

NOTICE: The SBA continues to update regulations and provide additional guidance which may impact this guide. This information is provided as a courtesy to our customers and is for informational purposes only. It is not intended for legal, tax, or business advice. Please check back for updates as they become available. This information applies to loan forgiveness applications received on or after 8/20/2021

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Applying for Loan Forgiveness

How do I apply for loan forgiveness?

1. Union Bank will provide you a secure link to apply (or you can request the link by emailing ppp@ubt.com or calling 402-473-8551). The link will be for your specific First Draw or Second Draw loan. When calling or emailing, specify which loan you are applying for forgiveness for.
2. When you access the secure link, certain information (such as your SBA loan number and information you provided at application) will automatically populate and you will provide us with information we need to prepare your applicable forgiveness application and all required documentation.
3. Review the information provided to ensure it is accurate. You are responsible for ensuring the information is correct and can be supported with documentation you either provide to us or retain.
4. For all loans over \$150,000, attach [required documentation](#).
5. Once you submit the information and required documentation, **we will complete the applicable SBA form and send that to you via DocuSign for your review and signature.** You must review the SBA form, and if you agree with the information on the form, sign the application and remit it to us. If it is not accurate, email ppp@ubt.com and request your Forgiveness Link to be resent to you to make corrections. You cannot make changes on the DocuSign form. **Please retain a copy of the document you sign!**

When should I complete and submit the PPP Loan Forgiveness Application?

- **Complete your forgiveness application as soon as you have used all of the PPP funds for allowable purposes, and you have sufficient documentation to support your costs.** You may complete your application any time prior to the maturity date of your loan if you have used all the loan proceeds for which you are requesting forgiveness.
- You must submit your loan forgiveness application for the First Draw PPP Loan before or simultaneously with the loan forgiveness application for the Second Draw PPP Loan.

What documentation is required?

For loans over \$150,000, the following documentation is required:

1. IRS Form 941 for each quarter during the covered period; and,
2. State Quarterly business and individual employee wage reporting and unemployment insurance tax forms;
 - a. Or, for both above, if a payroll processor is utilized, equivalent payroll processor records that best correspond to the covered period.
3. If applicable, evidence of any retirement and group health, life, disability, vision, and dental insurance contributions.
4. If applicable,
 - a. Evidence of business rent, business mortgage interest payments on real or personal property, business utility payments, which includes documentation contract was in place prior to 2/15/2020 AND documentation of payments made during the covered period. This documentation may include cancelled checks, payment receipts, transcripts of accounts, purchase orders, orders, invoices, or other documents verifying payments on nonpayroll costs;
 - a. Payments for a covered operations expenditure, covered property damage cost, covered supplier cost, or covered worker protection expenditure during

- the covered period if the borrower used loan proceeds for those purposes (documentation like item a above).
- b. Additional documentation is required for loans more than \$150,000 regarding FTE's. See [Form 3508](#) and [Form 3508EZ](#) for a complete listing of required documentation.

How soon will you decide on the amount of my forgiveness?

Union Bank's Decision

Once we receive an accurate completed application and all required documentation as applicable, we will issue a decision within 60 days and submit your information and our decision to the SBA.

SBA Decision

Once we submit your forgiveness application to the SBA, they can take up to 90 days to issue a decision. If they request additional information (e.g. documentation you provided at loan application and/or forgiveness application) it will delay their decision. If they conduct a review of your loan (e.g. request additional information or documentation from you) it can delay their decision by an additional 90 days after they receive that information or documentation.

Will I be responsible for making payments on my loan while I wait on a determination for loan forgiveness?

As long as you submit your loan forgiveness application to us within 10 months after the end of your maximum 24-week covered period, you will not have to make any payments of principal or interest on your loan before the date on which SBA remits your loan forgiveness amount to us (or notifies us that no loan forgiveness is allowed). If you do not apply for forgiveness within 10 months after the last day of the 24-week covered period, or if the SBA determines your loan is not eligible for forgiveness (in whole or in part) the PPP loan is no longer deferred and you must begin paying principal and interest.

Is the amount of PPP loan forgiveness taxable by the IRS?

No. By statute, the amount forgiven on PPP loans is not taxable. In addition, expenses you pay with your PPP loan funds are deductible as expenses. Please contact your tax advisor regarding your specific situation.

Forgiveness Application Assistance or FAQs

Amounts Eligible for Forgiveness

What amounts are eligible for forgiveness?

Borrowers are eligible for forgiveness of their PPP loan in an amount equal to the sum of payroll costs and nonpayroll costs incurred and payments made during the covered period. See [What Qualifies as Payroll Costs](#). Payroll costs must account for a minimum of 60% of the loan forgiveness amount. For eligible Nonpayroll costs, see [What are eligible Nonpayroll Costs](#) below. Nonpayroll costs cannot exceed 40% of the loan forgiveness amount. The amount of forgiveness cannot exceed the loan amount.

Are there caps on owner-employee and self-employed individuals?

Yes, there are caps on the amount of payroll compensation for individuals who own 5% or more of the business and are employees of the business. Forgiveness is capped at 2.5 months' worth (2.5/12) of an owner-employee or self-employed individual's 2019 or 2020¹ compensation (up to a maximum \$20,833 per individual in total across all businesses). The individual's total compensation may not exceed \$100,000 on an annualized basis, as prorated for the period during which the payments are made or the obligation to make the payments is incurred. For borrowers that 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 or 2020 compensation (i.e., approximately 15.38 percent of 2019 or 2020 compensation) or \$15,385 per individual, whichever is less, in total across all businesses. For borrowers that elect to use a ten-week covered period, the cap is ten weeks' worth (10/52) of 2019 or 2020 compensation (approximately 19.23 percent) or \$19,231 per individual, whichever is less, in total across all businesses. For a covered period longer than 2.5 months, 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 or 2020 compensation (up to \$20,833) in total across all businesses. In particular,

- **C-corporation owner-employees** are capped by the prorated amount of their 2019 or 2020² employee cash compensation and employer retirement and health, life, disability, vision and dental insurance contributions made on their behalf.
- **S-corporation owner-employees** are capped by the prorated amount of their 2019 or 2020³ employee cash compensation and employer retirement contributions made on their behalf. However, employer health, life, disability, vision and dental insurance contributions made on their behalf cannot be separately added; those payments are already included in their employee cash compensation.
- **Schedule C filers** are capped by the prorated amount of their owner compensation replacement, calculated based on 2019 or 2020 net profit.⁴
- **Schedule F filers** are capped by the prorated amount of their owner compensation replacement, calculated based on 2019 or 2020 gross profit.⁵
- **General partners** are capped by the prorated amount of their 2019 or 2020⁶ 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.

Does the ownership cap apply to all owners of an entity?

No, owner-employees with less than a 5% ownership stake in a C- or S-corporation are not subject to the caps described above.

¹ Whichever year was used for loan amount calculation at the time of loan application.

² Whichever year was used for loan amount calculation.

³ Whichever year was used for loan amount calculation.

⁴ Whichever year was used for loan amount calculation. Cannot include retirement and health, life, disability, vision or dental insurance contributions.

⁵ Whichever year was used for loan amount calculation. If Schedule F filer has employees, the difference between gross income and employee payroll costs. Cannot include retirement and health, life, disability, vision or dental insurance contributions.

⁶ Whichever year was used for loan amount calculation. Cannot include retirement and health, life, disability, vision or dental insurance contributions.

Are there caps on the amount of cash compensation paid to employees?

Yes, for payments to employees who are not owners, 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. You can only include compensation of employees you employed at any point during the Covered Period.

Can I use both payroll costs paid and payroll costs incurred?

Yes. Payroll costs are considered paid on the day that paychecks are distributed, or the Borrower originates an ACH credit transaction. Payroll costs incurred during the Borrower's last pay period of the Covered Period are eligible for forgiveness if paid on or before the next regular payroll date. Payroll Costs are generally incurred on the day the employee's pay is earned (i.e., on the day the employee worked). For employees who are not performing work but are still on the borrower's payroll, payroll costs are incurred based on the schedule established by the borrower (typically, each day that the employee would have performed work).

What qualifies as Payroll Costs?

Payroll costs consist of compensation to employees (whose principal place of residence is the United States) in the form of salary, wages, commissions, or similar compensation; cash tips or the equivalent (based on employer records of past tips or, in the absence of such records, a reasonable, good-faith employer estimate of such tips); payment for vacation, parental, family, medical, or sick leave; allowance for separation or dismissal; payment for the provision of employee benefits consisting of group health care or group life, disability, vision or dental insurance, including insurance premiums, and retirement; payment of state and local taxes assessed on compensation of employees; and for an independent contractor or sole proprietor, wages, commissions, income, or net earnings from self-employment, or similar compensation. Payroll costs that are qualified wages considered in determining Employer Retention Credit are not eligible for loan forgiveness.

Are salary, wages, or commission payments to furloughed employees; bonuses; or hazard pay during the covered period eligible for loan forgiveness?

Yes. If a borrower pays furloughed employees their salary, wages, or commissions during the covered period, those payments are eligible for forgiveness as long as they do not exceed an annual salary of \$100,000, as prorated for the period during which the payments are made or the obligation to make the payments is incurred.

What are excluded from Payroll Costs?

The following are excluded from payroll costs:

- Any compensation of an employee whose principal place of residence is outside of the United States;
- The cash compensation of an individual employee in excess of an annual salary of \$100,000, prorated as necessary;
- Employer-paid payroll taxes.
- Qualified sick and family leave wages for which a credit is allowed under sections 7001 and 7003 of the Families First Coronavirus Response Act (Public Law 116–127).
- Payments to an independent contractor or sole proprietor (the independent contractor or sole proprietor may have obtained a loan under the PPP).

What are eligible Nonpayroll Costs?

All eligible Nonpayroll Costs must be paid during the Covered Period or 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. Eligible Nonpayroll Costs cannot exceed 40% of the total forgiveness amount. Count Nonpayroll Costs that were both paid and incurred only once.

- Interest payments on any business mortgage obligation on real or personal property that was incurred prior to 2/15/2020 (does not include prepayments or principal);
- Payments on business rent obligations on real or personal property under a lease agreement in force before 2/15/2020;
- Business utility payments for the distribution of electricity, gas, water, transportation, telephone, or internet access for which service began before 2/15/2020;
- Covered operations expenditures which are payments for any business software or cloud computing service that facilitates business operations, product or service delivery, the processing, payment, or tracking of payroll expenses, human resources, sales and billing functions, or accounting or tracking of supplies, inventory, records and expenses;
- Covered property damage costs which are related to property damage and vandalism or looting due to public disturbances that occurred during 2020 that was not covered by insurance or other compensation;
- Covered supplier costs which are expenditures made by a borrower to a supplier of goods for the supply of goods that—(A) are essential to the operations of the borrower at the time at which the expenditure is made; and (B) is made pursuant to a contract, order, or purchase order—(i) in effect at any time before the covered period with respect to the applicable covered loan; or (ii) with respect to perishable goods, in effect before or at any time during the covered period with respect to the applicable covered loan; and,
- Covered worker protection expenditures, which may include various capital and personal protective equipment expenditures to meet state or federal requirements for protection of workers.

Are amounts attributable to the business operation of a tenant or sub-tenant of the PPP borrower or, in the context of home-based businesses, household expenses, eligible for forgiveness?

No, the amount of loan forgiveness requested for nonpayroll costs may not include any amount attributable to the business operation of a tenant or sub-tenant of the PPP borrower or, for home-based businesses, household expenses.

Are rent payments to a related party eligible for loan forgiveness?

Yes, as long as (1) the amount of loan forgiveness requested for rent or lease payments to a related party is no more than the amount of mortgage interest owed on the property during the covered period that is attributable to the space being rented by the business, and (2) the lease and the mortgage were entered into prior to February 15, 2020.⁴⁸ Any ownership in common between the business and the property owner is a related party for these purposes. The borrower must provide its lender with mortgage interest documentation to substantiate these payments. While rent or lease payments to a related party may be eligible for forgiveness, mortgage interest payments to a related party are not eligible for forgiveness.

What is a Covered Period?

'Covered Period' means your loan forgiveness covered period, which cannot be less than the 8-week period, or more than the 24-week period, beginning on the date your PPP loan is disbursed. The covered period for your Second Draw PPP loan cannot overlap the covered period for your First Draw PPP loan.

What can reduce Loan Forgiveness?

Is a borrower with a loan of \$50,000 or less exempt from any reductions to the loan forgiveness amount?

Yes. A borrower with a loan of \$50,000 or less, other than any borrower that together with its affiliates received First Draw PPP Loans totaling \$2 million or more or Second Draw PPP Loans totaling \$2 million or more, is exempt from any reductions in the borrower's loan forgiveness amount based on reductions in FTE employees or reductions in employee salary or wages that would otherwise apply. Therefore, the following information for FTE reductions and wage and salary reductions does not apply to qualifying borrowers with loans of \$50,000 or less.

Reductions in FTE numbers and effect on loan forgiveness

What effect does a reduction in a borrower's number of full-time equivalent (FTE) employees have on the loan forgiveness amount?

In general, a reduction in FTE employees during the covered period reduces the loan forgiveness amount by the same percentage as the percentage reduction in FTE employees.

The borrower must first select a reference period:

- i. February 15, 2019 through June 30, 2019;
- ii. January 1, 2020 through February 29, 2020; or,
- iii. For a seasonal employer either of the two preceding methods or a consecutive 12-week period between February 15, 2019 and February 15, 2020.

If the average number of FTE employees during the covered period is less than during the reference period, the total eligible expenses available for forgiveness is reduced proportionally by the percentage reduction in FTE employees.

Are there exemptions from the FTE Reduction requirements?

Yes. Borrowers are exempted from the loan forgiveness reduction arising from a proportional reduction in FTE employees during the covered period if the borrower can document in good faith the following:

- i. An inability to rehire individuals who were employees of the borrower on February 15, 2020⁷; **and**
- ii. An inability to hire similarly qualified individuals for unfilled positions on or before December 31, 2020 (or, for a PPP loan made on or after December 27, 2020, not later than the last day of the loan's covered period); **or**
- iii. During the covered period if the borrower is able to document⁸ in good faith an inability to return to the same level of business activity as the borrower was operating at before February 15, 2020, due to compliance with requirements established or guidance issued between March 1, 2020 and December 31, 2020 (or, for a PPP loan made on or after December 27, 2020, not later than the last day of the loan's covered period) by the Secretary of Health and Human Services, the Director of the Centers for Disease Control

⁷ Borrowers are required to inform the applicable state unemployment insurance office of any employee's rejected rehire offer within 30 days of the employee's rejection of the offer. The documents that borrowers should maintain to show compliance with this exemption include, but are not limited to, the written offer to rehire an individual, a written record of the offer's rejection, and a written record of efforts to hire a similarly qualified individual.

⁸ Documentation must include copies of applicable COVID Requirements or Guidance for each business location and relevant borrower financial records

and Prevention (CDC), or the Occupational Safety and Health Administration related to the maintenance of standards for sanitation, social distancing, or any other worker or customer safety requirement related to COVID-19 (COVID Requirements or Guidance).

Additional Safe Harbor: if a borrower eliminates any reductions in FTE employees occurring during the safe harbor period by December 31, 2020 (or, for a PPP loan made on or after December 27, 2020, by last day of the loan's covered period), the borrower is exempt from any reduction in loan forgiveness amount that would otherwise be required due to reductions in FTE employees.

Will a borrower's loan forgiveness amount be reduced if the borrower reduced the hours of an employee, then offered to restore the reduction in hours, but the employee declined the offer?

No. In calculating the loan forgiveness amount, a borrower may exclude any reduction in full-time equivalent employee headcount that is attributable to an individual employee if:

- i. The borrower made a good faith, written offer to restore the reduced hours of such employee;
- ii. the offer was for the same salary or wages and same number of hours as earned by such employee in the last pay period prior to the reduction in hours;
- iii. the offer was rejected by such employee; and
- iv. the borrower has maintained records documenting the offer and its rejection.

Will a borrower's loan forgiveness amount be reduced if an employee is fired for cause, voluntarily resigns, or voluntarily requests a schedule reduction?

No. If this happens, the borrower may count such employees at the same full-time equivalency level before the FTE reduction event when calculating the reduction penalty. The borrower shall provide documentation upon request.

Reduction in salaries and wages and effect on loan forgiveness amount

What effect does a borrower's reduction in employees' salary or wages have on the loan forgiveness amount?

A reduction in an employee's salary or wages in excess of 25 % will generally result in a reduction in the loan forgiveness amount, unless an exception applies. Specifically, for each new employee in 2020 and 2021, as well as each existing employee who was not paid more than the annualized equivalent of \$100,000 in any pay period in 2019, the borrower must reduce the total forgiveness amount by the total dollar amount of the salary or wage reductions that are in excess of 25 percent of base salary or wages of the employee during the most recent full quarter during which the employee was employed before the covered period (the reference period), subject to exceptions for borrowers who restore reduced wages or salaries (see below). This reduction calculation is performed on a per employee basis, not in the aggregate.

I reduced the number of hours for an employee; therefore, lowering their salary. Since I already calculated a reduction in the amount of loan forgiveness due to the reduction in hours, do I also calculate a reduction in loan forgiveness due to the reduction in salary?

No. If the reduction in the salary is attributable to the FTE reduction, you are not doubly penalized for salary/wage reduction. The salary/wage reduction applies only to the portion of the decline in the employee salary and wages that is *not* attributable to the FTE reduction.

If a borrower restores reductions made to employee salaries and wages or FTE employees, can the borrower avoid a reduction in its loan forgiveness amount?

Yes, if the borrower eliminates those reductions by December 31, 2020 (or, for a PPP loan made on or after December 27, 2020, by the last day of the loan's covered period), the borrower is exempt from any reduction in loan forgiveness amount that would otherwise be required due to reductions in salaries and wages.

What else can reduce the amount of loan forgiveness?

At least 60% of the forgiveness amount must be used for payroll costs. For example, if you received a PPP loan in the amount of \$100,000; however, you only used \$50,000 for Payroll Costs, the maximum amount of loan forgiveness would be \$83,333.33 (\$50,000 divided by .60). Therefore it is very important for you to understand what qualifies (and does not qualify) as Payroll Costs, and what Payroll Costs are paid or incurred.

If I do not receive full loan forgiveness, will the payments follow the original loan terms?

If you utilized all the funds from your loan, once any Forgiveness Amount is applied, we will work with you on a payment schedule that will fit your needs for any amount remaining. If your current loan term is 2 years, you may request to extend the maturity to five years. Payments will be fully amortized over the term of the loan. If you did not utilize all your loan funds, or do not intend to utilize them, you may simply make a principal payment on your loan. You will also be responsible for accrued interest on the portion that is not forgiven.

FTE Employees

What does “full-time equivalent employee” mean?

Full-time equivalent employee means an employee who works 40 hours or more, on average, each week. The hours of employees who work less than 40 hours are calculated as proportions of a single full-time equivalent employee and aggregated, as explained further below.

How do I calculate the average number of FTE employees?

Borrowers seeking forgiveness must document their average number of FTE employees during the covered period and their selected reference period. For purposes of this calculation, borrowers must divide the average number of hours paid for each employee per week by 40, capping this quotient at 1.0. For example, an employee who was paid 48 hours per week during the covered period would be an FTE employee of 1.0. For employees who were paid for less than 40 hours per week, borrowers may choose to calculate the full-time equivalency in one of two ways. First, the borrower may calculate the average number of hours a part-time employee was paid per week during the covered period. For example, if an employee was paid for 30 hours per week on average during the covered period, the employee could be considered to be an FTE employee of 0.75. Second, for administrative convenience, borrowers may elect to use a full-time equivalency of 0.5 for each part-time employee. Borrowers may select only one of these two methods and must apply that method consistently to all of their part-time employees for the covered period and the selected reference period. In either case, the borrower shall provide the aggregate total of FTE employees for both the selected reference period and the covered period by adding together all of the employee-level FTE employee calculations. The borrower must then divide the average FTE employees during the covered period by the

average FTE employees during the selected reference period, resulting in the reduction quotient.

Forgiveness Determination and SBA Review

Will the SBA review individual loan files?

Yes. SBA may review any PPP loan, as follows:

1. **Borrower Eligibility:** Whether or not the borrower is eligible for the PPP loan based on provisions of the CARES Act and rules and guidance available to the borrower at the time of their loan application.
2. **Loan Amounts and Use of Proceeds:** Whether a borrower calculated the loan amount correctly and used loan proceeds for allowable uses.
3. **Loan Forgiveness Amount:** Whether the borrower is entitled to loan forgiveness in the amount claimed on the borrower's Loan Forgiveness Application (SBA Form 3508 or lender's equivalent form).

When will SBA undertake a loan review?

At any time. Per the Loan Forgiveness Application Form, the borrower must retain PPP documentation in its files for six years⁹ after the date the loan is forgiven or repaid in full, and permit authorized representatives of SBA, including representatives of its Office of Inspector General, to access such files upon request.

Will I have the opportunity to respond to SBA's questions in a review?

Yes. 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.

If SBA determines that a borrower is ineligible for a PPP loan, can the loan be forgiven?

No. This applies to both First Draw and Second Draw loans.

Can my loan forgiveness application be denied?

Yes. We are required to review your loan forgiveness application and confirm the documentation you provide supports the amounts requested. If we deny your request, we must notify you (in writing) and the SBA. You may notify us within 30 days of notification that you request the SBA to review our decision. In addition, as previously noted, the SBA has the ultimate authority to approve or deny a loan forgiveness application. Even if we approve your loan forgiveness application, the SBA may deny a portion or total of the amount of loan forgiveness based on their review.

⁹ Four years for PPP borrowers with loans of \$150,000 or less.