

Disclaimer

- As a Borrower under the Paycheck Protection Program, it is your sole legal responsibility to comply with all laws and regulations applicable to Borrowers under the Small Business Administration Paycheck Protection Program (SBA PPP).
- American Momentum Bank urges SBA PPP Borrowers to closely review the latest SBA PPP law, regulations and guidelines (Guidelines). The Guidelines can be found on the Small Business Administration and the Department of Treasury websites: www.SBA.gov and www.Treasury.gov. American Momentum Bank cautions you that the Guidelines are evolving. The Small Business Administration periodically updates the Guidelines. Some updates modify prior Guidelines, other updates provide further clarification.
- American Momentum Bank does not provide legal, tax, or accounting advice. Individual facts and circumstances vary from Borrower to Borrower which will impact any answers regarding any interpretation of questions. You should consult with your legal, tax, and accounting advisors to obtain advice regarding your specific situation. Our education materials and communications should be considered in connection with, and are not intended to replace or serve as a substitute for, your close review of the Guidelines, and legal, tax or accounting advice you are urged to obtain from your tax, accounting and legal advisors
- Our communications are summaries or excerpts of the Guidelines and may contain our opinions or interpretations of the Guidelines. There may be interpretations that are valid that differ from our interpretations and opinions. You are cautioned against placing undue reliance on our views and our educational materials.

Category: Second Draw

1. **Question:** If I received previous PPP funds, EIDL grants, unemployment benefits, or other government grants, are these funds to be included in my gross receipts when calculating my eligibility for a second PPP loan?

Answer: PPP funds and other state and federal government grants are not included in gross receipts.

2. **Question:** How is the loan amount based on the 2.5 months' worth of payroll expenses calculated? (excluding Schedule C tax filers)

Answer: Applicants will calculate the loan amount by taking the total payroll costs for 2019 or 2020, divided by 12 to identify the average monthly payroll for the calendar year. This value for average monthly payroll is multiplied by 2.5 to calculate the loan amount. Industries assigned to NAICS code 72 (lodging and restaurants) may receive loans up to 3.5 months' worth of average monthly payroll costs for a Second Draw loan.

3. **Question:** How is the loan amount based on the 2.5 months' worth of payroll expenses calculated for Schedule C tax filers with employees?

Answer: Applicants will calculate the loan amount by taking line 7 from the 2019 or 2020 Form 1040 Schedule C, minus the sum of line 14, line 19 and line 26. Take this total divided by 12 to calculate the average monthly payroll for owners. If this calculation exceeds \$8,333.33, enter \$8,333.33. Then, add this value to the average monthly payroll for employees.

Multiply this value by 2.5 (or 3.5 for industries assigned to NAICS code 72). At the borrower's option, if Line 31 of Schedule C is \$100,000 or greater, you may divide Line 31 by 12 and reduce it to \$8,333.33, if it exceeds that amount, and then multiply by 2.5 (or 3.5 for business NAICS 72) to determine the loan amount.

4. **Question:** How is the loan amount based on the 2.5 months' worth of payroll expenses calculated for Schedule C tax filers without employees?

Answer: Applicants will calculate the loan amount by taking line 7 from the 2019 or 2020 Form 1040 Schedule C divided by 12. If this value is greater than \$8,333.33, enter \$8,333.33. Multiply

this value by 2.5 (or 3.5 for industries assigned to NAICS code 72). At the borrower's option, if Line 31 of Schedule C is \$100,000 or greater, you may divide Line 31 by 12 and reduce it to \$8,333.33, if it exceeds that amount, and then multiply by 2.5 (or 3.5 for business NAICS 72) to determine the loan amount.

5. **Question:** If I am a Schedule C tax filer and already received my PPP loan, can I apply for the additional funds if I would have calculated my loan amount based on line 7 of my Schedule C rather than line 31?

Answer: Borrowers may adjust their loan applications to base the loan calculation on Line 7 versus Line 31 as long as they have not been submitted to the SBA. If the loan has already been approved as of the effective date of the rule change (3/3/21), the change is not retroactive, and the borrower cannot increase their PPP loan amount based on the new calculation methodology.

6. **Question:** How should an applicant demonstrate they had a 25% reduction in gross receipts, in order to be eligible for a second draw loan?

Answer: For businesses applying for a second draw loan greater than \$150,000, the following are the primary sets of documentation Applicants can provide to substantiate their certification of a 25 percent gross receipts reduction. Businesses applying for loans of \$150,000 or less are not required to provide this documentation at the time of loan application. It should be noted that borrowers with loans of \$150,000 or less will be required to provide documentation showing the reduction in gross receipts before or at the time the borrower seeks loan forgiveness.

- Preferred Method - Quarterly financial statements for the entity. If the financial statements are not audited, the Applicant must sign and date the first page of the financial statement and initial all other pages, attesting to their accuracy. If the financial statements do not specifically identify the line item(s) that constitute gross receipts, the Applicant must annotate which line item(s) constitute gross receipts.
- Quarterly or monthly bank statements for the entity showing deposits from the relevant quarters. The Applicant must annotate, if it is not clear, which deposits listed on the bank statement constitute gross receipts (e.g., payments for purchases of goods and services) and which do not (e.g., capital infusions).
- Annual IRS income tax filings of the entity (required if using an annual reference period). If the entity has not yet filed a tax return for 2020, the Applicant must fill out the return forms, compute the relevant gross receipts value, and sign and date the return, attesting that the values that enter into the gross receipts computation are the same values that will be filed on the entity's tax return.

7. **Question:** Do applicants have the choice of using either 2019 or 2020 payroll documentation to calculate their loan amount?

Answer: Yes, the loan amount may be based on either 2.5 months' worth of payroll from 2019 or 2020.

8. **Question:** Must borrowers have applied for forgiveness of their first PPP loan before applying for a second PPP loan?

Answer: No. You can receive a second draw loan only after your first loan has been fully used, but you do not need to have the first loan forgiven before the second loan.

9. **Question:** My business began operations in 2019. Our 2020 gross receipts are greater than 2019 due to being in operation in 2019 for only a few months, but still need a PPP loan to support our operations. Do we qualify for a second PPP loan?

Answer: SBA guidance states that a business is eligible for a second draw PPP loan if the business experienced at least a 25% decrease in gross receipts for any one quarter in 2020 relative to the same quarter in 2019.

10. **Question:** What is included in for-profit gross receipts?

Answer: Per SBA guidance on second draw loans, for a for-profit business, gross receipts generally are all revenue in whatever form received or accrued (in accordance with the entity's accounting method, i.e., accrual or cash) from whatever source, including from the sales of products or services, interest, dividends, rents, royalties, fees, or commissions, reduced by returns and allowances but excluding net capital gains and losses.

Gross receipts do not include the following:

- taxes collected for and remitted to a taxing authority if included in gross or total income, such as sales or other taxes collected from customers (this does not include taxes levied on the concern or its employees);
- proceeds from transactions between a concern and its domestic or foreign affiliates; and
- amounts collected for another by a travel agent, real estate agent, advertising agent, conference management service provider, freight forwarder or customs broker

All other items, such as subcontractor costs, reimbursements for purchases a contractor makes at a customer's request, investment income, and employee-based costs such as payroll taxes, may not be excluded from gross receipts.

11. **Question:** What is included in non-profit gross receipts?

Answer: Per SBA guidance on second draw loans, for a nonprofit 501 (c) (3) organization, a 501 (c)(19) veterans organization, an eligible nonprofit news organization, an eligible 501 (c)(6) organization, or an eligible destination marketing organization, gross receipts means gross receipts within the meaning of section 6033 of the Internal Revenue Code of 1986, which is the gross amount received by the organization during its annual accounting period from all sources without reduction for any costs or expenses including, for example, costs of goods or assets sold, cost of operations, or expenses of earning, raising, or collecting such amounts.

Gross receipts include but is not limited to:

- gross revenue or gross revenue plus Cost of Goods Sold
- the gross amount received as contributions, gifts, grants and similar amounts without reduction for the expenses of raising and collecting such amounts
- the gross amount received as dues or assessments from members or affiliated organizations without reduction for expenses attributable to the receipt of such amounts,
- gross sales or receipts from business activities (including business activities unrelated to the purpose for which the organization qualifies for exemption, the net income or loss from which may be required to be reported on Form 990-T),
- the gross amount received from the sale of assets without reduction for cost or other basis of expenses of sale, and
- the gross amount received as investment income, such as interest, dividends, rents and royalties

12. **Question:** Would an applicant qualify for a second PPP loan if employees were laid off or furloughed in 2020?

Answer: Eligibility for a second draw loan is not based on relative FTE counts. However, the amount of forgiveness of a second draw loan must have at least 60% of the amount spent on eligible payroll expenses.

13. **Question:** Is owner draw also included in eligible payroll costs when calculating the loan amount?

Answer: No, owner draws and/or distributions to owners, which are not included in the business' payroll or reported on Form 1065 Schedule K-1, line 14A, may not be included in payroll expenses.

14. **Question:** Are owners included in the 300-employee limit for eligibility?

Answer: Owners are included in the employee count when evaluating eligibility for a PPP loan.

15. **Question:** What time period do second draw PPP funds cover?

Answer: In order to achieve loan forgiveness, second draw funds must be spent on eligible payroll and non-payroll costs during a Covered Period of up to 24 weeks. The Covered Period will begin for these loans the date the Second Draw loan is disbursed into the borrower's account.

16. **Question:** How do I calculate the 25% reduction in gross receipts?

Answer: The revenue reduction is calculated by taking 2020 gross receipts/2019 gross receipts. If the calculated value is 0.75 or less, the 25% reduction is met. The appropriate reference period is any single calendar quarter in 2020 compared to the same quarter in 2019.

17. **Question:** What reference periods can be used to determine whether the Applicant can demonstrate at least a 25% gross receipts reduction in order to qualify for a Second Draw PPP loan?

Answer: The appropriate reference periods depend on how long the Applicant has been in business:

- For all Applicants, except those satisfying the conditions set forth below, the applicant must demonstrate that gross receipts in any calendar quarter of 2020 were at least 25 percent lower than the same quarter of 2019. Alternatively, applicants may compare annual gross receipts in 2020 with annual gross receipts in 2019 if they were in business in 2019.
- For entities not in business during the first and second quarters of 2019 but in operation during the third and fourth quarters of 2019, Applicants must demonstrate that gross receipts in any quarter of 2020 were at least 25 percent lower than during either the third or fourth quarters of 2019.
- For entities not in business during the first, second, and third quarters of 2019 but in operation during the fourth quarter of 2019, Applicants must demonstrate that gross receipts in any quarter of 2020 were at least 25 percent lower than the fourth quarter of 2019.
- For entities not in business during 2019 but in operation on February 15, 2020, applicants must demonstrate that gross receipts in the second, third, or fourth quarter of 2020 were at least 25 percent lower than the first quarter of 2020.

18. **Question:** Is it correct that NAICS code 72 businesses are eligible for a loan amount of 3.5 months' worth of payroll?

Answer: Yes, industries assigned to NAICS code 72 (lodging and restaurants) may receive loans up to 3.5 months of average monthly payroll costs for their Second Draw PPP loan.

19. **Question:** Can the second draw loan amount be different than the first draw, or must the amounts be the same?

Answer: The amounts may be different if an applicant chooses to base the loan amount calculation on 2020 payroll costs versus 2019 payroll costs that were used to calculate the first loan amount.

20. **Question:** What documents are required to apply for a second draw loan?

Answer: Applicants must provide the following when applying for a Second Draw PPP loan:

1. A payroll register as of 2/15/2020 or for sole proprietors and independent contractors, a February 2020 bank statement or invoice showing the business was in operation on February 15, 2020
2. Documentation verifying the number of full-time equivalent employees (FTE) on the applicant's payroll. Documentation may be a combination of the following:
 - 2019 or 2020 calendar year third party payroll report listing all employees and the average number of hours worked per week
 - 2019 or 2020 941 tax filings
 - For seasonal employers, payroll may be determined by any consecutive 12-week period between February 15, 2019 and February 15, 2020
3. Documentation that supports the amount of payroll costs incurred for either 2019 or 2020. Documentation may be a combination of the following:
 - 2019 or 2020 calendar year third party payroll report listing all employees and total wages
 - all four quarters 2019 Payroll Tax Filings (941/940)
 - Bank records
 - 2019 or 2020 Schedule C or Schedule F (self-employed individuals, sole proprietorships, independent contractors and certain single member LLCs only)
3. For Second Draw Loans Over \$150,000 - Financial statements or tax forms to support the 25% reduction in gross receipts for the periods referenced in the application. Documentation may include a combination of the following:
 - 1120/1120S
 - Schedule C
 - 1065
 - Schedule F

It should be noted that if the financial statements provided are not audited, the Applicant must sign and date the first page of the financial statement and initial all other pages, attesting to their accuracy.

21. **Question:** If a business only experienced a decrease in gross receipts during one quarter of 2020, are they still eligible for a second draw PPP loan?

Answer: Yes, the legislation signed by Congress states that to be eligible for a second draw or new PPP loan, the borrower must have experienced a decrease in gross receipts in either quarter 1, quarter 2, quarter 3 or quarter 4 of 2020 relative to the same quarter of 2019.

22. **Question:** If payroll documentation was already provided for our first PPP loan, do we need to provide this same documentation to apply for a second PPP loan?

Answer: Yes. This loan is viewed as a separate loan so all supporting documentation must be provided with the second draw loan application.

23. **Question:** At what point in time is the 300-employee count evaluated for eligibility?

Answer: Employee counts are evaluated at the time of loan application.

24. **Question:** What is included in the 2.5 months' worth of eligible payroll costs?

Answer: Payroll costs include employee compensation of variety of forms, employee benefits paid by the employer, owner compensation, retirement plan costs paid by the employer, and state or local payroll taxes.

25. **Question:** Is the 25% gross receipt reduction based on calendar year or fiscal year calculations?

Answer: The 25% reduction is based on a calendar quarter calculation, not an annual calculation.

26. **Question:** Are workers compensation costs included in the 2.5 months' worth of payroll costs?

Answer: Workers compensation costs are included in eligible payroll costs only if part of state payroll taxes.

27. **Question:** Can I include costs to independent contractors in my payroll calculation?

Answer: Only payments made to W-2 employees are eligible payroll costs. 1099 payments are ineligible as these individuals are eligible to apply for their own PPP loan.

28. **Question:** Our business services the restaurant industry, but we are not under the NAICS Code of 72. Are we eligible for a loan of 3.5 months' worth of payroll?

Answer: SBA guidance states that only industries under the NAICS Code of 72 are eligible for a PPP second draw loan of 3.5 months' worth of payroll costs.

29. **Question:** If a business experienced a decrease in gross receipts of 20% but a decrease in net income of 50%, do they qualify for a second draw loan?

Answer: Per SBA guidance, the business must have experienced a 25% decrease in gross receipts in either quarter 1, quarter 2, quarter 3 or quarter 4 of 2020 relative to the same quarter of 2019.

30. **Question:** Are donations to charities and non-profits included in gross receipts?

Answer: Donations received by charities and non-profits are included in gross receipts.

31. **Question:** The new form asks how the funds will be used. Are these cost categories included in payroll costs since the loan is only based payroll?

Answer: The loan amount is solely based on payroll costs, but the loan funds may be used for the various cost categories listed.

32. **Question:** What type of documentation is needed to demonstrate that all first draw PPP funds have been used or will have been used by the time the second draw loan is received?

Answer: There is no documentation required, however, the borrower must certify that the first loan has been used or will have been used for eligible expenses prior to disbursement of the second draw loan. The SBA may request support of this certification in the case of a PPP loan audit.

33. **Question:** If a business' first draw loan was not completely forgiven, does this affect eligibility for a second draw loan?

Answer: The Economic Aid Act provides that a Second Draw PPP Loan may only be made to an eligible borrower that (i) has received a First Draw PPP Loan, and (ii) has used, or will use, the full amount of the First Draw PPP Loan on or before the expected date on which the Second Draw PPP Loan is disbursed to the borrower. If the borrower's first draw loan was not fully forgiven, then the borrower did not use the full amount of the first draw loan for eligible program purposes and therefore is not eligible to receive a second draw loan.

34. **Question:** A business opened a second location in 2020, thus, gross receipts are higher than 2019. Does the business qualify for a second draw loan since the locations would meet the 25% requirement if evaluated separately?

Answer: The eligibility requirement is for the legal business entity as a whole, comparing one quarter in 2020 to the same quarter in 2019. You will need to review your results for each quarter to determine if any quarter has a 25% decline. If that is not the case because of the second location, unfortunately the guidance at this point would indicate the business is not eligible.

35. **Question:** If a business sold assets to increase cash flow, can the capital gain be excluded from gross receipts when calculating the 25% revenue reduction?

Answer: Yes. The instructions on the form indicate capital gains are excluded from gross receipts.

36. **Question:** Should amounts paid to employees for an annualized salary greater than \$100,000 be excluded from the loan calculation?

Answer: Yes, only compensation up to an annualized salary of \$100,000 should be included in the loan amount calculation. Benefits costs are not included in the \$100,000 threshold.

37. **Question:** If a business experienced a decrease in gross receipts in 2020 but recovered by the end of the year, is the business still eligible for a Second Draw loan?

Answer: Yes, the legislation signed by Congress states that to be eligible for a second draw or new PPP loan, the borrower must have experienced a decrease in gross receipts in one quarter, either quarter 1, quarter 2, quarter 3 or quarter 4 of 2020 relative to the same quarter of 2019.

38. **Question:** An applicant wants to use 2020 payroll costs because new employees were hired in 2020. However, the owner's income is on a 2019 Schedule C. Can the applicant include both 2020 payroll costs and the owner's 2019 Schedule C income in their loan amount calculation?

Answer: No. An applicant may choose either 2019 or 2020 to calculate their loan amount, however, payroll from 2020 and owner compensation in 2019 may not be combined to calculate the loan amount. The applicant must choose to provide documentation from either 2019 or 2020, but not both. A Schedule C for 2020 which is not yet filed but which is signed and dated by borrower may be used with 2020 employee payroll reports.

39. **Question:** Is a customer required to resubmit their financial documentation if they submitted their application before January 19, 2021, but the financial statements provided are not audited and not signed or initialed by the applicant?

Answer: The Bank will contact the customer upon review if additional documentation or certification is needed based on the documentation provided.

Category: First Draw

1. **Question:** How is the loan amount based on the 2.5 months' worth of payroll expenses calculated? (excluding schedule C tax filers)

Answer: Applicants will calculate the loan amount by taking the total eligible payroll costs for 2019 or 2020, or last 12 months divided by 12 to identify the average monthly eligible payroll for the calendar year. This value for average monthly eligible payroll cost is multiplied by 2.5 to calculate the loan amount.

2. **Question:** How is the loan amount based on the 2.5 months' worth of payroll expenses calculated for Schedule C tax filers with employees?

Answer: Applicants will calculate the loan amount by taking line 7 from the 2019 or 2020 Form 1040 Schedule C, minus the sum of line 14, line 19 and line 26. Take this total divided by 12 to calculate the average monthly payroll for owners. If this calculation exceeds \$8,333.33, enter \$8,333.33. Then, add this total to the average monthly payroll for employees. Multiply the total payroll amount by 2.5 to determine the loan amount. At the borrower's option, if Line 31 of Schedule C is \$100,000 or greater, you may divide Line 31 by 12 and reduce it to \$8,333.33, if it exceeds that amount, and then multiply by 2.5 to determine the loan amount.

3. **Question:** How is the loan amount based on the 2.5 months' worth of payroll expenses calculated for Schedule C tax filers without employees?

Answer: Applicants will calculate the loan amount by taking line 7 from the 2019 or 2020 Form 1040 Schedule C divided by 12. If this value is greater than \$8,333.33, enter \$8,333.33. Then, multiply this value by 2.5 to determine the loan amount. At the borrower's option, if Line 31 of Schedule C is \$100,000 or greater, you may divide Line 31 by 12 and reduce it to \$8,333.33, if it exceeds that amount, and then multiply by 2.5 to determine the loan amount.

4. **Question:** If I am a Schedule C tax filer and already received my PPP loan, can I apply for the additional funds if I would have calculated my loan amount based on line 7 of my Schedule C rather than line 31?

Answer: Borrowers may adjust their loan applications to base the loan calculation on Line 7 versus Line 31 as long as they have not been submitted to the SBA. If the loan has already been approved as of the effective date of the rule change (3/3/21), the change is not retroactive, and the borrower cannot increase their PPP loan amount based on the new calculation methodology.

5. **Question:** Am I eligible to receive additional first draw funds if I did not take the full loan amount, I qualified for in 2020?

Answer: There are a narrow set of circumstances that allow certain PPP borrowers who received a First Draw PPP loan approved on or before August 8, 2020, to receive a first draw loan increase. The business types that may be eligible for an increase, include certain partnerships, seasonal employers and farmers and ranchers.

6. **Question:** Do first draw PPP applicants need to demonstrate a 25% reduction in gross receipts?

Answer: No, the 25% reduction in receipts requirement only applies to second draw applicants.

7. **Question:** Do applicants have the choice of using either 2019 or 2020 payroll documentation to calculate their loan amount?

Answer: Yes, the loan amount may be based on either 2.5 months' worth of eligible payroll costs from 2019 or 2020.

8. **Question:** I have not filed my 2019 taxes yet; can I submit my 2018 tax return?

Answer: The SBA requires applicants to provide 2019 or 2020 documentation. The borrower's tax return need not be filed. They only need to be completed and provided. Also, an annual payroll report from a professional third-party payroll provider, may be acceptable.

9. **Question:** Is owner draw also included in eligible payroll costs when calculating the loan amount?

Answer: No, owner draws and/or distributions to owners, which are not included in the business' payroll or reported on Form 1065 Schedule K-1, line 14A, may not be included in payroll expenses.

10. **Question:** Are owners included in the 500-employee limit for eligibility?

Answer: Owners are included in the employee count when evaluating eligibility for a PPP loan.

11. **Question:** If a business received an SBA loan (not a PPP loan), are they eligible to apply for a first draw PPP loan?

Answer: Yes. Other SBA loans do not affect eligibility for a PPP loan.

12. **Question:** What documents are required to apply for a first draw loan?

Answer: Applicants must provide the following when applying for a First Draw PPP loan:

1. A payroll register as of 2/15/2020 or for sole proprietors and independent contractors, a February 2020 bank statement or invoice showing the business was in operation on February 15, 2020
2. Documentation verifying the number of full-time equivalent employees (FTE) on the applicant's payroll. Documentation may be a combination of the following:
 - 2019 or 2020 calendar year third party payroll report listing all employees and the average number of hours worked per week
 - 2019 or 2020 941 tax filings
 - For seasonal employers, payroll may be determined by any consecutive 12-week period between February 15, 2019 and February 15, 2020
3. Documentation that supports the amount of payroll costs incurred for either 2019 or 2020. Documentation may be a combination of the following:
 - 2019 or 2020 W3 or W2 for all employees
 - 2019 or 2020 calendar year third party payroll report listing all employees and total wages
 - all four quarters 2019 Payroll Tax Filings (941/940)
 - 2019 or 2020 Schedule C or
 - Schedule F (self-employed individuals, sole proprietors, independent contractors, qualified joint ventures and certain single member LLC's only)

13. **Question:** At what point in time is the 500-employee count evaluated for eligibility?

Answer: Employee counts are evaluated at the time of loan application.

14. **Question:** What is included in the 2.5 months' worth of eligible payroll costs?

Answer: Payroll costs include employee compensation of variety of forms, employee benefits paid by the employer, owner compensation, retirement plan costs paid by the employer, and state or local payroll taxes.

15. **Question:** Are independent contractors eligible to apply for a PPP loan?

Answer: Independent contractors and self-employed individuals are eligible to apply for their own PPP loan. Payments to these individuals should not be included in a business' payroll calculation for this reason.

16. **Question:** Are workers compensation costs included in the 2.5 months' worth of payroll costs?

Answer: Workers compensation costs are included in eligible payroll costs only if part of state payroll taxes.

17. **Question:** Can I include costs to independent contractors in my payroll calculation?

Answer: No, only payments made to W-2 employees are eligible payroll costs. 1099 payments are ineligible as these individuals are eligible to apply for their own PPP loan.

18. **Question:** Do you have to be a Bank customer to apply for a PPP loan?

Answer: We are issuing PPP loans to non-customers and thank you for choosing our institution. We do ask that you open a business DDA account with our Bank so we can deposit the funds into your account once received from the SBA.

19. **Question:** The new form asks how the funds will be used. Are these cost categories included in payroll costs since the loan is only based payroll?

Answer: The loan amount is solely based on payroll costs, but the loan funds may be used for the various cost categories listed.

20. **Question:** Should amounts paid to employees for an annualized salary greater than \$100,000 be excluded from the loan calculation?

Answer: Yes, only compensation up to an annualized salary of \$100,000 should be included in the loan amount calculation. Benefits costs are not included in the \$100,000 threshold.

21. **Question:** If a business was closed for a few months and just reopened, is the business eligible for a PPP loan?

Answer: As long as the business is not permanently closed and other program requirements are met, the borrower would still be eligible for a PPP loan.

22. **Question:** Is a business that was in operation on February 15, 2020 but had a change in ownership after February 15, 2020 eligible for a PPP loan?

Answer: Yes. As long as the acquired business was in operation on February 15, 2020, meets the other eligibility criteria and did not previously receive a PPP loan, the acquiring business is eligible to apply for a PPP loan regardless of the change in ownership. If the acquiring business has maintained the operations of the pre-sale business, the acquiring business may rely on historic payroll costs and headcount of the pre-sale business for the purposes of its PPP loan application, except for where the pre-sale business had already applied for and received a PPP loan.

23. **Question:** An applicant wants to use 2020 payroll costs because new employees were hired in 2020. However, the owner's income is on a 2019 Schedule C. Can the applicant include both 2020 payroll costs and the owner's 2019 Schedule C income in their loan amount calculation?

Answer: No. An applicant may choose either 2019 or 2020 to calculate their loan amount, however, payroll from 2020 and owner compensation in 2019 may not be combined to calculate the loan amount. The applicant must choose to provide documentation from either 2019 or 2020, but not both. A Schedule C for 2020 which is not yet filed but which is signed and dated by borrower may be used with 2020 employee payroll reports.

Category: Forgiveness

1. **Question:** What is the deadline to apply for loan forgiveness?

Answer: The SBA has not set a specific application deadline. Borrowers may apply for forgiveness any time before the maturity date of the loan.

2. **Question:** Can I still apply for and receive forgiveness of my first PPP loan?

Answer: Yes. Borrowers can still apply for forgiveness for loans issued in 2020 even though the SBA is providing another round of funding.

3. **Question:** Are payroll service provider costs eligible for forgiveness?

Answer: Yes. New guidance states that accounting and other human resources costs are included in covered operations expenditures.

4. **Question:** If I receive a first and second draw, and together they are under \$150,000, can I use one certification to apply for forgiveness?

Answer: First and second draw loans are considered separate loans, so forgiveness will be applied for separately. However, forgiveness can be applied for at the same point in time.

5. **Question:** What specific costs are included in supplier costs eligible for forgiveness?

Answer: Supplier costs include expenditures to a supplier pursuant to a contract, purchase order, or order for goods in effect prior to taking out the loan that are essential to the recipient's operations at the time at which the expenditure was made. Supplier costs of perishable goods can be made before or during the life of the loan.

6. **Question:** What costs are included in group benefits costs eligible for forgiveness?

Answer: Group benefits costs include employer paid group benefits for health, life, disability, dental and vision insurance.

7. **Question:** Are worker's protection costs from March of 2020 eligible for forgiveness?

Answer: Costs included on your forgiveness application must have been paid or incurred during the loan's Covered Period, which begins on the date of disbursement of the PPP loan funds.

8. **Question:** Do worker's protection costs include costs associated with allowing employees to work remotely? (such as costs for VPN set-up, video conferencing subscriptions, etc.)

Answer: Our interpretation of the SBA's guidance is that these costs would be considered PPE costs and are eligible for forgiveness.

9. **Question:** If I received a PPP loan in 2020, am I eligible to include costs for the new cost categories eligible for forgiveness in my forgiveness request?

Answer: Yes. All new requirements that resulted from the new legislation are applied retroactively to all loans issued in 2020, as long as forgiveness has not already been received.

10. **Question:** Are premiums paid for the owner's health benefits eligible for forgiveness?

Answer: Benefits costs for owners are not eligible for forgiveness, unless indirectly part of a general employee benefit plan.

11. **Question:** Are employee compensation caps of an annualized salary of \$100,000 still applied to forgiveness amount calculations?

Answer: Yes. Only compensation up to an annualized salary of \$100,000 should be included in the forgiveness calculation. Benefits costs are not included in the \$100,000 threshold.

12. **Question:** If we did not include owner compensation in our original loan calculation, can we request forgiveness for owner compensation, or is it limited to payroll used to calculate the loan amount?

Answer: Yes, owner compensation can be included in the forgiveness amount requested. Borrowers may use the PPP funds on any cost categories eligible for forgiveness. In order to achieve full forgiveness, at least 60% of the loan must be used on eligible payroll costs.

13. **Question:** Is forgiveness still based on a minimum expenditure of 60% of the funds on payroll?

Answer: The amount of forgiveness must have at least 60% associated with payroll costs, and this requirement still applies to existing, new and second draw PPP loans.

14. **Question:** Are borrowers eligible to apply for forgiveness using the streamlined application for loan less than \$150,000 even if their first and second draw loans together exceed \$150,000?

Answer: Yes. First and second draw loans are considered separate loans, so forgiveness will be applied for separately.

15. **Question:** Is the new simplified application different than the EZ form? Will the EZ form still be available for use?

Answer: The new simplified application is only for borrowers who received loans less than \$150,000. The EZ form will still be available for borrowers to apply for forgiveness, as long as the requirements to use the EZ form are met.

16. **Question:** To receive forgiveness for supplier costs, does a written contract need to be provided showing the agreement with the supplier?

Answer: The SBA has not provided guidance on the specific documentation required to support these expenditures.

17. **Question:** What is required to be in the 1-page certification to apply using the streamlined application for loans under \$150,000?

Answer: A borrower shall receive forgiveness if a borrower signs and submits to the lender a certification that is not more than one-page in length including:

- a description of the number of employees that the borrower was able to retain because of the covered loan
- The estimated total amount of the loan spent on payroll costs
- The total loan amount

The borrower must also attest that the borrower accurately provided the required certification and complied with program requirements.

18. **Question:** Is PPP forgiveness treated as taxable income?

Answer: Forgiveness of PPP loans are not to be included as taxable income on a borrower's tax returns.

19. **Question:** How do the new forgiveness requirements affect non-profit organizations?

Answer: The rules are the same for non-profit organizations as for for-profit organizations.

20. **Question:** Will forgiveness be given to second draw recipients?

Answer: Borrowers may request forgiveness for both first and second draw PPP loans.

21. **Question:** Even with additional cost categories eligible for forgiveness, the loan amount does not change. How is it beneficial to add in new eligible costs incurred?

Answer: New cost categories allow businesses to use the funds on other expenditures that resulted from the pandemic in case the borrower was unable to spend the entirety of the loan on payroll. At least 60% of the amount of forgiveness must be supported by payroll costs.

22. **Question:** Will the new requirements affect applications that have already been submitted to the Bank for forgiveness?

Answer: Borrowers may adjust their applications to reflect the new program requirements as long as the application has not been submitted to the SBA and forgiveness has not been received.

23. **Question:** Can businesses include expenditures that fall under the new cost categories in their forgiveness request for a loan that was issued in 2020?

Answer: Yes. New program requirements apply to new, second draw and current PPP loans.

24. **Question:** How do I contact the SBA to get a status update on my forgiveness application once it has been submitted to them?

Answer: Borrowers can email the SBA at answerdesk@sba.gov or call them at 800-827-5722. You can also contact your local SBA District Office.

25. **Question:** I received a PPP loan in 2021. How can I use the funds?

Answer: Borrowers may spend the PPP funds received in 2020 and 2021 on the following categories in order to be eligible for loan forgiveness.

Payroll:

- Employee Compensation
- Owner Compensation
- Borrower costs for employee benefits
- Group benefits

Nonpayroll

- Mortgage Interest
- Rent
- Utilities
- Operations (Software)
- Property Damage
- Suppliers
- Worker Protection (PPE, etc.)

It should be noted that at least 60% of the forgiveness amount must be supported by eligible payroll costs.

26. **Question:** Where can I find my NAICS code?

Answer: If you do not know your NAICS Code, you can look it up on www.census.gov/naics. You can either drill down by using the “2017 NAICS” reference document toward the bottom of the page or enter a keyword into the “2017 NAICS Search” field on the left side. You can also find the correct NAICS code on the front page of your federal tax return.

27. **Question:** How do I prorate cash compensation to match the duration of my Covered Period?

Answer: It should be noted that compensation for any single employee above an annualized salary of \$100,000 during the Covered Period cannot be included in the forgiveness amount for PPP funds. In order to calculate the cash compensation limit per employee during your Covered Period, take \$100,000 divided by 52, which equals \$1,923.08. Multiply this amount by the number of weeks in your Covered Period to calculate the maximum amount of an employee's compensation during your Covered Period which may be included in the forgiveness amount for PPP funds.

28. **Question:** Are employee benefits included in the annualized \$100,000 compensation cap?

Answer: No, employee benefits are not included in the employee compensation cap. The annualized \$100,000 cap includes cash compensation, salary, wages, commissions, tips, paid leave and any allowance for separation or dismissal.

Category: Other

1. **Question:** If your loan issued in 2020 was forgiven before the new legislation was passed, will you still be eligible to deduct eligible expenses associated with forgiveness?

Answer: Yes. All borrowers will be allowed a tax deduction for eligible expenses associated with their PPP loan forgiveness.

2. **Question:** If my PPP loan has not yet been forgiven, should I report it as income on my 2020 tax return?

Answer: PPP loans should not be reported as income until a forgiveness decision has been received from the SBA. Forgiveness of PPP loans are not to be included as taxable income on your tax returns.

3. **Question:** Are there any forgiveness programs for businesses that started after February 15, 2020, but were still affected by the pandemic?

Answer: Businesses may be able to qualify for other grants, but in order to be eligible for a PPP loan, a business must have been in operation on February 15, 2020.

4. **Question:** Will the SBA refund borrowers who have received forgiveness and had the EIDL advance deducted from their forgiveness amount?

Answer: Yes, borrowers who already received forgiveness and have a residual balance from their EIDL advance will be made whole by the SBA.

5. **Question:** What loans are subject to an SBA audit?

Answer: All loans over \$2 million will be audited by the SBA. Loans under \$2 million are subject to being audited and will be audited at random by the SBA.

6. **Question:** How are Full Time Equivalent Employees (FTE) calculated?

Answer: An employee's FTE is calculated by taking the average number of hours worked per week during the Covered Period or reference period divided by 40. For example, if an employee worked on average 32 hours per week, their FTE would be $32/40 = 0.8$. An employee's FTE calculation is capped at 1.0.

7. **Question:** What documentation needs to be retained and how long should it be retained?

Answer: Payroll documentation must be retained for 4 years. All other documentation must be retained for 3 years.

8. **Question:** How does a business evidence they needed a PPP loan?

Answer: The need for a PPP loan is a borrower certification and no documentation is required to support the certification. However, the SBA may request documentation supporting this certification and the economic uncertainty during an audit of a PPP loan.

9. **Question:** If a business received a Shuttered Venue grant, can the funds be returned to be eligible for a PPP loan?

Answer: SBA guidance does not specifically address this situation; however, guidance does state that if a borrower received a Shuttered Venue grant, they are ineligible for a PPP loan.

10. **Question:** What determines the Covered Period?

Answer: The Covered Period begins the date of loan disbursement or the start of the next payroll period after the date of loan disbursement. The borrower may choose the duration of their Covered Period with a minimum of 8-weeks up to 24-weeks. Borrowers must prorate the annualized \$100,000 salary cap to match the number of weeks in their Covered Period.

11. **Question:** Are expenses used to support forgiveness tax deductible from the first draw or second draw loan?

Answer: Expenses for forgiven PPP loans are tax deductible, regardless of whether the funds were from a first draw or second draw loan.

12. **Question:** Will borrowers be notified in the event of an audit request?

Answer: Yes. The Bank has 5 business days to notify the borrower of an audit request. The borrower must provide the Bank with the required documentation within 10 business days of notification. Once the borrower has submitted all documentation requested by the SBA to the Bank, the Bank has 5 business days to upload all documentation to the SBA.

13. **Question:** Should seasonal employers wait until the beginning of their busy season to apply for a PPP loan to allow more time to accumulate eligible costs?

Answer: It is up to the borrower to determine the best time to apply for a PPP loan. The borrower has up to 24-weeks after loan disbursement to accumulate enough eligible costs to maximize forgiveness.

14. **Question:** Are borrowers still required to pay back an EIDL?

Answer: Yes. EIDL loan recipients must repay the loan in full. EIDL grants are automatically forgiven and no longer reduce the recipients PPP loan forgiveness amount.

Category: General – First Round FAQs

1. **Question:** If a borrower applies for forgiveness before the end of a 24-week covered period, are the caps of \$20,833 for owners and \$46,154 for employees prorated to match the number of weeks in the Covered Period?

Answer: Yes, the caps for employees are prorated to match the number of weeks in the period, if applying before the end of 24 weeks. For owners, the owner compensation caps were based on 2.5 months of 2019 income per owner and no prorate adjustment is needed if applying prior to the end of the 24-week covered period.

2. **Question:** Are churches in same diocese considered "related parties"?

Answer: Religious organizations are exempt from related party (affiliation) limitations for the 3508S form.

3. **Question:** What FTE number should you use when you apply for forgiveness before the end of the covered period? (For example, if funds are used by 18 weeks versus 24 weeks).

Answer: FTE for the Covered Period should reflect the number of FTE on the earlier of the end of the 8-week or 24-week Covered Period, or the date in which the borrower applies for forgiveness. So, in the example provided, you would use the number of FTE during the 18 weeks the loan proceeds were used.

4. **Question:** Does the Medicare & Social Security Match paid by the employer count as part of payroll costs?

Answer: No. Since Medicare and Social Security are Federal Government sponsored programs, these costs are not eligible to be included in forgiveness calculations.

5. **Question:** What is a "related party"?

Answer: The SBA defines a related party as any ownership in common between borrowers or property owners.

6. **Question:** Can you count payment to a staffing agency for temp workers as part of payroll?

Answer: Under the Paycheck Protection Program, only compensation paid to employees and business owners should be included Payroll costs. An "employee" is any member of the business that receives compensation through payroll. If payments were made to a staffing agency and not to individual employees through payroll, the payments made to the staffing agency are not to be included in forgiveness calculations.

7. **Question:** If a borrower pays themselves on a W2 along with employee's regular payroll - does the individual classify themselves as an owner or as an employee?

Answer: If a person owns 5% or more of the company, they are considered an owner for purposes of the PPP forgiveness calculations.

8. **Question:** Does "Employees at Time of Forgiveness Application" = 1 for sole proprietors?

Answer: Owners and sole proprietors are considered employees according to the PPP Loan Application. Thus, the Employees at the Time of Forgiveness Application for a sole proprietor with no employees would be "1".

9. **Question:** Can my CPA go into my forgiveness application portal and review my information before I submit it to the Bank?

Answer: A CPA can help a borrower complete the application; however, the borrower will need to sign and certify the application. The CPA could access the portal if the borrower gives them the username and password credentials established for the portal.

10. **Question:** If I had employees leave and then replaced them subsequently with other employees, do I list them both on schedule A if applying for forgiveness using the Standard Form?

Answer: Yes, you will list all employees who were on payroll during the Covered Period on the Schedule A worksheet. Any compensation paid to employees during the Covered Period is considered a forgivable expense, given compliance with other program requirements.

11. **Question:** A borrower let go of an employee for performance related reasons during the Covered Period. Since this reduction in FTE falls under the FTE reduction exceptions, should the borrower still reduce the number of FTE on the application?

Answer: If a borrower has a reduction in FTE that meets the requirements of the FTE Reduction Exceptions, the borrower should list the number of FTE before the reduction was made on their application. For example, if a business had 3 employees at the beginning of the Covered Period and let one employee go due to performance reasons, the borrower would still list 3 employees on their Forgiveness Application.

12. **Question:** What documentation do you need to support FTE calculations?

Answer: Borrowers are required to provide documentation with their loan forgiveness application showing (at the election of the Borrower):

- (1) the average number of FTE employees on payroll per month employed by the Borrower between February 15, 2019 and June 30, 2019;
- (2) the average number of FTE employees on payroll per month employed by the Borrower between January 1, 2020 and February 29, 2020; OR
- (3) in case of a seasonal employer, the average number of FTE employees on payroll per month employed by the Borrower 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.

Examples of required documentation may include payroll tax filings reported, or that will be reported, to the IRS (typically Form 941) and state quarterly business and individual employee wage reporting and unemployment insurance tax filings reported, or that will be reported, to the relevant state.

It should also be noted that there is additional documentation the borrowers must maintain, but which is not required to be submitted to the lender or the SBA as part of the loan forgiveness application. You should reference the instructions to the loan forgiveness application for these additional documentation retention requirements.

13. **Question:** A business was transitioning from one office to another in February. We agreed to the new lease on February 13th but did not begin paying rent until March. Since we were already in a lease and moved to another building, would rent payments under the new lease qualify for forgiveness?

Answer: Yes, rent payments under a lease agreement are eligible non-payroll expenditures as long as the lease agreement was signed and in force prior to February 15, 2020.

14. **Question:** If a business will not feel the effects of COVID-19 until a few months after the Covered Period, should the employer wait to apply for forgiveness until their books show the challenges they expect to encounter to show their need for the PPP loan funds?

Answer: If the borrower had a valid concern regarding the longer-term impact of COVID and used the loan proceeds properly, they do not have to wait to apply for forgiveness to show the impact on the financial performance of the business. There is no information to suggest providing financials to support the impact of COVID is a requirement.

15. **Question:** Can the Safe Harbor rule be used to qualify for the EZ application? For example, if a borrower's FTE levels were reduced due to COVID-19 restrictions, are borrowers still eligible to use the EZ application to apply for forgiveness?

Answer: Yes, per the application instructions you may use the EZ application if the following are true. The Borrower did not reduce annual salary or hourly wages of any employee by more than 25 percent during the Covered Period or the Alternative Payroll Covered Period (as defined below) compared to the period between January 1, 2020 and March 31, 2020 (for purposes of this statement, "employees" means only those employees that did not receive, during any single period during 2019, wages or salary at an annualized rate of pay in an amount more than \$100,000); 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 compliance with requirements established or guidance issued between March 1, 2020 and December 31, 2020 by the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention, or the Occupational Safety and Health Administration, related to the maintenance of standards of sanitation, social distancing, or any other work or customer safety requirement related to COVID-19.

The borrower will need to have documentation supporting their eligibility for the Safe Harbor.

16. **Question:** If a business reduces salaries by less than 25%, can they still use the EZ form?

Answer: Yes, in order to use the EZ form employers must certify that no individual employee pay rates were reduced during the Covered Period when compared to the first quarter of 2020 by **more than 25%**.

17. **Question:** Is the owner included in the FTE calculation?

Answer: Yes. Owners are included in the FTE calculation.

18. **Question:** If our full-time employees at our business work less than 40 hours per week, will this affect our forgiveness amount?

Answer: Your forgiveness will not be affected by employees working less than 40 hours per week, so long as you maintained the same number of full-time equivalent employees (FTE). The following provides an example of how to calculate FTE.

For example, if a business' full-time staff work were paid for an average of 32 hours weekly during the Covered Period and Reference Period, the employee's FTE would be 32/40 or 0.75 during the Covered Period and the Reference Period. Since there was no change in the FTE calculation between the Reference Period and the Covered Period, forgiveness will not be affected.

19. **Question:** If borrowers use all of their funds before the end of the Covered Period, are they required to maintain the same number of FTE once all of the funds have been spent?

Answer: No, they are not required to maintain FTE. Businesses may make whatever decisions appropriate for their business. Forgiveness amounts calculations however may be affected if the average FTE during the Covered Period declines unless the business qualifies for one of the Safe Harbor provisions.

20. **Question:** How long will the forgiveness process take?

Answer: The lender has 60 days to make a decision and submit the application to the SBA. At that time, the lender must also notify the borrower in writing if they have issued a decision to SBA

denying the loan forgiveness application. Within 30 days of notice from the lender, a borrower may request that SBA review the lender's decision on the borrower's forgiveness application. The SBA has 90 days to review and fund the forgiveness amount after the final decision is submitted by the bank.

21. **Question:** Can employers use 100% of the loan for payroll?

Answer: Yes. Current guidance only requires at least 60% of PPP Loan proceeds to be used towards qualifying payroll costs. Borrowers may spend more than 60% of loan proceeds on payroll costs if they choose. However, if less than 60% of the loan proceeds are used on payroll costs, the amount of loan forgiveness will be reduced.

22. **Question:** Are gross wages prior to withholding taxes (and not net pay amounts) eligible payroll costs?

Answer: Yes, that is correct.

23. **Question:** Can employees receive unemployment and PPP funds at the same time?

Answer: Employees are not eligible for full-time unemployment if they are still working for their employer. However, PUA does pay for reduced hours unemployment. In the situation the employer could have reduced hours and used the monies for payroll, the employee could legally receive partial PUA unemployment to compensate for a reduction in hours worked. It is the responsibility of the employee to assure they are not paid wages and unemployment for the same hours.

24. **Question:** Do pay reductions also apply to employees who are commission based?

Answer: No, while gross commissions are included in eligible payroll costs and reductions may affect the amount of forgiveness, only reductions in salary or hourly wage rates beyond 25% trigger the pay reduction calculations affecting the forgiveness amount.

25. **Question:** Does the distribution of payroll need to fully align with the Covered Period?

Answer: An Alternative Payroll Covered Period may be selected by the Borrower to align to their normal payroll cycle. Alternative Payroll Covered Periods begin on the first day of the next payroll period following the date of the loan disbursement. Borrowers are generally eligible for forgiveness for the payroll costs paid and payroll costs incurred during the Covered Period or Alternative Payroll Covered Period. Payroll costs are considered paid on the day that paychecks are distributed, or the Borrower originates an ACH credit transaction. Payroll costs are considered incurred on the day that the employee's pay is earned. Payroll costs incurred but not paid during the Borrower's last pay period of the Covered Period (or Alternative Payroll Covered Period) are eligible for forgiveness if paid on or before the next regular payroll date. Otherwise, payroll costs must be paid during the Covered Period (or Alternative Payroll Covered Period).