

9/30/2020 NFIB COVID-19 WEBINAR: PPP LOAN FORGIVENESS Q&AWEBINAR Q&A

Question: Is there still a chance that you will not have to apply for forgiveness for loans under \$150k?

Answer: We are unsure but hope so. Even if this is the case, there will be some light documentation and reporting required. Less than the EZ though.

Question: If you close your doors or sell your business will it still be forgiven even when you have not used all the money?

Answer: PPP is still a loan. It attaches to the business and could impact the ability to sell your business. You may not be able to sell while also having an outstanding PPP loan.

Question: I was told that if we showed more profit this year than prior year our PPP may not be forgiven. Is this information false?

Answer: Yes, this is false. This should not impact the amount of forgiveness.

Question: This does not have anything to do with the PPP, but you have covered this in the past. We are a small medical practice. We have an employee who is off because of a positive COVID test. Do we have to pay her salary under the Cares Act or anything else?

Answer: Yes. You need to pay this employee under the paid-leave law, the Families First Coronavirus Response Act (FFCRA).

Question: We used extended time beyond the 6/30 original cutoff. Under the original rules, I paid 2 months' rent in full. The revised rules now do not allow this. I have refunded rent and other overhead costs in full and reimbursed July payrolls instead. Can I claim 100% payroll reimbursement?

Answer: Yes, it perfectly acceptable to use just the PPP on payroll only. If needed, extend your PPP amount received to get more payroll since you had to eliminate the rent payments.

Question: If you are using the 24 week loan period and you spend all of the proceeds on wages, but run out of funds after 19 weeks and then have to have a lay-off, is this going to jeopardize our loan forgiveness?

Similar Question: Has any decision been reached on determining the period to be used for calculating the average FTEs if you switch from an 8-week initial to the 24-week period and spend all the funds at 12-14 weeks. At this point you have to reduce the FTEs, and if you take the average over the full 24 weeks, you might have less forgiveness available than if you had reduced the employees at the end of the 8 weeks.

Answer: We do not believe Congress intended to harm borrowers who spend money and apply for forgiveness before the end of the covered period and then need to lay people off because of continued economic hardship related to the pandemic. We hope this will not harm forgiveness. Our best recommendation is to document loan spending, making sure to note explicitly when the

loan money ran out to demonstrate that you maintained your FTE for the duration of time that you had the loan money.

Question: When the PPP is forgiven, is it true that the payroll portion will not be taxable income, but the rent/utilities portion will be taxable income?

Answer: The IRS has said that PPP loans forgiven will not be taxable as income, but states may choose to do so. Expenses paid with PPP money cannot be deducted on taxes.

Question: I have a house cleaning franchise and I pay my employees mileage to and from the office and the houses they clean. Is this expense not "forgivable" for PPP?

Answer: This transportation does not count as a forgivable expense. Mileage, gas, and EZpass, etc., are all not part of the forgivable transportation expense. Transportation costs are limited to transportation fees imposed by a municipality.

Question: We have several employees that get paid salary, plus a monthly bonus that varies widely. If in any month, their gross monthly payroll (salary + bonus) exceeds \$100,000, but their annual gross payroll has never exceeded \$100,000 - can I not use the EZ form?

Answer: That is not correct. You can use the EZ form even if you paid some employees over \$100,000 at some point in 2019. You just cannot get forgiveness beyond the annualized amount (\$15,385 for an 8-week covered period or \$46,154 for the 24-week covered period).

Question: If you are self-employed, how do you show how you spent payroll funds if you do not actually take a payroll for yourself?

Answer: Check with your borrower. Some are suggesting writing a check from a business account to your personal account. The bottom line is that you should be keeping a paper trail regardless!

Question: Please clarify what can be included in payroll costs.

Answer: Whether using the EZ application or longer form, payroll costs include: cash compensation for employees (gross salary/wages/tips, severance pay, non-FFCRA paid-leave), employer contributions for group health, employer contributions to employee retirement plans, and state and local payroll taxes (i.e., state unemployment taxes) paid by the borrower. For owner compensation, be aware of the caps discussed in the slides.

Question: If by chance you make an error on the application, is there a way to resubmit with the corrected information? Or is it allowed?

Answer: Possibly, try working with your lender to see if there is a way to make a correction.

Question: I have not looked at the forgiveness application yet, but is there anything on the application that you should not say? Are there any red flags to stay away from?

Answer: We suggest you read the EZ instructions first and review the EZ form. Our hope is that most borrowers, regardless of the number of employees or loan size, will qualify to use this form.

When it comes to filling out the application, always be truthful. Remember, the application will ask you for multiple certifications that your statements and filings are correct. When in doubt, check with your accountant or a CPA. They are incredibly knowledgeable.

Question: Will rent payments to an LLC owned by me be forgiven by the PPP?

Answer: Those rent payments of property owned by business owners (related parties) are limited to the amount of mortgage interest. You can request forgiveness up to that mortgage interest amount. If no mortgage, then you will not be able to use.

Question: Where do we obtain our loan forgiveness application?

Answer: The application is available on treasury.gov. NFIB has included a hyperlink on our resources page of the slides. Lenders will also make portals to fill out forgiveness applications, and they will reach out regarding how to begin this process.

Question: After you submit your PPP forgiveness application to your lender and the lender sends it to the SBA, how long should I expect to wait prior to hearing from the SBA?

Answer: We are not quite sure because the SBA has not begun processing these applications yet. When we get an idea, we will let you know. Under the text of the statute, the lender has 60 days after your submission to approve the application and submit it to the SBA. Then the SBA has 90 days from that point to make a final forgiveness determination. So, from the time you apply until the time you receive a final determination, it could be around 5 months or so, but we are hopeful it does not take this long.

Question: If your eligible payroll for the PPP loan 56-day period is greater than the PPP loan amount, do you need to fill out the areas for rent, utilities, interest?

Answer: If you can ask forgiveness for entire loan on payroll, fantastic. This makes your forgiveness application much simpler. Just fill in 0 for the other three categories and list the entire amount in payroll.

Question: When we applied for a PPP loan, we did not receive a EIDL advance until after we received our funds from the PPP Loan. Do we still have to pay the EIDL advance out of our PPP loan forgiveness proceeds?

Similar Question: Is it true if you received EIDL advances (up to \$10,000) that you must deduct that amount from the PPP loan forgiveness amount?

Similar Question: How do I handle an EIDL loan on the PPP forgiveness form for which we received the \$10,000 grant which we will repay. Should I repay the EIDL loan first then apply for forgiveness and state that we do not have the loan?

Answer: EIDL advance – SBA automatically deducts from forgiveness total. That will end up as PPP loan (1% interest over 5 years). Whenever you apply for forgiveness, you will have to input the EIDL grant received. All you will have to do is put the amount in that you received. It does not

matter if you pay the EIDL loan before applying for forgiveness or apply first. PPP loan payments are due 10 months after the end of the covered period, while the EIDL loan is 30-year loan.

Question: With social distancing and 25% capacity my business (restaurant) is down 80%. How am I supposed to hire my full-time employees back? I am only open 2 days a week. Now I have a PPP loan to pay back with very limited income. If it stays like this, I will be bankrupt after 45 years in business.

Answer: You can use EZ forgiveness application and this situation will be eligible for FTE safe harbor #1. Check box 3 on the EZ form instructions, page 1. Your loan forgiveness should not be reduced because of FTE reductions. The FTE reductions will not count against you because your business activity was and is directly restricted pursuant to multiple CDC/HHS orders.

Question: I have received nothing from my bank re: loan forgiveness, and I have just 3 weeks before it is due. Is this just the Bank of America, or are other institutions behind as well?

Answer: 2 things – Most lenders are not accepting forgiveness applications yet. They are waiting on Congress for auto-forgiveness legislation. You have 10 months after the end of covered period to start paying back loan. You should discuss with your lender when your payments are due to make sure the timeline you have is correct. Three weeks does not sound like you received the full PPP deferment period, and it may be that your lender repurposed an existing SBA 7(a) loan form that has different deferral dates from the PPP program.

Question: How do you know whether you will need to pay back the PPP loan?

Answer: When you submit the forgiveness application, your lender will send it to the SBA and the SBA will determine your approval and for what amount. The lender will then notify you after it hears back from the SBA.

Question: Where do you submit the application once it is completed?

Answer: Submit it with the lender who gave you the initial loan. Lenders will likely set up online portals for this process. Check with your lender regarding their specific procedure/timeline.

Question: Can the EIDL loan be forgiven?

Similar Question: Are EIDL loans going to be forgivable under any circumstances?

Answer: No. The Economic Injury Disaster Loans (EIDL) are not forgivable. There is no forgiveness component to the EIDL, and we do not anticipate changes to this program. The EIDL loan is for 30 years with a 3.75% interest rate. (**Note** the EIDL differs from the “EIDL advance,” which was an emergency advance/grant for EIDL applicants that was \$1,000 per employee up to a maximum amount of \$10,000; the EIDL advances will be deducted from the PPP forgiveness amount).

Question: I have heard of the 8-week and 24-week periods to apply for forgiveness. If I need 12 weeks of payroll to use all my loan, can I apply for forgiveness then or do I have to wait for the 24 weeks to go by?

Answer: You can apply for forgiveness within the covered period if you have depleted the loan amount, so long as your lender is accepting loan applications. Some lenders want borrowers to wait until a determination on auto-forgiveness is made by Congress. So, while the SBA allows it, your lender may want you to wait.

Question: I feel I did not get enough cash through the program. Can I resubmit the application?

Similar Question: Is there any more PPP funding that will be coming?

Answer: Unfortunately, you cannot apply again for PPP after applying once. NFIB is urging Congress to pass legislation allowing for a second round of PPP loans to help small business, given that there is still \$130 billion left. As soon as we have an update on more PPP funding, we will let you know.

Question: Do you have to wait the full 24 weeks to apply for the forgiveness?

Answer: No, you do not have to wait, but some lenders are requiring borrowers to wait. But the SBA program does not require you to wait. If your lender allows, you can apply at any time.

Question: When will my Bank of America be accepting application for forgiveness, or for that matter when in general will the SBA be accepting applications?

Similar Question: If your lender is not currently accepting applications for loan forgiveness, is there anything we can be doing to fast track forgiveness of the loan?

Answer: Many lenders are waiting to see about auto-forgiveness for loans under \$150,000. The SBA has not processed any loan forgiveness applications at this time. We understand SBA plans to begin processing those within the next week. We have no advice on how to fast track the process as this will depend on your lender and the SBA.

Question: Is fleet fuel considered a non-payroll cost that can be used in the forgiveness calculations? Is SUTA [state UI] for the wages paid/incurred during the covered period to be included in the payroll costs?

Answer: Fleet fuel is not an eligible expense. Transportation is limited to just those transportation utility fees by state and local governments. Unemployment taxes are an eligible PPP payroll cost.

Question: My manufacturing business suffered during January through June, but sales are now back to normal. Would I still qualify for an EIDL loan? What criteria do the loan officers prefer?

Answer: If you have expenses you are unable to pay due to this lower sales period, you can still apply for the EIDL. The application process is still open, and you would likely be eligible given this lower revenue period impacting your ability to pay expenses.

LIVE FEED Q&A

Question: If the PPP loan is forgiven will it be taxable income?

Answer: PPP forgiveness will not be taxed by the IRS, but expenses paid with PPP money cannot be deducted. Unfortunately, some states may tax PPP forgiveness amounts as income.

Question: Will it be important to file the forgiveness paperwork quickly to be forgiven? My accountant cannot come until 10/7 to do the 941 & NYS-45

Answer: You have time. The PPP loan is deferred for 10 months after the end of the covered period.

Question: Can we use medical insurance we pay for our employees on our forgiveness loan application? If so, where do we do this on the application?

Answer: Employer payments for group health coverage (medical, dental and vision) can be included in the PPP loan forgiveness. For the Form 3508EZ you include these payments on Line 1, along with payroll costs; for the Form 3508 you include on PPP Schedule A, Line 6.

Question: I used the total loan for payroll expense. Is that alright?

Answer: Absolutely! This will likely make applying for forgiveness a bit easier.

Question: One of our employees died suddenly on a weekend. We have not replaced him, so our FTE is down by one. We did not reduce any person's hours or pay during the entire time of our PPP. Are we penalized for this as we do not seem to come under any of the categories listed?

Answer: The lender might consider this a voluntary reduction, under the FTE Reduction Exceptions (see page 5 of the Form 3508 Instructions). Check with your lender.

Question: Is the application still due 24 weeks after the loan date?

Answer: The PPP loan is deferred for 10 months after the end of the covered period (the covered period being 8 weeks or 24 weeks after you received the loan money).

Question: What should I do if my client did not use all the PPP loan?

Answer: There is no penalty for prepayment of paying the money back. Or the borrower can extend the covered period and continue to cover payroll.

Question: When will the application come out and the due date. If there are questions filling out the application will there be someone dedicated to helping us fill it out?

Answer: Many lenders have yet to accept loan forgiveness applications as they are hopeful Congress will pass an expedited forgiveness process. The forgiveness applications (EZ and long form) are linked on the resources slide.

Question: When should we submit the loan forgiveness application? And do we submit that to our bank that we got the loan from?

Answer: You can submit the loan forgiveness application after you have spent your loan dollars, assuming you do not need the 12/31 safe harbor to restore FTEs or salary/hourly wage reductions. You submit the loan forgiveness application to the lender that issued you the loan when the lender starts accepting applications.

Question: We are a small company with three employees. We did get the PPP loan for the eight weeks. Now we have an employee who is on COVID leave. Employee was told to tell us about the tax credits we would get for paying him while he was on his leave. Our accountant is thinking he read that you cannot get the tax credits if you took a PPP loan out. Do you know if that is true?

Answer: Not true. Employees on COVID leave are paid per FFCRA and the employer gets reimbursed for that paid-leave through tax credits (see NFIB FFCRA tip sheet). When they return from leave, use the PPP money to continue paying that employee. Bottom line, you can receive both FFCRA tax credits and PPP loan money.

Question: Will copies of rent payment checks be accepted as "documentation"?

Answer: For most lenders that should be sufficient. Some lenders might ask to see a copy of the lease to ensure the lease was in effect before 2/15/20.

Question: If I elect the 24-week, can I include group medical premiums for that entire 24 weeks?

Answer: Yes.

Question: I was given more loan money than I should have received based on my 2018 tax return.

Answer: You can prepay PPP loan without penalty (or prepay money not used) or extend the loan to 24 weeks. The loan should have been based on 2019 comp.

Question: Are there PPP loans still available at this time for businesses that have not received one?

Answer: Unfortunately, not. We are hoping Congress allows the program to reopen soon. Stay tuned! In the meantime, check out the EIDL if you have not done so.

Question: May all the money be used strictly for payroll?

Answer: Yes.

Question: We received our loan in early May. We were not able get back to our original FTE count. However, when I use the 24-week plan (even with the FTE reduction), our payroll is still higher than the

loan amount. Will this work for full forgiveness on the loan even though FTE is not back to previous FTE count?

Answer: Potentially, yes! The example we will provide at the end of today's webinar shows how this can work out. You will want to document payroll for the full 24 weeks to try to overcome the FTE reduction quotient.

Question: Can you include healthcare expenses when calculating the 2 1/2-month salaries for S Corp owners for 2019?

Answer: No. See slides 13-14 for limits on owner benefits.

Question: Any update on a second round of PPP?

Answer: Negotiations are continuing this week between Treasury/White House and Congress. Stay tuned, but we are hopeful a second round will be made available at some point this fall.

Question: My bank is telling me not to do anything yet as it is possible the loan for under \$150K will be automatically forgiven. Is this correct or is there any information on this issue available?

Answer: Many banks are saying the same thing so do not worry. Banks and borrowers (and NFIB!) are all hoping that auto-forgiveness gets passed and this is why many banks are waiting before requiring borrowers to fill out longer applications than would be needed under auto-forgiveness.

Question: What is the main difference between processing as an 8-week forgiveness loan application or the 24?

Answer: Borrowers who received a loan after June 5 must use a 24-week covered period. The main difference is that with 24 weeks you have more time to maximize forgiveness and/or just use money on payroll and not other qualifying expenses. Using the PPP for just payroll might make the forgiveness application a bit simpler.

Question: I have reached the 24 weeks, but the bank said that I do not have to worry about doing the forgiveness app yet.

Answer: Very common response from banks. They are hoping for passage of auto-forgiveness for loans under \$150,000. Moreover, loans are deferred for 10 months from the end of the covered period.

Question: I heard the EIDL advance would be offset against the PPP loan forgiveness. Is this true?

Answer: This is correct, unfortunately.

Question: Our bank is saying they are not ready to take PPP forgiveness applications yet. What if we miss the required time frame because of the bank?

Answer: Keep in mind that the PPP is deferred for 10 months from the end of the covered period.

Question: If we use all the PPP loan to pay our payroll what do we have to submit with the application?

Answer: You will need to include payroll records. See page 4 of the Form 3508EZ Forgiveness Application Instructions to determine what payroll records you will need to submit to your lender. You will also need to complete the forgiveness application itself (either form 3508 or 3508EZ).

Access the slides from this webinar here: <https://assets.nfib.com/nfibcom/Webinar-XXV-FINAL-Sept-30-2020-FINAL1.pdf>

