

PPP Loans: Updates on Loan Forgiveness Rules and Procedures Webinar Q&A

What is the Coronavirus?

Coronavirus Disease 2019 (COVID-19) is a respiratory disease caused by the Severe Acute Respiratory Syndrome (SARS)-CoV-2 virus. The current mutation is a new strain of the SARS virus and no individual has any immunity prior to an exposure. The CDC has reported that testing has begun on a vaccine but for now, everyone should prepare and plan for possible impacts resulting from COVID-19. It has spread from China to many other countries around the world, including the United States.

1 Will accounting or professional loan consulting costs related to preparing and processing the loan be considered as forgivable?

No. Such costs do not fall under the allowable “Non-Payroll Costs” as defined by the program, which are mortgage interest, rent, and utilities. Further, such services will need to be done after all funds for which you are asking forgiveness are spent.

2 What happens if we have re-hired all employees and exceeded our loan amount in forgiveness, but then have to lay-off employees come sept. 1st 2020 for other reasons than COVID?

This depends on when your Loan Forgiveness Covered Period ends. If you are able to choose the 8-week period, and that 8 weeks ends prior to the September layoff, any FTE reduction that occurs after the end of that 8-week Covered Period should not have an effect on forgiveness. If choosing, or needing to utilize the longer 24-week covered period, and the September layoff occurs during that 24-week period, then it will affect the FTE average for the Covered Period. The severity of the effect depends on the average FTE during the Covered Period as compared to the average FTE during the reference period. The severity of the reduction could be reduced or eliminated if companies are allowed to report payroll costs well in excess of their loan amount on the Loan Forgiveness Application. Finally, if you choose the 24-week period, but choose to apply for forgiveness early before the end of those 24 weeks, there is currently uncertainty as to how and when the FTE Reduction is calculated.

3 On the 25% reduction, does that mean \$ amount paid to employee, or number of hours worked? I.E. we didn't cut any per hour wage, but we did cut hours.

There are 2 reductions: The Salary/Hourly Wage Reduction and the FTE Reduction Quotient. The Salary/Hourly Wage Reduction, which results in a reduction if wages are cut by more than 25% (when compared to Q1 2020 wages), is based on RATE of pay only (change is salary or hourly rate). A reduction in hours would be accounted for as an FTE reduction. Depending on the hours reduced, any applicable exceptions, and the method used (actual or simplified) it is possible that the hourly reduction would not result in an FTE reduction. For example, the simplified method equates any employee working less than 40 hrs/ week as 0.5 FTE. In this case, an employee working 39 hrs/week who was reduced to 1 hr/week would still be 0.5 FTE before and after the reduction.

Note: Employees who received for any pay period in 2019 a paycheck that would equal the annualized equivalent of \$100,000 or more are exempt from any Salary/Hourly Wage Reduction calculation.

4 Can you clarify the three requirements for using the E-Z Forgiveness Application? Does the question of reduction of employees or average paid hours of employees between 01/01/2020 and the end of the covered period mean they are only looking at those two dates or all dates in between? Does the question of inability to operate at the same level of

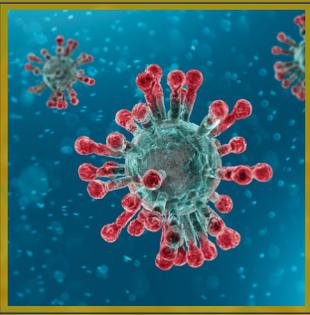


3 Bethesda Metro Center
Suite 1100

Bethesda, MD 20814

301-657-3110 • www.necanet.org

published 7/15/2020



activity between 02/15/2020 and the end of the covered period have quantitative metrics that need to be looked at?

The best source for these requirements is the first page of the EZ form instructions which can be found here:

<https://www.sba.gov/sites/default/files/2020-06/PPP%20Loan%20Forgiveness%20Application%20Form%20EZ%20Instructions%20%28Revised%2006.16.2020%29-508.pdf>

As for the specification regarding to the borrower not reducing the number of employees or average paid hours, the instructions read: “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.” The wording says “between”, so the reductions need to be analyzed for the period starting 1/1/2020 and ending the date the Covered Period ends.

As for the “unable to operate at the same level of business activity” safe harbor, they have not provided a quantitative metric that must be met; however, they have noted that “relevant borrower financial records” are required documentation for this safe harbor (in addition to the applicable COVID requirements or guidance for each business location). Since financial records are required documentation for this safe harbor, it would be safe to assume that the borrower should be able to document some level of business activity decline. The SBA has noted that such decline can be a result of both direct and indirect compliance with COVID requirements or guidance. They have also issued the following example: “A PPP borrower is in the business of selling beauty products both online and at its physical store. During the covered period, the local government where the borrower’s store is located orders all non-essential businesses, including the borrower’s business, to shut down their stores, based in part on COVID-19 guidance issued by the CDC in March 2020. Because the borrower’s business activity during the covered period was reduced compared to its activity before February 15, 2020 due to compliance with COVID Requirements or Guidance, the borrower satisfies the Flexibility Act’s exemption and will not have its forgiveness amount reduced because of a reduction in FTEs during the covered period, if the borrower in good faith maintains records regarding the reduction in business activity and the local government’s shutdown orders that reference a COVID Requirement or Guidance as described above.”

5 What are the forgiveness circumstances/allowable costs regarding payroll costs for S Corp owners?

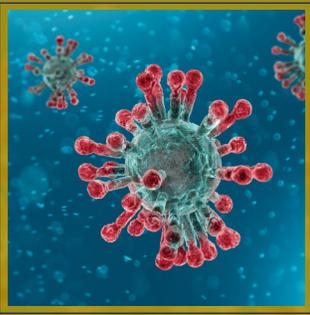
S-corporation owner-employees are capped by the amount of their 2019 employee cash compensation plus employer retirement contributions made on their behalf. Employer health insurance contributions made on their behalf cannot be separately added because those payments are already included in their employee cash compensation. Retirement contributions on behalf of owner-employees are capped at 2.5 months’ worth of the 2019 contribution amount.

The dollar amount cap for cash compensation is a max of \$100k pro-rated for the covered period and depends on the covered period used. Borrowers that elect to use an 8-week covered period have cash compensation capped at eight weeks’ worth (8/52) of 2019 compensation or \$15,385 per individual, whichever is less. Borrowers that elect to use a 24-week covered period have cash compensation capped at 2.5 months’ worth (2.5/12) of 2019 compensation or \$20,833 per individual, whichever is less. The dollar amount cap should be in total across all businesses if the owner has more than one business.



3 Bethesda Metro Center
Suite 1100
Bethesda, MD 20814

301-657-3110 • www.necanet.org



6 The calculation for payroll is a weekly calculation based on 52 weeks. The forgiveness form is based on 12 months. People over 100,00.00 will not reach 100%. Did they fix this problem?

Eligible payroll costs are determined based on those paid or incurred during the Covered Period or Alternative Payroll Covered Period. For each individual employee, the total amount of cash compensation eligible for forgiveness may not exceed an annual salary of \$100,000, as prorated for the Covered Period. For an 8-week Covered Period, that total is \$15,385. For a 24-week Covered Period, that total is \$46,154. (These limits are for employees only - owners have different limits.) Per the SBA, given the 2.5 multiplier in the calculation of maximum PPP loan amount, this per-individual maximum would only be reached if the borrower had reduced its FTEs but was eligible for an exemption (safe harbor) from the resulting reduction in forgiveness.

7 What are the payroll limits for owners in a C Corporation?

C-corporation owner-employees are capped by the amount of their 2019 employee cash compensation plus employer retirement and health insurance contributions made on their behalf. Retirement contributions on behalf of owner-employees are capped at 2.5 months' worth of the 2019 contribution amount.

The dollar amount cap for cash compensation is a max of \$100k pro-rated for the covered period and depends on the covered period used. Borrowers that elect to use an 8-week covered period have cash compensation capped at eight weeks' worth (8/52) of 2019 compensation or \$15,385 per individual, whichever is less. Borrowers that elect to use a 24-week covered period have cash compensation capped at 2.5 months' worth (2.5/12) of 2019 compensation or \$20,833 per individual, whichever is less. The dollar amount cap should be in total across all businesses if the owner has more than one business.

8 Can a loan forgiveness application be submitted before the 24-week time frame if money is spent prior to that time frame?

Yes, so long as all money for which forgiveness has been requested has been spent. If you have reduced wages by more than 25%, you will be forced to calculate the Salary/Hourly Wage Reduction for the entire 24-week period, and you will forfeit the right to utilize the safe harbor/change the calculation if you restore wages before the 24 weeks but after you submit the application. Also, at this point, there has been no guidance on how and when to calculate the FTE Reduction Quotient for borrowers that apply early.

9 Will the amounts used for loan forgiveness, payroll, rent, etc., be disallowed as an expense for tax purposes?

At this point (7/15/2020), yes, but this is an area of contention and it may change. On 4/30 the IRS issued a notice saying such expenses would not be deductible. Several parties are currently fighting to get this changed. Article here:

<https://www.journalofaccountancy.com/news/2020/may/bill-would-make-ppp-funded-expenses-deductible.html>

10 Are we able to apply for forgiveness after the 8 weeks, but PRIOR to the 24 weeks? Such as being able to do it 16 weeks, apply and have the calculations go from that date?

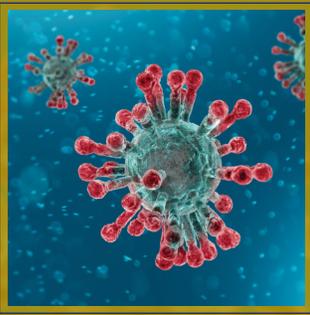
Same answer as question #8 above.



3 Bethesda Metro Center
Suite 1100

Bethesda, MD 20814

301-657-3110 • www.necanet.org



11 What if we apply for forgiveness prior to the end, do we still have to meet the requirements at the end of the 24-week period? Meaning if I apply for forgiveness at 16 weeks and meet all the requirements, but at 24-weeks I reduce employee headcount, will I be in trouble?

At this point, there has been no guidance on how and when to calculate the FTE Reduction Quotient for borrowers that apply early (before the end of their 8 or 24-week Covered Period). At any rate if FTE reductions are done after the end of the chosen Covered Period (8 or 24 weeks), then they should not affect the forgiveness amount regardless. As stated in your example, if all the funds are used in 16 weeks, and headcount is reduced after 24 weeks, any reduction after that 24 weeks does not matter. The gray area exists for headcount reductions between the 16 and 24 week period.

12 So, if an employee worked a lot of overtime in quarter 1, is that considered his salary (hourly) or is it the hourly pay rate?

Great question. The Salary/Hourly Wage Reduction is based on “base salary or wages between 1/1/2020 and 3/31/2020”. For an hourly employee, you would look at their base hourly rate only, and if that did not decrease by more than 25%, there is no need to calculate a Salary/Hourly Wage Reduction for that employee. In other words, working OT in Q1 2020 and then not working OT during the Covered Period would not result in a forgiveness reduction as long as the employee’s base rate was not reduced by more than 25%.

Note: Employees who received for any pay period in 2019 a paycheck that would equal the annualized equivalent of \$100,000 or more are exempt from any Salary/Hourly Wage Reduction calculation.

13 If you rehired the same amount of people you had on Feb 15 and after 6 weeks some of the jobs shut down because of COVID and now are a few employee’s short. How does that affect forgiveness amount?

This would relate to the FTE Reduction Quotient. If the average FTEs during the Covered Period is less than the average FTEs during the reference period, the resulting percentage is how much of the initial forgiveness amount would be allowed to be forgiven. For example, if the reference period FTE was 10 and the Covered Period FTE was 8, generally speaking, 80% of the initially calculated forgivable costs would be forgiven.

Line 7 of the Loan Forgiveness Application Form 3508 shows the FTE Reduction Quotient, and Line 8 shows the amount reduced by that quotient.

FTEs during the reference period and the Covered Period are calculated for the average of the entire period, so FTEs on a single day (for example, 2/15 as mentioned in the question) is not entirely relevant/accurate.

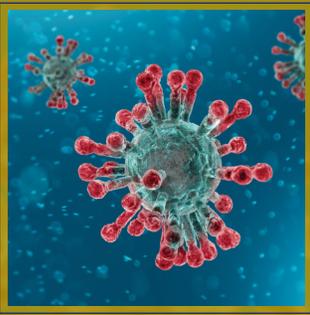
The reference period options are:

- i. 2/15/19 – 6/30/19
- ii. 1/1/20 – 2/29/2020
- iii. for seasonal any consecutive 12-week period between 5/1/19 and 9/15/19.

14 If we select 24 weeks, do we have to keep our FTE up for the entire 24 weeks or just during the time we spend the PPP money? For example, if we use the money up in 9 weeks, do we have to keep the FTE’s up for 24 weeks or 9 weeks?

At this point, there has been no guidance on how and when to calculate the FTE Reduction





NECA Legal Update: **PPP Loans: Updates on Loan Forgiveness Rules and Procedures Webinar Q&A**

Quotient for borrowers that apply early (before the end of their 8 or 24-week Covered Period). The Loan Forgiveness Application currently defines the “Covered Period” as the 8 or 24 week period following the loan disbursement, and does not address the fact that the SBA has said that borrowers can apply for forgiveness prior to the end of their Covered Period.

15 I know health and retirement are considered part of the payroll. Are the other employer paid benefits (i.e. union benefits) considered payroll as well?

While the guidance is not specific, we have taken the position that any such fringes or benefits paid directly to or for the benefit of the employee are within the definition. First, they are not specifically exclude, and second, this view is consistent with the intent of the legislation which is to keep payroll and staffing at the same levels.

16 Are ESOP contributions covered under PPP?

Employer ESOP contributions should fall under “employer contributions to employee retirement plans” as an allowable payroll cost. At this point it is unclear whether such contributions are required to be pro-rated to the applicable 8 or 24-week Covered Period, and whether accrued 2019 contributions paid in 2020 during the Covered Period are allowed.

17 Will the part of the loan that is forgiven be considered income for tax purposes?

No, the forgivable amount is tax-free. However, it should be known that currently, expenses paid with forgivable funds are not deductible. (This non-deductibility is something that may change in the future).

18 Will the slides be sent out after this call?

Same answer as question #36 below.

19 Will there be a PDF handout of the presentation available?

Same answer as question #36 below.

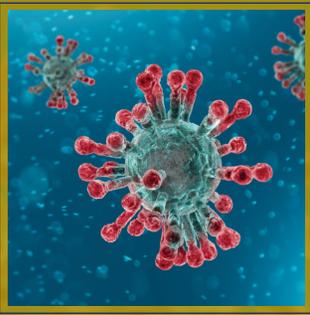
20 Exhibit A Worksheet Step #4 asks for FTE as of the date the application is submitted. Is the Safe Harbor FTE value as of the last week of the 24-week period (if before 12/31/20) or the date of the application?

Steps #1-5 on the “PPP Schedule A Worksheet” pertain only to the FTE Reduction Safe Harbor 2. The instructions noted in step 4 should be followed as written, the earlier of 12/31/20 or the date the application is submitted. As such, this safe harbor is determined as of the date the application is submitted, not the last day of the Covered Period.

21 What would be required to support not being able to bring all employees back to work due to effects of COVID - if an industry we work for is essentially shut down (i.e.: steel industry), is that sufficient?

Generally, speaking no, the borrower must provide the following proof to support the “unable to operate at the same level of business activity” safe harbor. Borrower must provide “relevant borrower financial records” in addition to the applicable COVID requirements or guidance for each business location. Since financial records are required documentation for this safe harbor, it would be safe to assume that the borrower should be able to docu-





NECA Legal Update: PPP Loans: Updates on Loan Forgiveness Rules and Procedures Webinar Q&A

ment some level of business activity decline. The SBA has noted that such decline can be a result of both direct and indirect compliance with COVID requirements or guidance. They have also issued the following example: “A PPP borrower is in the business of selling beauty products both online and at its physical store. During the covered period, the local government where the borrower’s store is located orders all non-essential businesses, including the borrower’s business, to shut down their stores, based in part on COVID-19 guidance issued by the CDC in March 2020. Because the borrower’s business activity during the covered period was reduced compared to its activity before February 15, 2020 due to compliance with COVID Requirements or Guidance, the borrower satisfies the Flexibility Act’s exemption and will not have its forgiveness amount reduced because of a reduction in FTEs during the covered period, if the borrower in good faith maintains records regarding the reduction in business activity and the local government’s shutdown orders that reference a COVID Requirement or Guidance as described above.”

The wording for this safe harbor is as follows and can be found here:

<https://www.sba.gov/sites/default/files/2020-06/PPP%20Loan%20Forgiveness%20Application%20Form%20EZ%20Instructions%20%28Revised%2006.16.2020%29-508.pdf>

“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.*”

22. Is the \$1,923/wk. limit (\$100k a year) for wages only or does that include health & retirement amounts?

The \$100k cap (\$15,385 for an 8-week Covered Period, and \$46,154 for a 24-week Covered Period) is for cash compensation only. Health and retirement and other benefits are in addition to this limit.

Such limits are for employees only. Owners have their own limits.

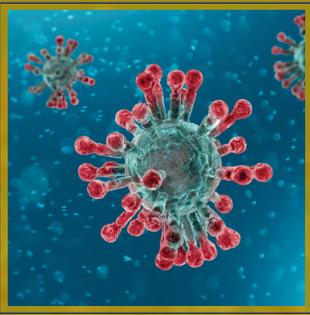
23 My EZ application from my bank says it cannot be used if anyone has over the \$100k annual limit. I did not see that on the slide show so was just curious if that is a specific bank requirement?

Reach back out to your bank to ensure this understanding is correct. Based on the Form 3508EZ instructions, (here: <https://www.sba.gov/sites/default/files/2020-06/PPP%20Loan%20Forgiveness%20Application%20Form%20EZ%20Instructions%20%28Revised%2006.16.2020%29-508.pdf>) there is no such requirement saying that companies with employees earning over \$100k annualized cannot use the EZ form. There are specific requirements for using the EZ form, but this is not one of them.

24 If after 8 weeks you have not used all the funds do you assume 24-week period?

Generally, yes. There may be some other considerations to make if future layoffs or wage reductions may be expected. The good news is you don’t have to declare the 8 or 24-week period until you file the application. (Although there certainly are benefits to having a plan ahead of time.)





NECA Legal Update: **PPP Loans: Updates on Loan Forgiveness Rules and Procedures Webinar Q&A**

Everyone can choose the 24-week Covered Period. Only those to whom their loan was assigned a loan number by the SBA prior to June 5, 2020 can choose the 8-week covered period.

25 Are pension and health & welfare costs covered for only the 8- or 24-week period or can you also cover amounts incurred prior, but paid during the 8- or 24-week period?

Retirement and health benefits fall under “Payroll Costs” for the PPP. Payroll costs can be paid or incurred during the Covered Period or Alternative Payroll Covered Period to be eligible. As such, generally speaking, Payroll Costs incurred prior to the Covered Period but paid during the Covered Period should be allowed.

There is a large gray area surrounding accrued 2019 retirement contributions. Speaking on a strictly technical level, 2019 employer retirement contributions appear to fall under the description of Line 7 on the PPP Schedule A as forgivable. However, the intent of the program was to cover 8 weeks of employee pay, not an entire prior year’s worth of retirement plan contributions. A more conservative option would be to accrue for and pay an 8 or 24-week portion of the 2020 employer contribution, or if using the 24-week Covered Period, it would likely be possible to use the entire amount on payroll without retirement contributions. This matter has not yet been addressed by the SBA.

26 Must the FTE of 60% be sustained throughout the entire 24-week period?

The 60% number is for the Payroll Cost 60% Requirement. There is no set threshold percentage for the FTE Reduction Quotient.

The FTE Reduction Quotient is based on the average of FTEs during the Covered Period divided by the average FTEs during the reference period. The resulting percentage is how much of the initial forgiveness amount would be allowed to be forgiven.

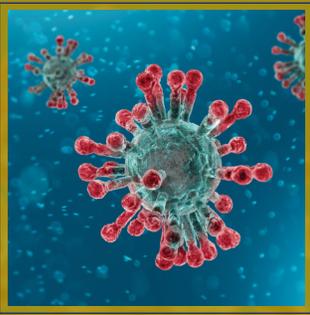
At this point, there has been no guidance on how and when to calculate the FTE Reduction Quotient for borrowers that apply early (before the end of their 8 or 24-week Covered Period). The Loan Forgiveness Application currently defines the “Covered Period” as the 8 or 24 week period following the loan disbursement, and does not address the fact that the SBA has said that borrowers can apply for forgiveness prior to the end of their Covered Period.

The Payroll Cost 60% Requirement states that at least 60% of the forgiveness amount must have been spent (throughout the Covered Period or Alternative Payroll Covered Period) on payroll costs.

27 We plan to use the EZ application option 3 (lack of work due to COVID-related restrictions). If for some reason the lender/SBA does not accept our support for using that option, will we be able to resubmit our forgiveness application with the FTE reduction calculation?

If loan documentation submitted to SBA by the lender or any other information indicates that the borrower may be ineligible for a PPP loan or may be ineligible to receive the loan amount or loan forgiveness amount claimed by the borrower, SBA will require the lender to contact the borrower in writing to request additional information. SBA may also request information directly from the borrower. The lender will provide any additional information provided to it by the borrower to SBA. SBA will consider all information provided by the borrower in response to such an inquiry.





28 What if you spent the loan in 12 weeks so it is not 8 weeks or 24 weeks? Is that OK?

This is okay so long as all money for which forgiveness has been requested has been spent. If you have reduced wages by more than 25%, you will be forced to calculate the Salary/Hourly Wage Reduction for the entire 24-week period, and you will forfeit the right to utilize the safe harbor/change the calculation if you restore wages before the 24 weeks but after you submit the application. Also, at this point, there has been no guidance on how and when to calculate the FTE Reduction Quotient for borrowers that apply early.

29 Are monthly rental costs for equipment that is sitting idle includable?

A covered rent obligation includes business rent or lease payments pursuant to lease agreements for real or personal property in force before February 15, 2020. So if the rent is paid pursuant to a lease agreement that was in force before 2/15/2020, it should be allowed and it does not matter that the equipment is not being used.

30 Doesn't the loan maturity extension to 5 years only apply if you received your loan after June 5? Or will it also apply to loans granted before that?

Loans made June 5, 2020 or later have a loan maturity of 5 years.

Loans made prior to June 5, 2020 can have the maturity extended to 5 years *only if mutually agreed to by the lender and the borrower*. Otherwise the original 2 year maturity remains.

A loan is “made” on the date the SBA assigns a loan number.

31 Can we include landscaping services and trash collection in the other expenses that are covered?

At this point, the answer is no. Such costs do not fall under the allowable “Non-Payroll Costs” as defined by the program, which are mortgage interest, rent, and utilities. It may be worth it to ask your particular lender if they have taken a stance on such items, but based on official SBA guidance, these items do not currently qualify. For reference, utilities include electricity, gas, water, telephone, transportation, and internet access.

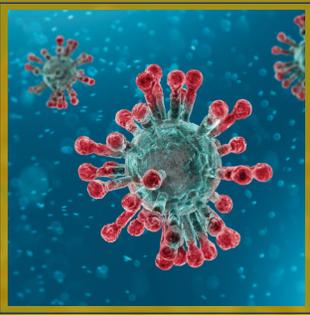
32 What if an employee chose to take time off on their own (this employee is paid hourly) because they know they have been exposed to someone who tested positive to COVID? This person was just hired in March 6, 2020, so I don't have a prior wage to compare it to.

A change in hours would be an FTE Reduction, not a Salary/Hourly Wage Reduction. As such, there is no prior wage comparison needed. Further, if they were hired on 3/6/2020, at that point they will only help your FTE calculation, because they were not employed during either of the reference periods. Finally, there are exceptions for employees who voluntarily resign or voluntarily request a reduction in hours. Make sure to have his/her requested time off documented.

For reference, the reference period options for the FTE Reduction are:

- i. 2/15/19 – 6/30/19
- ii. 1/1/20 – 2/29/2020
- iii. for seasonal any consecutive 12-week period between 5/1/19 and 9/15/19.





33 What are the specifics for not being able to operate at previous levels?

The wording for this safe harbor is as follows and can be found here:

<https://www.sba.gov/sites/default/files/2020-06/PPP%20Loan%20Forgiveness%20Application%20Form%20EZ%20Instructions%20%28Revised%2006.16.2020%29-508.pdf>

“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.*”

If this question is asking for a quantitative metric for the “unable to operate at the same level of business activity” safe harbor, the SBA has not provided a quantitative metric that must be met. However, they have noted that “relevant borrower financial records” are required documentation for this safe harbor (in addition to the applicable COVID requirements or guidance for each business location). Since financial records are required documentation for this safe harbor, it would be safe to assume that the borrower should be able to document some level of business activity decline. The SBA has noted that such decline can be a result of both direct and indirect compliance with COVID requirements or guidance. They have also issued the following example: “A PPP borrower is in the business of selling beauty products both online and at its physical store. During the covered period, the local government where the borrower’s store is located orders all non-essential businesses, including the borrower’s business, to shut down their stores, based in part on COVID-19 guidance issued by the CDC in March 2020. Because the borrower’s business activity during the covered period was reduced compared to its activity before February 15, 2020 due to compliance with COVID Requirements or Guidance, the borrower satisfies the Flexibility Act’s exemption and will not have its forgiveness amount reduced because of a reduction in FTEs during the covered period, if the borrower in good faith maintains records regarding the reduction in business activity and the local government’s shutdown orders that reference a COVID Requirement or Guidance as described above.”

34 What are the comparison options for FTE levels for the 25% reduction?

The 25% number is for the Salary/Hourly Wage Reduction. There is no set threshold percentage for the FTE Reduction Quotient.

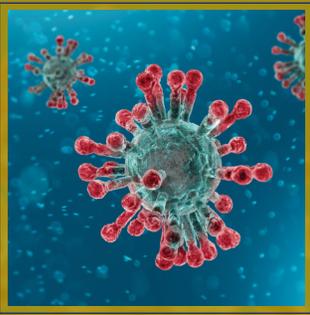
The FTE Reduction Quotient is based on the average of FTEs during the Covered Period divided by the average FTEs during the reference period. The resulting percentage is how much of the initial forgiveness amount would be allowed to be forgiven.

The reference period options for the FTE Reduction are:

1. 2/15/19 – 6/30/19
2. 1/1/20 – 2/29/2020
3. for seasonal any consecutive 12-week period between 5/1/19 and 9/15/19.

The Salary/Hourly Wage Reduction results in a forgiveness reduction if wages are cut by more than 25% (when compared to Q1 2020 wages). This reduction is based on RATE of pay only (change is salary or hourly rate). Employees who received for any pay period in 2019 a paycheck that would equal the annualized equivalent of \$100,000 or more are exempt from any Salary/Hourly Wage Reduction calculation.





35 With expenses not being allowed for tax deductions, will it be best to get the maximum amount used for payroll to be forgiven? Can the entire loan be used for payroll in the 24 week period?

There is no maximum limit as to how much of the loan can be used for payroll, there is only a minimum limit which is 60% of the forgiveness amount. The “spirit” of the program was to support payroll, so using it only for payroll is within the “spirit” of the program and is certainly acceptable. Further, using it for only payroll will eliminate having to provide additional documentation which would otherwise be required to support non-payroll costs.

36 Will we get a copy of the power point slides?

The PowerPoint will be attached to the recording of the webinar in the NECA Learning Center 24 hours after the webinar has completed.

37 We have a constantly changing work force of union employees, do we have to track the payroll by exact employee? Or is it just a head count of who is employed? If we hire others that were not working as of 2/15, will they count towards payroll that will be forgiven?

There are 2 reductions: The Salary/Hourly Wage Reduction and the FTE Reduction Quotient.

The Salary/Hourly Wage Reduction, which results in a reduction if wages are cut by more than 25% (when compared to Q1 2020 wages), is based on RATE of pay only (change is salary or hourly rate). If their rate of pay did not change by more than 25%, this calculation does not need to be done for that employee. That being said, this is an employee by employee determination.

A reduction in hours would be accounted for as an FTE Reduction. The FTE Reduction Quotient is based on the average of FTEs during the Covered Period divided by the average FTEs during the reference period. The resulting percentage is how much of the initial forgiveness amount would be allowed to be forgiven. The Company’s average FTE for each period must be calculated. There is an actual method and a simple method which are described on page 4 of the instructions here:

https://home.treasury.gov/system/files/136/PPP-Loan-Forgiveness-Application-Instructions_1_0.pdf

The reference period options for the FTE Reduction are:

1. 2/15/19 – 6/30/19
2. 1/1/20 – 2/29/2020
3. for seasonal any consecutive 12-week period between 5/1/19 and 9/15/19.

38 Is the forgiven amount of the loan taxable?

Same answer as question #8 above.

This material is for informational purposes only. The material is general and is not intended to be legal advice. It should not be relied upon or used without consulting a lawyer to consider your specific circumstances, possible changes to applicable laws, applicable CBAs, prime contracts, subcontracts, rules and regulations and other legal issues. Receipt of this material does not establish an attorney-client relationship.

