corporation shareholder will be deemed an owner-employees of a S corporation, there are two limitations that apply. First, the maximum cost for 2020 is capped at 2.5 months of an annualized \$100,000 salary, or \$20,833 (or \$15,384 for a borrower using the 8-week covered period). Second, the forgivable amount is limited to 2.5 months of the 2019 compensation of the owner-employee (which is mean to prevent the owner from increasing their compensation during the covered period to maximize forgiveness)</p>
<p>How is owner compensation determined? We have our owner added in as an employee and added to payroll each week. Should I just calculate the owner's compensation separately?</p>	<p>Owner-employee compensation is subject to two limitations that apply. First, the maximum cost for 2020 is capped at 2.5 months of an annualized \$100,000 salary, or \$20,833 (or \$15,384 for a borrower using the 8-week covered period). Second, the forgivable amount is limited to 2.5 months of the 2019 compensation of the owner-employee (which is mean to prevent the owner from increasing their compensation during the covered period to maximize forgiveness)</p>
<p>On the EIDL if you are using the EIDL to replace profit that wasn't realized because of the shutdown, can you do the other things originally planned? As in demolishing a building.</p>	<p>EIDL funds cannot be used for repair or replacement of physical damages.</p>

<p>Do you need to have a "seasonal" business to use the optional lookback period of 2/15/19-6/30/19?</p>	<p>No. A non-seasonal business can elect to use either period (the other being 1/1/2020 - 2/29/2020).</p>
<p>On the new forgiveness application, it has "safe harbours" for a few employment exceptions... but our situation is that we have one employee who was on a pre-established unpaid maternity leave during the covered period. Would we need to take a reduced forgiveness for this reason?</p>	<p>It seems that if there is no provision of leave, this would constitute a voluntary resignation, which if properly documented, would not result in a reduction in forgiveness.</p>
<p>When it comes to the \$100K cap on employee compensation, does that *include* retirement/health other benefits, or is the limit on just gross salary, and then you can get forgiveness for retirement/health benefits for that individual on top of that?</p>	<p>No. The exclusion of compensation in excess of \$100,000 annually applies only to cash compensation, not to non-cash benefits, including: employer contributions to defined-benefit or defined-contribution retirement plans; payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums; and payment of state and local taxes assessed on compensation of employees.</p>
<p>What stock % shareholders are considered an owner? I have seen 20% or more were "owners".</p>	<p>There is no percentage limitation to the definition of owner-employees. The 20% test was for determining which owner's had to disclose certain items of information.</p>
<p>if I received my PPP loan for originally for 8-weeks, do I have to reapply for the 24-weeks and what happens if I would need more money than I have already received?</p>	<p>No need to reply, you can just reflect the 24-week period on the forgiveness application.</p>
<p>Can you use more than 8-weeks and less than 24-weeks to use all of the PPP funds?</p>	<p>Yes, you can use the funds up before the end of the 25-week period.</p>
<p>If you have had employees quit or have been terminated due to insubordination, do you have to hire employees to replace them if your overall business has decreased due to COVID-19? Will that mean a portion of the PPP will not be forgiven due to the change in employee numbers?</p>	<p>If you can document that the employee either voluntarily resigned or was fired for cause, forgiveness is not reduced.</p>
<p>What about Shareholder compensation of C-Corp, if they are employees of company? Any "owner" salary restrictions there, or same as any employee?</p>	<p>While it is totally not clear, it appears that a C-corporation shareholder will be deemed an owner-employees of a C corporation, there are two limitations that apply. First, the maximum cost for 2020 is capped at 2.5 months of an annualized \$100,000 salary, or \$20,833 (or \$15,384 for a borrower using the 8-week covered period). Second, the forgivable amount is limited</p>

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If we use up all of our \$742K in 10 weeks does that mean that our period is 10 weeks, or can we use for rent for longer?	If your loan funds have not been used up during the 24-week period, you are eligible to pay other eligible expenses (like rent) during the covered period.
What is the owner max is the S-corp has two owners?	While it is totally not clear, it appears that a S-corporation shareholder will be deemed an owner-employees of a S corporation, there are two limitations that apply. First, the maximum cost for 2020 is capped at 2.5 months of an annualized \$100,000 salary, or \$20,833 (or \$15,384 for a borrower using the 8-week covered period). Second, the forgivable amount is limited to 2.5 months of the 2019 compensation of the owner-employee (which is mean to prevent the owner from increasing their compensation during the covered period to maximize forgiveness)
Are FTE employees considered FT at 30 hours or 40 hours?	The forgiveness application clarifies that an FTE is calculated using 40 hours.
How do the rules regarding reduction of hours work if we exclusively reduced overtime only and not the first 40 hours per week?	If you use the simplified calculation method and count each employee working 40 or more hours as an FTE, a reduction in overtime should not reduce your FTE count.
Is the earliest safe harbour date still June 30th or can we do it today, if we apply for forgiveness today?	This conclusion will depend on your Lender's policy.
Can we assume if our PPP was over \$2mil that we would not be able to use EZ form?	There is no financial limitation on the EZ application. If you can check one of the three boxes on Page 1 of the instructions, you can use the application. https://home.treasury.gov/system/files/136/PPP-Loan-Forgiveness-Application-Form-EZ-Instructions.pdf
What does business suffer "substantial" economic injury really mean? Ex: Business remains open during the pandemic with only 20% or less reduced revenue during the covered period qualified for loan forgiveness?	The SBA has previously defined substantial economic injury as meaning the business is unable to meet its obligations and to pay its ordinary and necessary operating expenses.

<p>If the 24-week period is selected, does the \$15,385 cap still apply per EE for forgiveness?</p>	<p>The limit if you elect 24-weeks is (168 days) of payroll costs capped at \$100,000 of annualized pay (up to \$46,154) per employee.</p>
<p>We are a small full 'C' Corp. Our 2 owners are working employees. We included them as employees in our original loan payroll costs. How do we account for them on the forgiveness application?</p>	<p>While it is totally not clear, it appears that a C-corporation shareholder will be deemed an owner-employees of a C corporation, there are two limitations that apply. First, the maximum cost for 2020 is capped at 2.5 months of an annualized \$100,000 salary, or \$20,833 (or \$15,384 for a borrower using the 8-week covered period). Second, the forgivable amount is limited to 2.5 months of the 2019 compensation of the owner-employee (which is mean to prevent the owner from increasing their compensation during the covered period to maximize forgiveness)</p>
<p>If employees worked overtime prior to covid, and they are now working only 40 hours per week, is that considered a reduction in hours?</p>	<p>If you use the simplified calculation method and count each employee working 40 or more hours as an FTE, a reduction in overtime should not reduce your FTE count.</p>
<p>If we are an s corporation that is an ESOP. Would the CEO (he is the original owner) be considered an employee now not the owner and would qualify for the \$46,154 payroll cost amount?</p>	<p>If the CEO owns shares, it seems that he will be subject to the owner-employee limitations.</p>
<p>So if we did layoffs on March 20th and when we received our funding on April 17th we attempted to bring back all employees the following Monday April 20th but not all returned, would we still be able to use the EZ form?</p>	<p>Yes, if you were unable to rehire similarly qualified employees on or before December 31, 2020.</p>
<p>What if you run out of PPP loan proceeds after the 8-week period but before the 24-week period?</p>	<p>Then you are eligible for forgiveness of the entire proceeds, so long as you did not reduce number of employees or salary/wages for employees earning less than \$100K during the covered period.</p>
<p>On the PPP Loan forgiveness, we've been told Utilities includes Transportation costs. Can you verify that and define what is included in that cost? Fuel? Auto Mileage Reimbursements?</p>	<p>No guidance has been given on transportation costs, beyond a statement that it would include the cost of gas in a business vehicle.</p>
<p>Does the deferral of employer payroll taxes include both Social Security and Medicare, or just one of them?</p>	<p>It is the employer's share of the social security taxes.</p>

What if our business was restricted by COVID health directives and therefore our tipped employees could not achieve the same overall wages (hourly pay plus tips) that they were achieving previously?

If the business has been unable to return to pre-February 15, 2020 level of business due to compliance with COVID-19 regulations or guidance issued by the Department of Health and Human Services, Centers for Disease Control and Prevention, or Occupational Safety and Health Administration between March 1 and December 1, 2020, you would be relieved from a reduction in forgiveness.