

FREQUENTLY ASKED QUESTIONS - PPP LOAN FORGIVENESS

NOTICE: *The SBA continues to update regulations and provide additional guidance which may impact this guide. This information is provided as a courtesy to our customers and is for informational purposes only. It is not intended for legal, tax, or business advice. Please check back for updates as they become available.*

Paycheck Protection Program Loan Forgiveness Application

Union Bank will only accept forgiveness applications electronically through a link we email to you. Please refer to the [UBT Online Forgiveness Application Guide](#). These FAQ's are developed to provide additional information and instruction as you complete your loan forgiveness application.

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Applying for Loan Forgiveness

How do I apply for loan forgiveness?

We provide you a secure link to apply. This will allow you to provide us with information we need to prepare your applicable forgiveness application. You must make sure you enter the information accurately. Once you submit the information, we will complete the applicable SBA form (SBA Form 3508EZ, 3508S, or Form 3508) and send that to you via DocuSign for your review. You must review the SBA form, and if you agree with the information on the form, sign the application and remit it to us along with all required documentation. If it is not accurate, email ppp@ubt.com. You cannot make changes on the DocuSign form.

When should I complete and submit the PPP Loan Forgiveness Application?

You may complete your application any time prior to the maturity date of your loan – including before the end of the covered period – if you have used all the loan proceeds for which you are requesting forgiveness. If you are an owner-employee and/or have highly compensated employees you generally want to utilize the entire 24-week Covered Period; therefore, you will need to wait until the end of that period to apply.

How soon will you decide on the amount of my forgiveness?

We are required to issue you a decision within 60 days after we receive your completed application for loan forgiveness. We must have all supporting documentation that is required in order to make our decision. If we approve your amount of forgiveness, we submit our decision to the SBA, and they will issue their decision within 90 days after that.

Will I be responsible for making payments on my loan while I wait on a determination for loan forgiveness?

If you submit your loan forgiveness application to us within 10 months after the end of your loan forgiveness covered period, you will not have to make any payments of principal or interest on your loan before the date on which SBA remits your loan forgiveness amount to us (or notifies us that no loan forgiveness is allowed). Your “loan forgiveness covered period” is the 24-week period beginning on the date your PPP loan is disbursed; however, if your PPP loan was made before June 5, 2020, you may elect to have your loan forgiveness covered period be the eight-week period beginning on the date your PPP loan was disbursed. Interest continues to accrue during the deferment period. If you do not submit a loan forgiveness application within 10 months after the end of your loan forgiveness covered period, you must begin paying principal and interest after that period.

Is the amount of PPP loan forgiveness taxable by the IRS?

No. By statute, the amount forgiven on PPP loans is not taxable. However; please seek counsel from your tax advisor regarding [IRS Notice 2020-32](#) issued on April 30, 2020 to eliminate the deductibility of expenses that qualify for loan forgiveness under the Act.

If I had received an EIDL advance from the SBA, how does that affect the amount of loan forgiveness?

If you received an EIDL Advance directly from the SBA, proceeds from any advance up to \$10,000 will be deducted from the loan forgiveness amount on the PPP loan.

Does Union Bank utilize the SBA Forms for forgiveness?

We provide you a link to provide us information to complete these forms for you. Once you submit your information to us, we will send you a completed SBA Form 3508S, SBA Form 3508EZ or SBA Form 3508 (whichever is applicable to you). You may reference these forms and their instructions below

[PPP Loan Forgiveness Application Form 3508EZ](#)

[PPP Loan Forgiveness Application Form 3508EZ Instructions](#)

[PPP Loan Forgiveness Application Form 3508](#)

[Loan Forgiveness Application Instructions for Borrowers](#)

If your loan is \$50,000 or less:

[PPP Loan Forgiveness Application Form 3508S](#)

[PPP Loan Forgiveness Application Form 3508 Instructions](#)

Do not complete and send in the above forms. These are provided for your reference only.

What Documentation Must I Submit with my Forgiveness Application?

When we provide you the DocuSign SBA Form (either the 3508EZ, 3508S, or 3508), you will need to provide applicable documentation of your costs, as summarized below:

1. **Payroll documentation.** If you have employees, you must provide each of the following:
 - a. Bank account statements or third-party payroll service provider reports for the periods that overlap with the Covered Period
 - b. Tax forms (or equivalent third-party payroll service provider reports) for the periods that overlap the Covered Period (typically Form 941 and State quarterly unemployment tax filings).

- c. Payment receipts, cancelled checks, or account statements documenting the amount of employer contributions to employee health insurance and retirement plans (if applicable).
 - d. If you are claiming you did not reduce salaries or wages and did not reduce the number of employees or average paid hours of employees, documentation of the number of FTE employees on payroll employed by you on January 1, 2020 and at the end of your Covered Period.
2. **Nonpayroll Documentation:** Documentation verifying existence of the obligations/services prior to February 15, 2020 and eligible payments during the covered period as follows:
 - a. Copy of lender amortization schedule and receipts or cancelled checks verifying eligible interest payments during the covered period.
 - b. Copy of current lease/rent agreement(s) and receipts or cancelled checks verifying eligible payments during the covered period.
 - c. Copy of utility payment invoices paid during the covered period and cancelled checks showing payment of items.
3. **Owner Compensation:** For self-employed or sole proprietors, you must provide your 2019 1040 Schedule C or Schedule F; for General Partners you must supply your 2019 K-1 forms.
4. **If the DocuSign form we send you to sign is SBA Form 3508¹:** Documentation showing the reference period you have selected:
 - a. Your average number of FTE employees per month during the period beginning on February 15, 2019 and ending on June 30, 2019; **or**
 - b. Your average number of FTE equivalent employees per month during the period beginning on January 1, 2020 and ending on February 29, 2020².

For a complete listing of Documentation Required and Documentation you must retain – please refer to the applicable instructions below

[PPP Loan Forgiveness Application Form 3508EZ Instructions](#)

[Loan Forgiveness Application Instructions for Borrowers \(Form 3508\)](#)

[PPP Loan Forgiveness Application Form 3508 Instructions](#)

Amounts Eligible for Forgiveness

Are there caps on the amount of loan forgiveness available for owner-employees and self-employed individuals' own payroll compensation?

Yes. For borrowers that received a PPP loan before June 5, 2020 and elect to use an eight-week covered period, the amount of loan forgiveness requested for owner-employees and self-employed individuals' payroll compensation is capped at eight weeks' worth (8/52) of 2019 compensation (i.e., approximately 15.38 percent of 2019 compensation) or \$15,385 per individual, whichever is less, in total across all businesses. For all other borrowers, the amount of loan forgiveness requested for owner-employees and self-employed individuals' payroll compensation is capped at 2.5 months' worth (2.5/12) of 2019 compensation (i.e., approximately 20.83 percent of 2019 compensation) or \$20,833 per individual, whichever is less, in total across all businesses.

¹ Not applicable if the DocuSign application we send you is Form 3508EZ

² Seasonal employers may choose either of these two dates, or any consecutive 12-week period between May 1, 2019 and September 15, 2019.

In particular, C-corporation owner-employees are capped by the amount of their 2019 employee cash compensation and employer retirement and health insurance contributions made on their behalf. S-corporation owner-employees are capped by the amount of their 2019 employee cash compensation and employer retirement contributions made on their behalf, but employer health insurance contributions made on their behalf cannot be separately added because those payments are already included in their employee cash compensation. Schedule C or F filers are capped by the amount of their owner compensation replacement, calculated based on 2019 net profit. General partners are 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. For self-employed individuals, including Schedule C or F filers and general partners, retirement and health insurance contributions are included in their net self-employment income and therefore cannot be separately added to their payroll calculation.

Are there caps on the amount of cash compensation paid to employees?

Yes, for payments to employees who are not owners, the total amount of cash compensation eligible for forgiveness may not exceed an annual salary of \$100,000, as prorated for the Covered Period. For an 8-week Covered Period, that total is \$15,385. For a 24-week Covered Period, that total is \$46,154. You can only include compensation of employees you employed at any point during the Covered Period or Alternative Covered Period.

Can I use both payroll costs paid and payroll costs incurred?

Yes. Payroll costs are considered paid on the day that paychecks are distributed, or the Borrower originates an ACH credit transaction. Payroll costs incurred during the Borrower's last pay period of the Covered Period or the Alternative Payroll Covered Period are eligible for forgiveness if paid on or before the next regular payroll date. Payroll Costs are generally incurred on the day the employee's pay is earned (i.e., on the day the employee worked). For employees who are not performing work but are still on the borrower's payroll, payroll costs are incurred based on the schedule established by the borrower (typically, each day that the employee would have performed work).

What qualifies as Payroll Costs?

Payroll costs consist of compensation to employees (whose principal place of residence is the United States) in the form of salary, wages, commissions, or similar compensation; cash tips or the equivalent (based on employer records of past tips or, in the absence of such records, a reasonable, good-faith employer estimate of such tips); payment for vacation, parental, family, medical, or sick leave; allowance for separation or dismissal; payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums, and retirement; payment of state and local taxes assessed on compensation of employees; and for an independent contractor or sole proprietor, wages, commissions, income, or net earnings from self-employment, or similar compensation.

What are excluded from Payroll Costs?

The following are excluded from payroll costs:

- Any compensation of an employee whose principal place of residence is outside of the United States;
- The cash compensation of an individual employee in excess of an annual salary of \$100,000, prorated as necessary;
- Employer-paid payroll taxes.

- Qualified sick and family leave wages for which a credit is allowed under sections 7001 and 7003 of the Families First Coronavirus Response Act (Public Law 116–127).
- Payments to an independent contractor or sole proprietor (the independent contractor or sole proprietor may have obtained a loan under the PPP).

What are eligible Nonpayroll Costs?

All 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. Eligible Nonpayroll Costs cannot exceed 40% of the total forgiveness amount. Count Nonpayroll Costs that were both paid and incurred only once.

1. Interest payments on any mortgage obligation on real or personal property that was incurred before February 15, 2020 (but not any prepayment or payment of principal);
2. Payments on business rent obligations on real or personal property under a lease agreement in force before February 15, 2020; and
3. Business utility payments for the distribution of electricity, gas, water, transportation, telephone, or internet access for which the service began before February 15, 2020.

What Amounts are Eligible for Forgiveness?

The amount of loan forgiveness can be up to the full principal amount of the loan plus accrued interest. The actual amount of loan forgiveness will depend, in part, on the total amount spent on qualified payroll costs and nonpayroll costs over the 24-week period beginning on the date your PPP loan is disbursed.³ Your Forgiveness Amount is the lowest of:

- a. Loan Amount
- b. Total of Payroll and Nonpayroll Costs
- c. Payroll Cost 60% requirement (Payroll Costs divided by .60)

What are examples of a Potential Forgiveness Amount?

- Example 1: Assume a PPP loan of \$100,000. The total of Payroll and Nonpayroll Costs was \$110,000. Payroll Costs were \$75,000.
 - \$110,000 was total of Payroll and Nonpayroll Costs
 - \$100,000 PPP Loan Amount
 - Payroll Costs of \$75,000 divided by .60 = \$125,000

In this example, the amount of \$100,000 is the lesser amount, so it is the Potential Forgiveness Amount
- Example 2: Assume a PPP loan of \$100,000. The total of Payroll and Nonpayroll Costs was \$100,000. Payroll Costs were \$45,000.
 - \$100,000 was total of Payroll and Nonpayroll Costs
 - \$100,000 PPP Loan Amount
 - Payroll Costs of \$45,000 divided by .60 = \$75,000

In this example, the amount of \$75,000 is the lesser amount, so it is the Forgiveness Amount.

³ If your PPP loan was made before June 5, 2020, you may elect to have your covered period be the eight-week period beginning on the date your PPP loan was disbursed. In addition, under section 3(b)(1) of the Paycheck Protection Program Flexibility Act of 2020 (Flexibility Act), the covered period of any borrower will end no later than December 31, 2020.

Covered Period

What is a Covered Period?

'Covered Period' means your loan forgiveness covered period, which is the 24-week period beginning on the date your PPP loan is disbursed. If your PPP loan was made before June 5, 2020, you may elect to have your loan forgiveness covered period be the eight-week period beginning on the date your PPP loan was disbursed.⁴ For example, if your loan was disbursed April 15, 2020, and you are using the 24-week period, your Covered Period is April 15, 2020 – September 29, 2020 (alternatively, if you are using the 8-week duration, your Covered Period would be April 15, 2020 – June 9, 2020).

What is an Alternative Payroll Covered Period?

This is an option for Borrowers who have a payroll biweekly or more frequently. It is for administrative convenience to allow you to begin your 24-week (168-day) period on the first day of your first pay period following your PPP Loan Disbursement date (or, if you originated your loan prior to June 5, 2020 at your election, the eight-week (56-day) period that begins on the first day of your first pay period following your PPP Loan Disbursement date). For example, if you use a 24-week Alternative Payroll Covered Period and received your PPP loan proceeds on Monday, April 20, and the first day of your first pay period following your 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, October 10. If you choose the Alternative Payroll Covered Period, you continue to utilize the standard Covered Period for calculation of your Nonpayroll Costs. You are not required to use the Alternative Payroll Covered Period. We suggest you review both options to determine the period that is most beneficial for you to utilize for Payroll Costs.

Loans Not Fully Forgiven

What can reduce the amount of loan forgiveness?

The amount of loan forgiveness can be reduced due to the following:

- 1. At least 60% of the forgiveness amount must be used for payroll costs.** For example, if you received a PPP loan in the amount of \$100,000; however, you only used \$50,000 for Payroll Costs, the maximum amount of loan forgiveness would be \$83,333.33 (\$50,000 divided by .60). This is why it is very important for you to understand what qualifies (and does not qualify) as Payroll Costs, what Payroll Costs are paid or incurred, and for those employers with payrolls biweekly or more frequently, whether choosing the Alternative Payroll Covered Period is a good option for you.
- 2. You did not maintain employee levels (number of FTEs).** Generally, you must have the same number of Full-Time Equivalent (FTE) employees at the end of your Covered Period as you did prior to February 15, 2020. Two safe harbors apply (if you restored your FTE level by December 31, 2020; or were unable to operate due to government restrictions); and several exceptions are available (for example, if you can document you attempted to rehire to your same level). If you do not meet a safe harbor or exception, and do not maintain the same number of FTEs, the amount of loan forgiveness will be reduced.
- 3. You did not maintain employee compensation levels.** If you reduced salary or wages by more than 25% for any employee during your Covered Period (as compared to

⁴ The loan forgiveness covered period of any borrower will end no later than December 31, 2020.

first Quarter 2020) the amount of your loan forgiveness will be reduced unless you restore the salary/wage by December 31, 2020.

If I do not receive full loan forgiveness, will the payments follow the original loan terms?

If you utilized all the funds from your loan, once any Forgiveness Amount is applied, we will work with you on a payment schedule that will fit your needs for any amount remaining. If your current loan term is 2 years, you may request to extend the maturity to five years. Payments will be fully amortized over the term of the loan. If you did not utilize all your loan funds, or do not intend to utilize them, you may simply make a principal payment on your loan. You will also be responsible for accrued interest on the portion that is not forgiven.

Forgiveness Determination and SBA Review

Will the SBA review individual loan files?

Yes. SBA may review any PPP loan, as follows:

1. **Borrower Eligibility**: Whether or not the borrower is eligible for the PPP loan based on provisions of the CARES Act and rules and guidance available to the borrower at the time of their loan application.
2. **Loan Amounts and Use of Proceeds**: Whether a borrower calculated the loan amount correctly and used loan proceeds for allowable uses.
3. **Loan Forgiveness Amount**: Whether the borrower is entitled to loan forgiveness in the amount claimed on the borrower's Loan Forgiveness Application (SBA Form 3508 or lender's equivalent form).

When will SBA undertake a loan review?

At any time. Per the Loan Forgiveness Application Form, the borrower must retain PPP documentation in its files for six years after the date the loan is forgiven or repaid in full, and permit authorized representatives of SBA, including representatives of its Office of Inspector General, to access such files upon request.

Will I have the opportunity to respond to SBA's questions in a review?

Yes. If loan documentation submitted to SBA by the lender or any other information indicates that the borrower may be ineligible for a PPP loan or may be ineligible to receive the loan amount or loan forgiveness amount claimed by the borrower, SBA will require the lender to contact the borrower in writing to request additional information. SBA may also request information directly from the borrower. The lender will provide any additional information provided to it by the borrower to SBA. SBA will consider all information provided by the borrower in response to such an inquiry.

If SBA determines that a borrower is ineligible for a PPP loan, can the loan be forgiven?

No.

Can my loan forgiveness application be denied?

Yes. We are required to review your loan forgiveness application and confirm the documentation you provide supports the amounts requested. If we deny your request, we must notify you (in writing) and the SBA. You may notify us within 30 days of notification that you request the SBA to review our decision. In addition, as previously noted, the SBA has the ultimate authority to approve or deny a loan forgiveness application. Even if we

approve your loan forgiveness application, the SBA may deny a portion or total of the amount of loan forgiveness based on their review.

May a borrower appeal SBA’s determination that the borrower is ineligible for a PPP loan or ineligible for the loan amount or the loan forgiveness amount claimed by the borrower?

Yes. SBA intends to issue a separate interim final rule addressing this process.

FTE Employees

How do I calculate the average number of FTE employees?

To calculate the average full-time equivalency, for each employee paid during the Covered Period or the Alternative Payroll Covered Period, you must calculate the average number of hours paid per week, divide by 40, and round the total to the nearest tenth. The maximum for each employee is capped at 1.0. As an option, a simplified method that assigns a 1.0 for employees who work 40 hours or more per week and 0.5 for employees who work fewer hours may be used. The below example outlines both methods:

		Week Number								Weekly Avg.	FTE	Simplified Method FTE
		1	2	3	4	5	6	7	8			
Employee A	Hours Worked	20	25	20	30	27	20	30	25	24.6	0.6	0.5
Employee B		40	40	45	40	42	40	40	40	40.9	1.0	1.0
Employee C		38	42	40	40	35	42	42	42	40.1	1.0	1.0
Employee D		50	50	52	50	52	50	50	50	50.5	1.0	1.0
Employee E		38	38	36	36	34	35	40	35	36.5	0.9	0.5
Employee F		12	16	40	15	20	20	20	20	20.4	0.5	0.5
										FTE's	5.0	4.5

We suggest you calculate FTE utilizing both methods and determine which one is most beneficial for you to use. Once you determine how you will calculate FTE employees, you must use the same method consistently for all FTE calculations.

If I reduced the number of hours for an employee; therefore, lowering their salary. Since I already calculated a reduction in the amount of loan forgiveness due to the reduction in hours, do I also calculate a reduction in loan forgiveness due to the reduction in salary?

No. If the reduction in the salary is attributable to the FTE reduction, you are not doubly penalized for salary/wage reduction. The salary/wage reduction applies only to the portion of the decline in the employee salary and wages that is *not* attributable to the FTE reduction.

If I restore reductions made to employee salaries and wages no later than December 31, 2020, will I avoid a reduction in my loan forgiveness amount?

Yes. If employee⁵ salaries and wages were reduced between February 15, 2020 and April 26, 2020, and you eliminate those reductions by the earlier of December 31, 2020 or the date you submit your loan forgiveness application, you are exempt from any reduction in loan forgiveness amount that would otherwise be required due to reductions in salaries and wages.

⁵ Applicable to employees with annual cash compensation of \$100,000 or less.

Will a borrower's loan forgiveness amount be reduced if an employee is fired for cause, voluntarily resigns, or voluntarily requests a schedule reduction?

No. If this happens, the borrower may count such employees at the same full-time equivalency level before the FTE reduction event when calculating the reduction penalty. The borrower shall provide documentation upon request.