

NFIB UPDATE

Weekly Briefing for Small Business

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October 28, 2020 – PPP Forgiveness: Q&A on what you need to know to achieve forgiveness



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.
- This is based on information available by 10/27/20.

Agenda

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- Covid-19 Small Business Resources
 - PPP Forgiveness Overview: What you need to know to achieve forgiveness
 - Q&A

NFIB Webinars

November 11

Shelley Brown, SBA, Senior Loan Officer

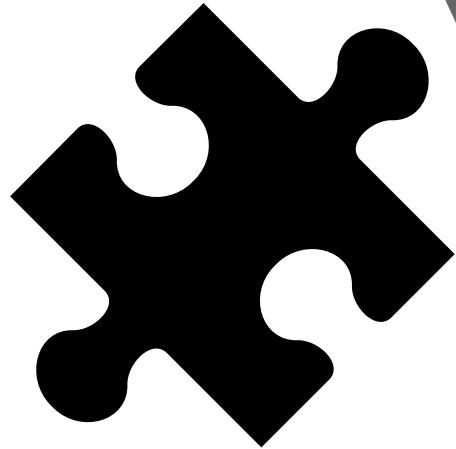
December 2

Covid-19 Employer Update, Q&A

December 16

Send questions to info@nfib.org

Covid -19 Small Business Resources



COVID-19 Resources

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

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

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

 - [AICPA PPP Loan Forgiveness Calculator \(updated 10/26/20\)](#)
 - [NFIB Coronavirus Resources \(including webinar recordings\)](#)
 - [NFIB FFCRA Tax Credit Tip Sheet](#)

Financial Help

****SBA STILL ACCEPTING EIDL APPLICATIONS****

- SBA's EIDL program provides working capital to help small businesses survive until normal operations resume after a disaster.
- Use it for payroll costs, including benefits, fixed debts (mortgage, rent, lease), accounts payable, other bills.
- NFIB EIDL Tip Sheet

****Apply for an EIDL [here](#).****



Get support for your small business through **The MBA Response**

We are an organization of MBA students from across the U.S. offering **pro bono consulting support** to help small businesses respond to the economic fallout from the pandemic.

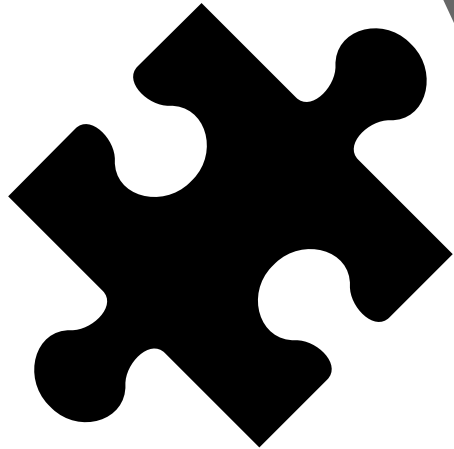
Our volunteers are prepared to help you with:

- Applying for PPP Loan Forgiveness
- An Online Presence Assessment providing feedback on your website, social media, and review sites
- Our Ask an MBA service: students provide general support for what matters most to you

To learn more about The MBA Response and to get matched with an MBA student, email Elizabeth.Milito@nfib.org



PPP Forgiveness Overview



New or 2nd PPP – Not Yet!

- PPP is still closed, if you missed the first round (PPP closed August 8). And, as of right now, you cannot take out a second PPP loan.
- There is, however, broad bipartisan support for allowing struggling businesses that can prove a loss (in comparison to last year) to take out a second PPP loan. **NFIB strongly supports a second round of PPP and is lobbying in support of this.**
- Congress has been gridlocked on passing this legislation due to other unrelated factors.



PPP “Autoforgiveness” – Not Yet!

- As of now, **there is NOT auto-forgiveness for any size PPP loan.**



- There is, however, broad bipartisan support for allowing a simplified forgiveness process for borrowers with loans under \$150,000. **NFIB is lobbying in support of this.**



PPP and Taxes



- The IRS has ruled that **PPP forgiven expenses cannot be deducted as a business expense.**
- There is, however, broad bipartisan support for allowing these expenses to be deductible in Congress. Whenever Congress finally decides to pass another COVID relief bill there will be a strong chance that language to make forgiven expenses deductible will be in the bill.
- For more on accounting for the non-deductible expenses used towards forgiveness, see AICPA's on the treatment of PPP forgiveness: <https://www.aicpa.org/content/dam/aicpa/interestareas/frc/downloadabledocuments/tqa-sections/tqa-section-3200-18.pdf>. The IRS also provides an in-depth explanation of their decision to treat expenses paid with PPP forgiven funds as non-deductible here: <https://www.irs.gov/pub/irs-drop/n-20-32.pdf>.

PPP and EIDL

- The **SBA will subtract the EIDL advance or grant (not the EIDL loan) from your total forgiveness amount.**
- As an example, let's say you receive an EIDL emergency grant for \$3,000. Subsequently, you receive a PPP loan for \$25,000. As long as you use all of the PPP within the program terms, \$22,000 of the PPP will be forgiven and the \$3,000 EIDL emergency grant will need to be paid back within two (or five) years at 1% interest rate.



1. **Question:** SBA will deduct the amount of any Economic Injury Disaster Loan (EIDL) advance received by a PPP borrower from the forgiveness amount remitted to the lender. How will a lender know the amount of the EIDL advance that will be automatically deducted by SBA?

Answer: If a borrower received an EIDL advance, SBA is required to reduce the borrower's loan forgiveness amount by the amount of the EIDL advance. SBA will deduct the amount of the EIDL advance from the forgiveness amount remitted by SBA to the lender. The lender will be able to confirm the amount of the EIDL advance that will be automatically deducted by SBA from the forgiveness payment by reviewing the borrower's EIDL advance information in the PPP Forgiveness Platform.



<https://home.treasury.gov/system/files/136/PPP--Loan-Forgiveness-FAQs.pdf>

Three Keys to Achieving 100% PPP Forgiveness

1. Spending on qualifying expenses:

- **Payroll:** The total amount of payroll costs. *Must be at LEAST 60% (up to 100%) of loan.*
- **Non-Payroll:** not more than 40% (or LESS down to 0%) of the loan may be spent on three categories of non-payroll costs:
 1. Payments of interest on **business mortgage** obligations on real or personal property incurred before 2/15/20.
 2. Payments for **business rent** or business lease agreements for real or personal property in force before 2/15/20.
 3. Payments for **business utilities** (electricity, gas, water, transportation, telephone, and internet) under service agreement dated before 2/15/20.

2. **Over the 8 week or (up to) a 24-week covered period** following the date of the loan disbursement.

3. And, with some exceptions, **restoring staffing and salary/wages to pre-covid levels.**



Forgiveness Timeline ... Time is on your side!

- Have up to 10 months after the end of your Covered Period to file for forgiveness before you have to start paying principal and interest.
- Lenders have up to 60 days to review a PPP loan forgiveness application and the SBA has up to 90 days to review the forgiveness application once received from the lender.
- The SBA remits the amount forgiven to the lender, who has to process the forgiveness payment before notifying the PPP borrower of the amount.



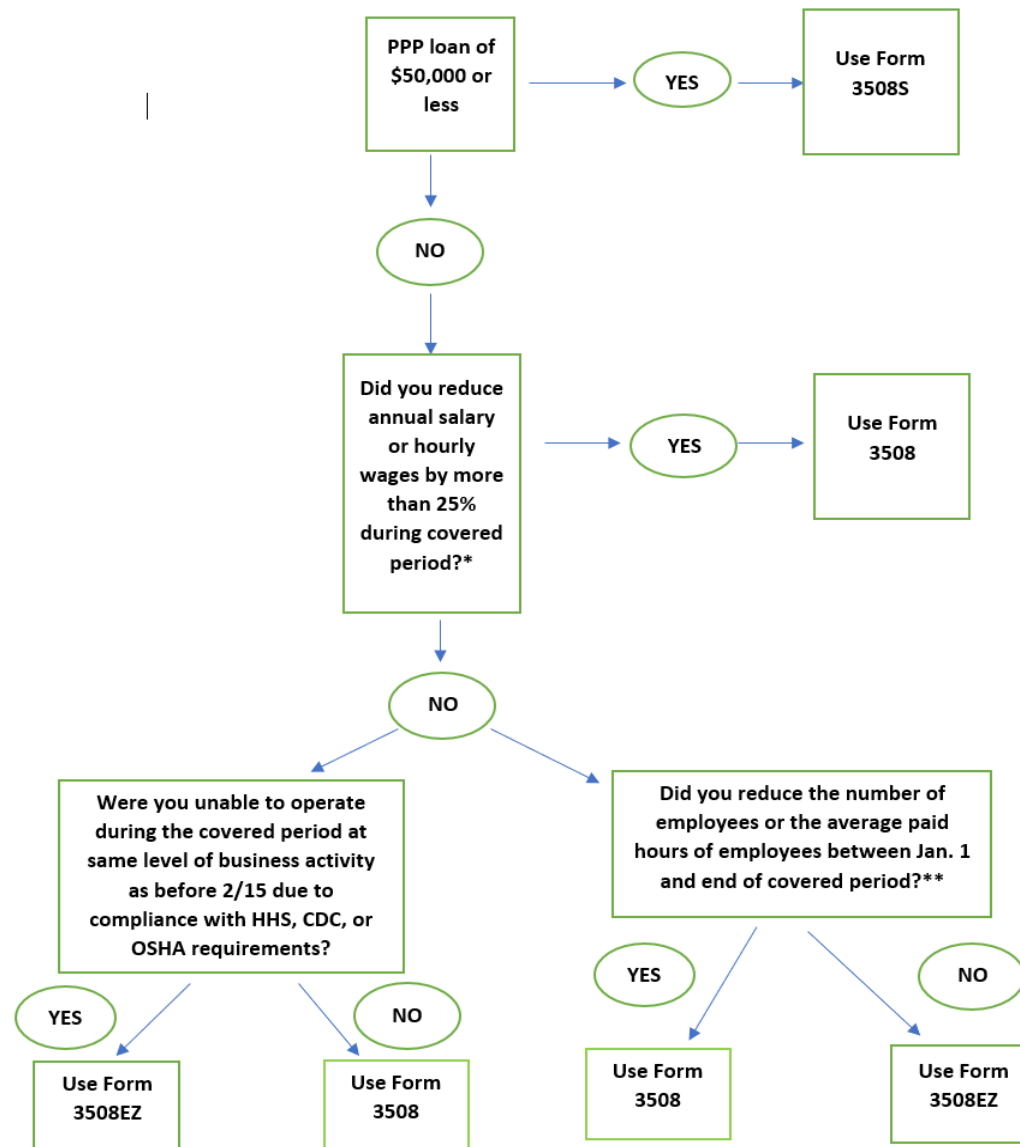
Apply for Forgiveness with the Lender

- **Borrowers apply for PPP loan forgiveness through their lender, not the SBA.**
- Borrowers can download PPP loan forgiveness applications from sba.gov/paycheckprotection and submit those and other required information to the lender that provided them with a PPP loan.
- Lenders might have online portal with fields that look different than SBA's forms.

Chose the Right Forgiveness Application

- **Form 3508S** - If your loan is \$50,000 or less and you and your affiliates received PPP loans totaling less than \$2 million, use form 3508S.
- **Form 3508EZ** - If you cannot qualify for form 3508S, which is the most simple PPP forgiveness form, form 3508 EZ really is easier than 3508. Consider effects of different covered periods, the safe harbor and exemptions that may allow you to qualify for Form EZ.
- **Form 3508** – Long form that requires calculations of FTEs and/or salary reductions on the Schedule A Worksheet.





- [Form 3508S Instructions](#)
- [Form 3508S](#)
- [Form 3508EZ Instructions](#)
- [Form 3508EZ](#)
- [Form 3508 Instructions](#)
- [Form 3508](#)

*** **IGNORE** the expiration date of "10/31/2020" in the upper-right corner of the forms. SBA placed the expiration date in the upper-right corner of the PPP loan forgiveness application forms to comply with the Paperwork Reduction Act. The date represents the temporary expiration date for approved use of the forms.



*Salary/wage reduction does not include owner-employees or employees who received, during any single period during 2019, wages or salary at an annualized rate of pay of more than \$100,000.

**Ignore reductions if unable to rehire similarly qualified employees before 12/31 or if employee refused hours.

For more details on choosing a forgiveness application, see <https://www.aprio.com/which-ppp-loan-forgiveness-application-is-right-for-you/>

Form 3508S

- Borrowers with loan of \$50,000 or less can use the 3508S application form.
- Borrowers using the 3508S form are exempt from reductions in loan forgiveness amounts based on reductions in FTEs or in salaries or wages.
- Required documentation
 - Verifying cash and non-cash payroll payments
 - Verifying non-payroll eligibility (Feb. 15th) and payments

Form 3508EZ

You are self-employed, an independent contractor, or the sole proprietor.

OR

You did not reduce the annual salary or hourly wages of any employee by more than 25% during the Covered Period or Alternative Covered Period compared to 1/1/2020 to March 31, 2020. No payroll was used for the forgiveness calculation with an annualized amount of more than \$100k.*

A

You did not reduce the number of employees or the average paid hours of employees between 1/1/2020 and the end of the Covered Period. Ignoring the inability to rehire individuals with similar qualifications and ignoring reductions in an employee's hours that the borrower offered to restore and the employee refused.

AND

OR

B

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 or guidance issues between March 1, 2020, and December 31, 2020 by HHS, CDC, and/or OSHA (i.e., government order restricted business activity). (a/k/a Form 3508EZ Box #3)



Form 3508EZ – **Box 3**

“Borrowers that can certify that they have documented in good faith that their reduction in business activity during the Covered Period stems directly or indirectly from compliance with COVID Requirements or Guidance are exempt. . .”

Documentation must include:

Copies of applicable COVID Requirements or Guidance for each business location;
AND
Relevant borrower financial records.

SBA Interim Final Rule 6/26/20 https://home.treasury.gov/system/files/136/PPP--IFR--Revisions-to-Loan-Forgiveness-Interim-Final-Rule-and-SBA-Loan-Review-Procedures-Interim-Final-Rule.pdf?utm_medium=email&utm_source=govdelivery



Form 3508

- Form 3508 is five pages long and includes the following parts:
 - Calculation Form
 - Certification Form
 - Schedule A
 - Schedule A Worksheet
 - Demographic Form (optional)
- Why so long? Form 3508 requires significantly more calculations than the other forms because it has an additional calculation for borrowers who reduced their employee numbers and/or salaries.
- Borrowers who reduce their full-time equivalent (FTE) employees, employee salary or wage rate by more than 25%, or both will calculate the reduction in their PPP forgiveness amount using Schedule A and Schedule A Worksheet.
- For more information, watch NFIB's September 30th webinar "*How to Complete a PPP Forgiveness Application*" [here](#).



Chose the Right Covered Period

8 Weeks

- Only for loans receiving an SBA loan number on or before June 5, 2020.
- Desirable if you spent all your PPP funds on eligible costs, meet the 60% payroll threshold and didn't reduce salary or headcount during the 8-week period or qualify for a safe harbor or exception.
- Less calculations and supporting documentation required.
- No questions about continuing FTE obligations if layoffs required after PPP money spent.

24 Weeks

- Increases forgiveness expenses up to an additional 16-weeks (but not past December 31).
- More expenses likely to compensate for reductions of employees or salary.
- Allows borrower to take advantage of longer opportunity to restore FTE (up to December 31 safe harbor).
- You may apply before end of 24-weeks, but beware that salary reductions of more than 25% will be included for 24 weeks.
- Application silent on FTE reduction.



Payroll Costs*

Include*

- Salary, wage, cash tips, commissions, bonuses and hazard pay (**use gross amount before deductions for taxes, employee benefits and similar payments**)
- Payments for vacation, parental, family, medical or sick leave
- Allowance for dismissal or separation
- Employer contributions to health insurance
- Employer contributions to employee retirement plans
- Employer payments of state and local taxes assessed on employee compensation

Does Not Include

- Qualified sick or family leave that was allowed under the Families First Coronavirus Response Act
- Cash compensation (not including health insurance or retirement contributions) of an individual employee in excess of \$100,000 as prorated for the covered period (i.e., don't exceed \$46,154 for 24-week or \$15,384 for 8-week)
- Any compensation for an employee whose principal residence is outside the United States
- Employee contributions to health insurance or retirement plans or state or local withholding



**Incurred and Paid: Include expenses if they are incurred before but paid during the covered period AND if they are incurred during the covered period and paid on or before the next regular payroll after the covered period. Can use 100% of PPP on payroll costs. <https://www.sba.gov/sites/default/files/2020-08/PPP%20Loan%20Forgiveness%20FAQs%208-4-20.pdf>*

Owner Compensation Limits*

- 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 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 or \$20,833 per individual, whichever is less, in total across all businesses.
 - o **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.
 - o **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.
 - o **Schedule C or F filers** are capped by the amount of their owner compensation replacement, calculated based on 2019 net profit.
 - o **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.
 - o 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.

**Individual borrowers with less than a five percent ownership stake in a C- or S-Corporation are exempt from the limitations placed on the amount of owner-employee compensation eligible for forgiveness. See also question #8 from SBA August 4, 2020 FAQ – <https://www.sba.gov/sites/default/files/2020-08/PPP%20Loan%20Forgiveness%20FAQs%208-4-20-508.pdf>*



Nonpayroll Costs*

- **Business Interest Mortgage Payments** - Business mortgage interest payments paid or incurred during the Covered Period for any business mortgage obligation on real or personal property in place before February 15, 2020. No forgiveness for any prepayment or payment of principal.
- **Business Rent or Lease Payments** - Business rent or lease payments for real or personal property during Covered Period. Must be obligated under a leasing agreement in force before February 15, 2020. **For rent payments to related parties only mortgage interest owed by the related party landlord on the space being rented during the covered period is eligible for forgiveness.**
- **Business Utility Payments** - Payment for business electricity, gas, water, transportation, telephone (cell phone or landline) or internet access service which began before February 15, 2020.

**Incurred and Paid: Includes non-payroll expenses 1) paid during the Covered Period or 2) 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. Do not use more than 40% of PPP on Nonpayroll Costs.*

<https://www.sba.gov/sites/default/files/2020-08/PPP%20Loan%20Forgiveness%20FAQs%208-4-20.pdf>



PPP Forgiveness General Observations



- Small percentage of borrowers have submitted forgiveness applications.
- Majority of applications support 100% forgiveness.
- Borrowers determine the timeframes:
 - When to apply for forgiveness
 - Covered period

Q&A

