

# NFIB UPDATE

Weekly Briefing for Small Business

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**June 10, 2020 – Paycheck Protection Program Flexibility Act**



# DISCLAIMER

The materials and information provided in this webinar and on NFIB's website are for informational purposes only and not for the purpose of providing legal or tax advice. You should contact your attorney and/or tax professional to obtain advice with respect to any particular issue or problem.





## Get support for your small business through **MBA's Fight COVID-19**

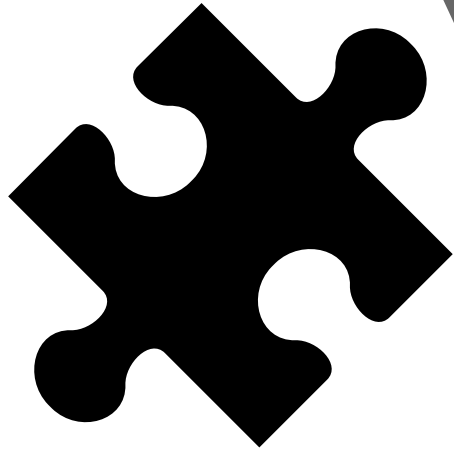
MBA's Fight COVID-19 is a group of MBA students from business schools around the US working with small businesses to respond to the COVID-19 crisis.

We provide **pro bono consulting support** to help businesses think through a variety of topics, including:

- Applying to federal funding programs (PPP, EIDL)
- Reaching more customers online
- Pivoting business strategy
- ...and more!

To learn more about MBA's Fight COVID-19 and to get matched with an MBA student, email [Elizabeth.Milito@nfib.org](mailto:Elizabeth.Milito@nfib.org)

# Paycheck Protection Program Flexibility Act



# How does the PPP Flexibility Act affect my loan?

- Lengthens the loan forgiveness period from eight weeks to 24 weeks.
- Lowers the amount of PPP funds that must be spent on payroll from 75% to 60% and allows 40% for other qualifying expenses.
- Allows borrowers to delay their payroll tax payments through the end of 2020.
- Exempts borrowers from the FTE loan forgiveness reduction if borrowers are unable to return to the same level of business activity as before Feb. 15th due to Covid-19.



## **24-Week Covered Period (or Keep the 8-Week Period)**

- Borrowers can keep their original 8-week period
- Borrowers can extend their forgiveness window up to 24 weeks or December 31, 2020.
- SBA/Treasury will (hopefully) provide additional guidance soon.
- We assume that borrowers will be able to choose their own covered period end date and then apply for forgiveness.
- Borrowers will not have to keep their FTEE level up for the entire 24 weeks.

# 75% Payroll Requirement Becomes the 60% Requirement

## Payroll includes:

- Salaries, wages, commission, tips (or similar)
  - Capped at \$15,385 per person the covered period
  - Includes hazard pay and bonuses (excludes owners)
- Owners replacement compensation if not on payroll
  - Schedule C, net profits for sole proprietors and independent contractors
  - Schedule K-1 for partners
  - **Owners are limited to 8-weeks of 2019 W-2 or replacement calculation**
- Group health insurance premiums and retirement plan costs (employer contribution)
  - **Owners who are not W-2 employees cannot include health or retirement.**



## Up to 40% Non-payroll expenses include:

- Rent on real and personal property (if lease executed before 2/15/20)
- Utilities (service in place before 2/15/20)
  - Electricity,
  - Gas,
  - Water,
  - Internet,
  - Telephone (landline and cell phone service), and
  - Transportation (fuel for business vehicles, not sure what else).
- Mortgage interest payments on real or personal property (if mortgage executed before 2/15/20)



# Utilities payments:

## **SBA PPP Forgiveness Interim Final Rule:**

### 4. Nonpayroll Costs Eligible for Loan Forgiveness

#### a. When must nonpayroll costs be incurred and/or paid to be eligible for forgiveness?

A nonpayroll cost is eligible for forgiveness if it was:

- i. paid during the covered period; or
- ii. 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.

**Example:** A borrower's covered period begins on June 1 and ends on July 26. The borrower pays its May and June electricity bill during the covered period and pays its July electricity bill on August 10, which is the next regular billing date.

The borrower may seek loan forgiveness for its May and June electricity bills, because they were paid during the covered period. In addition, the borrower may seek loan forgiveness for the portion of its July electricity bill through July 26 (the end of the covered period), because it was incurred during the covered period and paid on the next regular billing date.



# Exempts borrowers from the FTEE loan forgiveness reduction for additional reasons.

Amount of loan forgiveness shall be determined without regard to a proportional reduction in the number of FTEE borrower in good faith:

1. Able to document an inability to rehire individuals who were employees of the firm on Feb. 15<sup>th</sup> and can't hire similarly qualified employees for unfilled positions on or before Dec. 31<sup>st</sup>.
2. Able to document an inability to return to the same level of business activity as such business was operating at before Feb. 15<sup>th</sup> due to compliance with requirements established or guidance issued by the HHS, CDC or OSHA during the period from March 1 – Dec. 31<sup>st</sup>.



# Repayment Period Lengthened

- New PPP loan borrowers have 5 years instead of 2 years to repay the loan (loan funds that are not forgiven and not paid back to the lender).
- Current borrowers with a 2-year term must contact their lender to ask for an extension to their loan.
- The interest rate (1%) was not changed.

# **Delays employer payroll tax payments through the end of 2020.**

Allows employers who receive PPP loan forgiveness to continue deferring payment of the employer share of the Social Security tax under CARES Act through December 31, 2020.

The original PPP prohibited employers from deferring employer Social Security taxes after any portion of the PPP loan was forgiven. Deferred employer Social Security tax amounts will be due in two equal payments in December 2021 and 2022.



## Other important changes:

- Failure to apply for loan forgiveness within 10 months of the end of the covered period will result in payments being due.
- Loan payment deferral period extended from 6 months to the time when the SBA compensates the lender for forgiven amounts, except that repayments can be required if the borrower has not applied for forgiveness within 10 months of the expiration of the borrower's covered period.

# **June 30<sup>th</sup> is the last day to apply for a PPP loan!**

If you or anyone you know is still interested in a PPP loan, check with your bank or financial institution to ask whether they are accepting PPP loan applications.

PayPal and Kabbage are also accepting application through the links below:

## **PayPal**

[https://www.paypal.com/us/smarthelp/article/how-do-i-apply-for-the-paycheck-protection-program-\(ppp\)-loan-faq4235](https://www.paypal.com/us/smarthelp/article/how-do-i-apply-for-the-paycheck-protection-program-(ppp)-loan-faq4235)

## **Kabbage**

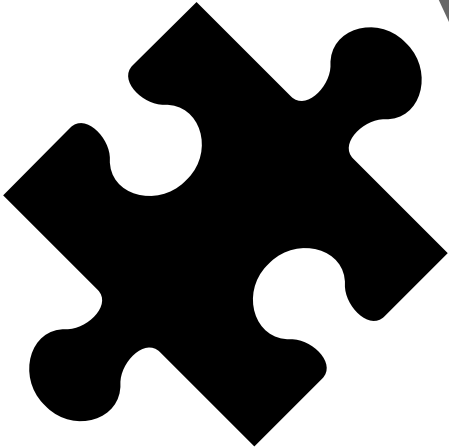
<https://www.kabbage.com/paycheck-protection-program-loans>

You can also find lenders through the SBA PPP Lender Search Portal

<https://www.sba.gov/paycheckprotection/find>



# Additional Resources



# NFIB Resources

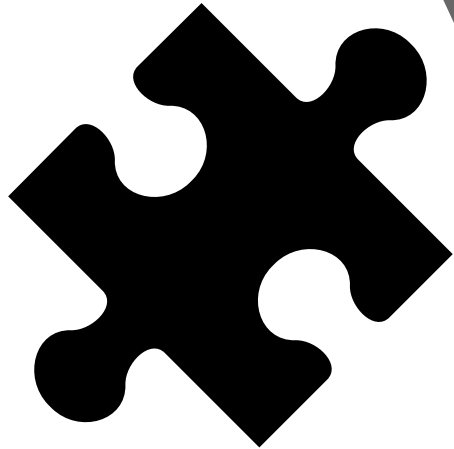
- [NFIB Tip Sheet for Calculating Loan Forgiveness](#)
- [NFIB Covid-19 Weekly Webinar Series](#)
- [NFIB Coronavirus Resources](#)
- [NFIB PPP Loan and EIDL Side-by-Side Comparison Chart](#)
- [NFIB PPP Fact Sheet for Non-Employers](#)
- [NFIB FFCRA Tax Credit Tip Sheet](#)



# Additional Resources

- [PPP Loan Forgiveness Application](#) (posted May 15, 2020)
- [American Institute of CPA's PPP Loan Forgiveness Calculator](#) (draft posted May 19, 2020)
- [U.S. Department of Labor Coronavirus Unemployment Information](#)

Q&A



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