

NFIB UPDATE

Bi-Weekly Briefing for Small Business

Beth Milito, Holly Wade, and Aeron Van Scoyk, NFIB

September 16, 2020 – Your Top Ten EIDL Questions Answered & PPP EZ Forgiveness Eligibility



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 a particular issue.

This is based on information available by 9/1/20.



Upcoming NFIB Webinars

Reminder that we have converted NFIB's formerly weekly COVID-19 webinars to every other week:

September 30

7 Keys to Get Your PPP Loan Forgiven

October 14

Tax Provisions in Cares Act - Beyond the PPP, Congress Next Steps, Q&A

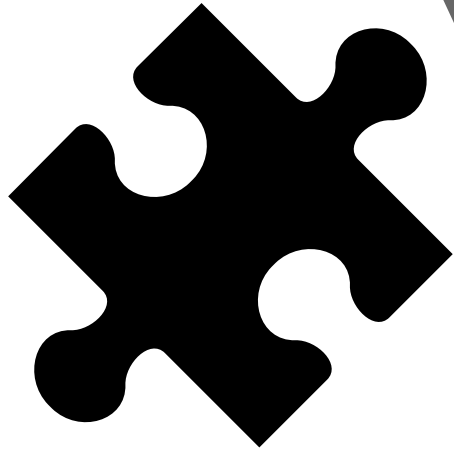
Agenda

PPP Forgiveness Application Form
3508EZ

Economic Injury Disaster Loan
Program (EIDL) Top 10 FAQs

Q&A

PPP Forgiveness Application Form 3508EZ



How to Get Started

You will need the following:

- 3508EZ [Loan Forgiveness Application Instructions](#) (please read carefully)
- 3508EZ [Loan Forgiveness Application](#)
- Calculator
- Calendar
- Loan documents
- Supporting documentation (keep for 6 years)



3508EZ Instructions



Paycheck Protection Program
PPP Loan Forgiveness Application Form 3508EZ

OMB Control No. 3245-0407
Expiration Date: 10/31/2020

PPP LOAN FORGIVENESS APPLICATION FORM 3508EZ INSTRUCTIONS FOR BORROWERS

Checklist for Using SBA Form 3508EZ

You (the Borrower) can apply for forgiveness of your Paycheck Protection Program (PPP) loan using this SBA Form 3508EZ if you can check at least one of the three boxes below. Do not submit this Checklist with your SBA Form 3508EZ.

- The Borrower is a self-employed individual, independent contractor, or sole proprietor who had no employees at the time of the PPP loan application and did not include any employee salaries in the computation of average monthly payroll in the Borrower Application Form (SBA Form 2483).

- 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 did not reduce the number of employees or the average paid hours of employees between January 1, 2020 and the end of the Covered Period. (Ignore reductions that arose from an inability to rehire individuals who were employees on February 15, 2020 if the Borrower was unable to hire similarly qualified employees for unfilled positions on or before December 31, 2020. Also ignore reductions in an employee’s hours that the Borrower offered to restore and the employee refused. See [85 FR 33004](#), 33007 (June 1, 2020) for more details.

- 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.

FTE Exceptions: unable to rehire or employee refused hours/job



FTE Safe Harbor



If you can check at least one of the three boxes above, complete this SBA Form 3508EZ in accordance with the instructions below, and **submit it to your Lender** (or the Lender that is servicing your loan). Borrowers may also complete this application electronically through their Lender. If you are unable to check one of the boxes above, you cannot use SBA Form 3508EZ and instead you must apply for forgiveness of your PPP loan using SBA Form 3508.

3508EZ Eligibility

This application is for the following Borrowers:

Self employed and have no employees.

Did not reduce the salaries or wages of their employees by more than 25%, and did not reduce the number or hours of their employees; or

Experienced reductions in business activity as a result of health directives related to Covid-19 and did not reduce the salaries or wages of their employees by more than 25%.



EZ Form Certification

- Used Payroll costs that were eligible for forgiveness (payroll costs, business mortgage interest payments, business rent or lease payments, or business utility payments)
- Payroll Costs of at least 60%
- 24 weeks - doesn't exceed 2.5 months of 2019 compensation of any owner employee, capped at \$20,833 per individual
- 8 weeks - doesn't exceed 2.5 months of 2019 compensation of any owner employee, capped at \$15,385 per individual
- Did not reduce salaries or hourly wages by 25%
- Verified the payment for eligible payroll and non-payroll costs
- Submitted to lender required documentation for payroll costs and non-payroll costs
- Everything is True and Correct
- SBA may request additional information

Form 3508EZ Category 1:

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

Form 3508EZ Category 2:

2. 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*

AND

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.



Form 3508EZ Category 3 (**FTE SAFE HARBOR!!**):

3. 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*

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 [COVID-19] requirements or guidance** issues between March 1, 2020, and December 31, 2020 by:

1. Secretary of Health and Human Services
2. Director of CDC
3. OSHA

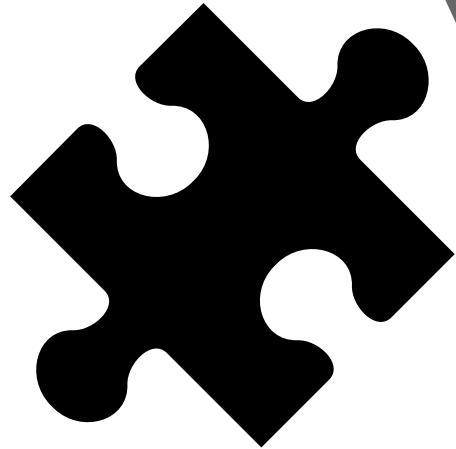


Distinguish Wage/Salary Reduction from FTE Reduction

SBA Example: An employee earned a wage of \$20 per hour between January 1, 2020 and March 31, 2020 and worked 40 hours per week.

- During the Covered Period, the employee's wage was not changed, but her hours were reduced to 25 hours per week.
- In this case, the salary/hourly wage reduction for that employee is zero, because the hourly wage was unchanged.
- The employee's reduction in hours would be taken into account in the borrower's calculation of its FTE during the Covered Period, which is calculated separately and may result in a reduction of the borrower's loan forgiveness amount.

Top 10 FAQs on the Economic Injury Disaster Loan (EIDL)





Economic Injury Disaster Loan

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

The SBA's EIDLs provide working capital to help small businesses survive until normal operations resume after a disaster.

- Payroll costs, including benefits,
- Fixed debts (mortgage, rent, lease),
- Accounts payable,
- Other bills.

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

FAQ #10

I have both an EIDL and a PPP loan. Will the EIDL affect my PPP loan forgiveness?

FAQ #10

Only the advance grant portion of the EIDL will affect PPP loan forgiveness. The loan portion will not.

Any **EIDL advance grant** received **will be subtracted** from PPP loan forgiveness.



FAQ #9

How can I use EIDL funds? Are there any restrictions?

FAQ #9

EIDL funds are intended to be used as working capital to pay ordinary expenses of the business.

The EIDL is not meant to be used for business expansion or for paying down principal on long-term debt.

FAQ #8

I have both the EIDL and PPP loan. Can I use both loans to pay for the same expenses?

FAQ #8

No. You cannot use both the EIDL and the PPP to pay for the same expenses. For example, you can not use both the EIDL and PPP for payroll costs.

FAQ #7

I used a credit card to pay operating expenses of the business. Can I use EIDL funds to repay the credit card?

FAQ #7

This is permissible as long as the credit card was used to pay operating expenses of the business.

FAQ #6

How do I find out my EIDL loan status/how do I find out how to make loan repayments (or other questions about your EIDL)?

FAQ #6

You'll need to reach out to the SBA directly, either by phone (800-659-2955) or email (disastercustomerservice@sba.gov).



FAQ #5

What happens if I cannot repay the EIDL? Am I personally liable?

FAQ #5

The SBA has waived the personal guarantee requirement on EIDL loans under \$200,000. However, the SBA still requires a pledge of collateral for loans over \$25,000.

FAQ #4

I missed the window to apply for the PPP. Can I still apply for an EIDL?

FAQ #4

Yes, you can still apply for the EIDL online here: <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/economic-injury-disaster-loans>.

However, the EIDL advance grant is no longer available, as all of the funds for that portion of the program have been exhausted.



FAQ #3

When do I have to start repaying the EIDL?

FAQ #3

Repayment is deferred for 12 months. However, keep in mind that interest continues to accrue during the deferral period.

FAQ #2

Can I use EIDL funds to pay myself?

FAQ #2

The EIDL cannot be used for disbursements to owners or shareholders. An owner employed by the company may still receive reasonable compensation for work performed on behalf of the company.

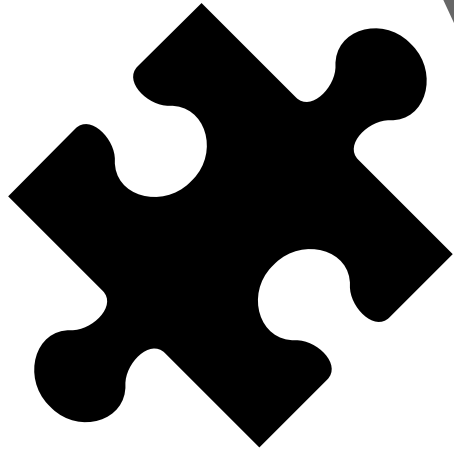
FAQ #1

Are there any record-keeping requirements for the EIDL?

FAQ #1

Yes, you must maintain “current and proper” records for the most recent five years until three years after the maturity of the loan or full repayment of the loan, whichever is first.

Q&A



COVID-19 Resources

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- [PPP Loan Forgiveness EZ Application Instructions](#)
 - [PPP Loan Forgiveness EZ Application](#)
 - [AICPA PPP Loan Forgiveness Calculator](#) (updated 9/2/20)
 - [NFIB Coronavirus Resources](#)
 - [NFIB Chart of Federal COVID-19 Financial Programs](#)
 - [NFIB PPP Loan Forgiveness Tip Sheet](#)
 - [NFIB FFCRA Tax Credit Tip Sheet](#)
 - [NFIB FFCRA Back-To-School Tip Sheet](#) (new!)
 - [NFIB EIDL Tip Sheet](#)

Payroll Tax Deferral

The U.S. Treasury Department issued [Notice 2020-65](#), which provides guidance for implementing the President's Executive Order requesting that Treasury delay the withholding and payment of payroll taxes (OASDI taxes) for the period from September 1 – December 31, 2020.

Deferral is VOLUNTARY! Neither the President's Order, nor Notice 2020-65, require an employer to defer the payment of employee OASDI taxes. Thus, an employer may choose to continue to withhold and deposit employee OASDI taxes as usual.

The deferral is essentially a loan and puts employers on the hook for the payroll tax deferral by requiring that deferred taxes be paid by April 30, 2021.

NFIB Tip Sheet [here](#).

