

SBA Releases New EZ PPP Loan-Forgiveness Application

June 19, 2020 11 min read

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Needless to say, it's been a roller coaster ride for business owners over the past couple of months understanding how to navigate the CARES Act, but there are now signs the ride may be coming to an end.

On Wednesday of this week, the Small Business Administration (SBA) released a revised, and hopefully a *final*, forgiveness application for the Paycheck Protection Program (PPP), including a new EZ application that appears many business owners may qualify for.

Also, just the day before, the SBA issued a new Final Interim Rule with guidance for determining payroll costs and owner compensation forgiveness under the new 24-week covered period.

These new rules and procedures were in response to the Paycheck Protection Flexibility Act of 2020 that became law on June 5. The biggest changes in that law being the extension of the eight weeks to a new 24-week covered period, and a reduction of payroll costs from 75 percent to 60 percent. For a more in-depth analysis see "New PPP Law Extends 8-Week Period and Reduces Percent Payroll Cost Rule."

If you feel daring enough to dive straight into the Applications and Instructions before a little summary of the notable items, they are available at the following links:

Revised PPP Loan Forgiveness Application and Instructions

EZ PPP Loan Forgiveness Application and Instructions

Related: New PPP Law Extends 8-Week Period and Reduces Percent Payroll Cost Rule

What we knew *before* the New EZ Application and Interim Rule

Now before I add a new layer of complexity, or simplicity as the SBA hopes to do, let's summarize what we understood the rules to be before this week started:

- If you haven't yet applied for the PPP loan, the application deadline (not for forgiveness, but to receive money) is still June 30.
- You have 24 weeks, or until December 31, to spend the loan proceeds on certain authorized items (mostly payroll).
- In order to get your entire loan forgiven, 60 percent of the proceeds must be used on payroll costs.
- It's OK to spend less than 60 percent on payroll costs, but *whatever amount* of the Loan you *do* apply to be forgiven, 60 percent of the amount must be payroll costs.
- Payroll costs are defined differently depending on your type of business entity, and it's critical you understand the equation and what is, and is not, included.
- The other 40 percent of the loan proceeds could be spent on rent, lease payments, utilities and interest on longterm business debt.
- You're penalized on the amount forgiveness amount if you reduce the number of hours worked by your employees compared to the average before the crisis. This has generally been referred to as the fulltime equivalent employee (FTE) rule.
- You're also penalized on the amount that can be forgiven

if reduce the salaries or wages of your employees by more than 25 percent.

- If you received the EIDL Grant of up to \$10,000, it reduces your final PPP loan forgiveness amount.

Of course, this list above simply summarizes the general rules or notable items in the PPP law. It's critical that business owners get professional guidance during the process or make sure they understand the details of the various laws passed by Congress and all of the interim rules and guidance issued by the SBA and Treasury before proceeding with the application for forgiveness.

The New PPP EZ Application

I think it's important to first determine if you qualify for the EZ PPP Loan Application before getting bogged down in some of the other provisions and rules. The whole goal of the EZ App is to require less documentation, fewer calculations and simplifies the process dramatically for a large number of business owners.

In fact, Treasury Secretary Steven Mnuchin tried to sell the beauty of the EZ App this week, stating to Wisconsin reporter Charles Benson, that, "I think we put on there it should take 20 minutes to fill out," adding, "And by the way, I think it's 10 minutes to collect your documents and 10 minutes to fill out the form. I think that's down from like two hours."

Here are the major takeaways and general instructions:

- To qualify for the EZ App, the business owner must meet one of three tests. Essentially, you need to be able to check the box under *any* of the following three options:
 1. You are self-employed and have no employees; or
 2. You had employees, but did not reduce their salaries or wages during the covered period by more than 25 percent **AND** did not reduce the number

of hours worked by employees (essentially meeting what's come to be known as the FTE employee rule); or

3. You had employees, but did not reduce their salaries or wages during the covered period by more than 25 percent, **AND** due to complying with essentially shelter-in-place laws during the covered period, you were unable to operate during the covered period at the same level of business that existed before February 15, 2020.
- If you are able to check any of the three boxes above, you are allowed to use the SBA Form 3508EZ.
 - For those of you that are an S-Corporation and wonder where you fit, if you are the only employee, then by definition you still would have employees and thus qualify under #2 or #3 above, and need to fill out the sections of the EZ App listing yourself as the *only* employee.
 - Next, you need to decide if you are going to apply under the eight-week covered period or the 24-week period (not to exceed December 31, 2020). *Only* borrowers that received loans before June 5 can choose between the eight- or 24-week period.
 - Then your personal compensation is limited before you can add to it other employee payroll costs, rent, lease payments, utilities and mortgage interest. Your personal compensation is the maximum of the following:
 1. \$15,385 if you choose the eight-week period.
 2. \$20,833 if you choose the 24-week period.
 - Also, payroll costs for S-Corp owners *does not* include health insurance premiums for themselves, but only the premiums for their employees can be included in the definition of payroll costs. This may be confusing because when you applied for the PPP loan, S-Corp owner/employees were allowed to include this in their calculations for loan, but *not* on the forgiveness app.
 - Finally, remember you apply for forgiveness with the

same lender you applied with and received the PPP Loan. Some banks are already working to create online/digital applications to simplify the process on their end as well.

Example 1.1: Mary is a sole proprietor running a flower shop with no other employees. Her net profit on her 2019 Schedule C was \$50,000. She applied for the PPP and properly received \$10,417 ($\$50,000/12 \times 2.5 = \$10,417$). She received her loan amount on April 14 and is able to use the eight-week reporting period (if she so chooses). She qualifies for the EZ PPP App, and her maximum owner compensation replacement is \$15,385. Thus, on the SBA Form 3508EZ, she would put \$10,417 on Line 1 and then on Line 5 and Line 8. Her entire PPP Loan would be forgiven.

Example 1.2: Same facts for Mary as above, except she also received a \$1,000 EIDL grant. Because Mary received both the PPP and the EIDL grant, she will enter the amount of \$1,000 in the top section of Form 3508EZ, and her PPP loan-forgiveness amount will be reduced by \$1,000 to \$9,417. Thus, she will have a loan owing her bank \$1,000, at 1 percent per annum, with a minimum two-year maturity date, unless her and the lender agree to extend it to a maximum of five years.

Example 1.3: John is an S-Corp owner/employee and operates a web design business with three other employees. His payroll costs in 2019, including himself was \$242,000 as follows:

- \$120,000 personal gross payroll;
- \$90,000 payroll for employees;
- \$12,000 health insurance premiums for himself;
- \$18,000 health insurance premiums for his employees;
- \$2,000 in State Unemployment Insurance (SUTA); and
- No 401(k) matching by the company.

John's proper PPP loan amount was \$50,417 ($\$242,000/12 \times 2.5 = \$50,417$). He also received an EIDL grant of \$4,000 (himself plus three employees). John received his money on May 5. He also qualifies for the EZ PPP application because he maintained the same level of employees and didn't reduce anyone's salary or wage. He could use either the eight-week or 24-week covered period because he received his funds before June 5. He documents and estimates his expenses for the two options as follows:

8-Week Period

- Maximum owner compensation replacement \$15,385
- Total Loan Forgiveness Request: \$45,385 (\$5,032 short)
- Utilities \$2,000
- Rent \$10,000
- Employee health insurance premiums \$3,000
- (Total Payroll Costs: \$33,385. (66.21% of Loan amount)
- Employee wages \$15,000

24-Week Period

- Maximum owner compensation replacement \$20,833
- \$4,000 loan left with bank- 1 percent per annum, two-year term
- (minus) \$4,000 for EIDL
- Total Loan Forgiveness Request: \$50,417 (total loan amount)
- Utilities \$6,000 (irrelevant)
- Rent \$30,000 (irrelevant)
- Employee health insurance premiums \$9,000
- Total Payroll Costs: \$70,833. (140% of Loan amount)
- Employee wages \$41,000

Clearly, John should elect to use the 24-week period if he wants a chance at full forgiveness of the PPP loan. In fact, this is the very reason Congress wanted to increase the time period *and* decrease the percentage to 60 percent of the funds

needing to be payroll costs.

Other Notable Guidance and Provisions

Business owners and tax professionals from around the country were grateful to receive much needed clarifications and guidance from the SBA. Moreover, most would agree that the new EZ Application and provisions were generous and many business owners will be able to take advantage of the much simpler procedure. Other important provisions to note are as follows:

- Any leftover PPP loans owed by business owners were to be paid back at 1 percent per annum over two years. Now, loans made after June 5 are raised to a five-year term at the same interest rate. Business owners who received loan proceeds before June 5 are allowed to negotiate with banks for a five-year term if both parties agree.
- For nonowner/employees, payroll costs are limited to a maximum amount of \$15,385 per individual if using the eight-week covered period (the same amount for owner compensation replacement). However, if business owners elect the 24-week covered period, the maximum payroll cost for a non-owner employee is limited to \$46,154 per individual (much higher than the \$20,833 for owner compensation replacement).
- Health insurance costs for S-Corporation owners themselves cannot be included in calculating payroll costs, but the health insurance premiums for non-owner employees are included.
- Finally, business owners can apply for forgiveness anytime they feel they are ready and qualify to do so. Moreover, if relying on safe harbors for salary or wage reductions and calculating FTE employee levels, business owners can use the date the loan forgiveness application is submitted and don't have to wait until December 31 to

use the safe harbor.

In the end, and an important note of caution, is to not be fooled by the simplicity of the one- or two-page PPP EZ Application. Business owners are *still* required to collect and submit a number of supporting documents with the application to the bank. Yes, we hope banks will create portals with online applications and the ability to upload or submit supporting documents digitally, but they may not be easy to track down if you wait to the last minute.

Related: That Money Network Envelope Isn't Spam; It's Your Stimulus Debit Card

We've been recommending to all of our clients that they start early in the process and utilize the help of an accounting, tax or legal professional if necessary. If you have any confusion in the process, seek out additional advice where necessary. And at least read the application and the instructions *now* so you know what information you should be tracking, filing away and preparing to submit at the proper time.

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