
PPP LOANS
SELECTED TIME PERIODS, QUALIFICATIONS, AND DEADLINES
AS OF JULY 6, 2020

Below is a compendium of significant time periods, qualifications, and deadlines relating to the PPP loan program.

The PPP program suffers from a myriad of overlapping, conflicting, and confusing time periods and standards that makes compliance daunting. The summary below will help, along with a template spreadsheet for computing the amount of forgivable portion of the PPP loan.

The following factors complicate application of the rules, and necessitate the chart:

- There are four basic sets of standards and time periods: maximum loan amount, maximum forgiveness, reduction of the forgiveness, and exceptions to the reduction of the forgiveness. Some rules span multiple categories.
- In addition to the standard time periods to measure amounts and eligibility, the statute and rules allow borrowers to select “alternative” time periods. The alternatives, however, differ depending on whether being applied to maximum loan, maximum forgiveness, or other purposes.
- The statute, the “Interim Final Rules”, the guidelines, and various application instructions partially conflict.
- The US Treasury and the SBA have ignored a conventional administrative and common law interpretive standards where a clear and superseding rule should control over an earlier vague rule (such as the case with certification regarding the need for the PPP loan). Intense political pressure motivated the US Treasury and the SBA to ignore these standards. In certain cases, these governmental entities dropped the most recent version of a rule in favor of a more politically popular earlier version.
- The statute, rules and guidance at times use different terms for the same concept, or incredibly the same term for different concepts.
- In addition to the four basic sets of rules, the guidance applies certain time periods differently. Be careful when reading the rules. The same period for measuring the maximum loan amount may not apply to fixing the maximum loan forgiveness, or be relevant to certain loan forgiveness “safe harbors.”
- The rules, compared with most Federal guidelines, are vague, inconsistent, and incomplete.

Bottom line – borrowers should:

- Use the Excel templates from accounting firms that borrowers know and trust.
- Double-check the Excel spreadsheets with the actual rules and borrower financial information.
- Appreciate that audit and compliance oversight by banks and the government will almost certainly be inconsistent and incomplete. These rules are not even remotely as coherent as the tax code.
- The forgiveness instructions are the latest and most complete set of rules.
- *Not use the chart below as summary of rules; rather, this is to be used by those already familiar with the PPP loan rules and are working with Excel templates to complete the forgiveness application.*
- *Use the references in the chart below to review cited documents for more complete terms and conditions. Context is important for these otherwise incompletely and inconsistently defined terms. See the BMWWS PPP Bible for a searchable master compendium of the relevant documents.*

Note that the information below relates to companies, and does not address variations for owner-employees.

<i>Item</i>	<i>Initial Borrowing Sec. 1102</i>	<i>Loan Forgiveness Sec. 1106</i>
<i>Payroll Amounts Determining Maximum Borrowing; Permitted Uses of PPP Loans; Uses of Funds Qualifying for Loan Forgiveness</i>		
Cash Compensation: 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)	Paid; permitted use and basis for amount borrowed [Sec. 1102]	Paid or incurred [Fourteenth Interim Rule]
Cash Compensation: payment for vacation, parental, family, medical, or sick leave	Paid; permitted use and basis for amount borrowed [Sec. 1102]	Paid or incurred [Fourteenth Interim Rule]
Cash Compensation: allowance for dismissal or separation	Paid; permitted use and basis for amount borrowed [Sec. 1102]	Paid or incurred [Fourteenth Interim Rule]
Costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums (employer contributions for employee health insurance (portion of IRS Form 1040 Schedule C line 14 attributable to health insurance))	Paid; permitted use and basis for amount borrowed [Sec. 1102]	Paid or incurred [Fourteenth Interim Rule]
Employer state and local taxes assessed on employee compensation, primarily state unemployment insurance tax (from state quarterly wage reporting forms)	Paid; permitted use and basis for amount borrowed [Sec. 1102]	Paid or incurred [Fourteenth Interim Rule]
Employer contributions to employee retirement plans (IRS Form 1040 Schedule C line 19)	Paid; permitted use and basis for amount borrowed [Sec. 1102]	Paid or incurred [Fourteenth Interim Rule]
Interest on any other <u>unsecured</u> debt obligations that were incurred before the loan covered period	Permitted use; not a basis for borrowing [Sec. 1102]	No forgiveness for this use of funds
Payments of interest on any mortgage on real or personal property obligation (which shall not include any prepayment of or payment of principal on a mortgage obligation)	Permitted use; not a basis for borrowing [Sec. 1102]	Paid or incurred [Fourteenth Interim Rule]
Rent (including rent under a lease agreement)	Permitted use; not a basis for borrowing [Sec. 1102]	Paid or incurred [Fourteenth Interim Rule]

<i>Item</i>	<i>Initial Borrowing Sec. 1102</i>	<i>Loan Forgiveness Sec. 1106</i>
Utilities	Permitted use; not a basis for borrowing [Sec. 1102]	Paid or incurred [Fourteenth Interim Rule]
Excluded high income payroll	For each employee, exclude annual salary to the extent exceeding \$100,000 [Sec. 1102]	Such employees excluded from the reduction of forgiveness amounts based on employer reduction of salaries
<i>Loan Maturity Dates</i>		
Loans made on or after June 5	Five years from the “making” of the loan [Flexibility Act; Seventeenth Issuance Regarding Interim Final Rule]	Not applicable
Loans made before June 5	Two years, or five years upon agreement of borrower and lender [Flexibility Act; Seventeenth Issuance Regarding Interim Final Rule]	Not applicable
Date of the loans being “made” of the initial loan for purpose of maturity	Date SBA “assigns a loan number” (E-tran number) [Flexibility Act; Seventeenth Issuance]	Not applicable
Deferral date	Date SBA remits forgiveness amount to lender following submission of loan forgiveness application; may submit application ten months following end of the 8 or 24-week forgiveness covered period [Seventeenth Issuance; Flexibility Act]	Not applicable
<i>Initial Loan Amount Computation and Application Deadline</i>		
Initial loan “covered period”	February 15, 2020 – December 31, 2020 [Sec. 1102; Flexibility Act]	Not applicable
Definition and application of “covered period” for initial loan – Section 1102	Time period for eligibility of loan; time period for administration of the PPP program; other matters [Sec. 1102]	Not applicable
Time period for estimating payroll	January 1 – December 31, 2019 [PPP Guidance, April 24]	Not applicable
Number of weeks of payroll to determine maximum loan amount	10 weeks (2.5 months of payroll) [Sec. 1102]	Not applicable

<i>Item</i>	<i>Initial Borrowing Sec. 1102</i>	<i>Loan Forgiveness Sec. 1106</i>
Deadline for PPP loan application/obtaining SBA number	August 8, 2020 [Senate Bill 4116]	Not applicable
Period for computing average payroll	Monthly [Sec. 1102]	Not applicable
Average payroll monthly payments – time period to determine the average	“[T]he last year” – guidance uses calendar year 2019 or “over the last 12 months” [Guidance, April 24]	Not applicable
Maximum loan amount	Monthly average times 2.5 [Sec. 1102]	Not applicable
Computation of average payroll monthly payments – seasonal employer	12-week period during the following: between February 15, 2019; between March 1, 2019, and ending June 30, 2019; OR any between May 1, 2019 and September 15, 2019 [Sec. 1102; Fifth Final Interim Rule]	Not applicable
Computation of average payroll monthly payments – new company	Average total monthly payments by the applicant for payroll costs incurred during the period beginning on January 1, 2020 and ending on February 29, 2020 [Sec. 1102]	Not applicable
<i>Forgiveness – Amounts</i>		
Forgiveness “covered period” – forgiven expenses within the period	Not applicable	(a) 8 weeks following the disbursement date of the loan proceeds from the lender, or (b) following the date of the loan, the earlier of (i) 24 weeks from the date of the covered loan (no other intermediate time periods provided in the statute, guidance or forms) [“Loan Disbursement Date” in instructions] or (ii) December 31, 2020 [Sec. 1106; Fourteenth Interim Final Rule]
Disbursement date of the loan	Not applicable	Date loan proceeds were disbursed by the lender and received by the borrower [Fourteenth Interim Final Rule]
Definition and application of “covered period” for purposes of forgiveness	Not applicable	Period during which certain allowable expenses may be spent and a corresponding loan amount forgiven [Sec. 1106]

<i>Item</i>	<i>Initial Borrowing Sec. 1102</i>	<i>Loan Forgiveness Sec. 1106</i>
Forgiveness “alternative payroll covered period”	Not applicable	(a) Begins on the first day of first pay period following Loan Disbursement Date until (b) the sooner of 24 weeks later or December 31, 2020 (or 8 weeks if borrower elects an 8-week forgiveness covered period) [Fourteenth Interim Rule; Loan Forgiveness Instructions]
Criteria for eligibility for application of “Alternative Covered Payroll Period”	Not applicable	Pay periods that are at least as frequent as biweekly [Forgiveness Application Instructions; Fourteenth Interim Final Rule]
<i>Reduction in Forgiveness – Based on FTE</i>		
Forgiveness “covered period”	Not applicable.	Same rule as with reduction based on reduction in FTEs [Sec. 1106]
General reduction of forgiveness formula – FTE reductions	Not applicable.	Percentage reduction of forgiveness amount equal to the same percentage decrease of the average FTE during the forgiveness covered period (8 or 24 weeks, see above) divided by a specified Reference Period [Sec. 1106; Flexibility Act]
Initial Reference Period for measuring reduction in FTE - seasonal employers	Not applicable	A consecutive 12-week period between May 1, 2019 and September 15, 2019 [Sec. 1106; Fifth Interim Final Rule; Forgiveness Application Instructions]
Initial Reference Period for measuring reduction in FTE – Option 1	Not applicable	On February 15, 2019 and ending on June 30, 2019 [Sec. 1106; Forgiveness Application Instructions]
Initial Reference Period for measuring reduction in FTE – Option 2	Not applicable	January 1, 2020 and ending on February 29, 2020 [Sec. 1106; Forgiveness Application Instructions]
FTE – time increment for baseline average	Week	Borrowers must divide the average number of hours paid for each employee per week by 40, capping this quotient at 1.0 [Forgiveness Application Instructions; Fourteenth Interim Final Rule]
Partial FTE	.5 (for any non-zero fraction below .5) or 1 (for employees working 40 hours or more per week)	.5 (for any non-zero fraction below .5) or 1 (for employees working 40 hours or more per week) [Fourteenth Interim Final Rule]

<i>Item</i>	<i>Initial Borrowing Sec. 1102</i>	<i>Loan Forgiveness Sec. 1106</i>
Treatment of >\$100,000 earners for FTE reduction	Not applicable	These employees not included in the computation of salary and wage reductions [Sec. 1106; Forgiveness Application Instructions; Fourteenth Interim Final Rule]
Employees earning more than \$100,000 – computation method	Not applicable	Wages or salary at an annualized rate of pay, for any pay period in 2019 [Sec. 1106]
<i>Forgiveness Reduction Safe Harbor – Reduction in FTE</i>		
Period of baseline reduction of FTE (“Safe Harbor Period”)	Not applicable	February 15, to April 26, 2020 [Fourteenth Interim Final Rule; Forgiveness Application Instructions; Sec. 1106]
Period of reductions in FTE that can trigger lower forgiveness rules	Not applicable	Covered Period or Alternative Covered Period
Time increment of time for computing average FTE	Not applicable	Average number of hours paid for each employee per week [Fourteenth Interim Rule] [Not based on pay periods falling within a month, as stated in Section 1106]
FTE – standard of one FTE	40 hours per week [Fourteenth Interim Final Rule]	40 hours per week [Fourteenth Interim Final Rule]
Deadline for reinstatement of FTE	Not applicable	Not later than December 31, 2020 [Forgiveness Application Instructions; Flexibility Act]
<i>Reduction in Forgiveness – Based on Salary Reductions</i>		
General reduction of forgiveness formula – salary or wage reductions	Not applicable.	By the amount of any reduction in total salary and wages (a) for employees with salaries and wages of not more than \$100,000 for any 2019 pay period, and (b) exceeding 25% of such salary and wages (not 25% of the aggregate, but 25% of each individual employee) [Forgiveness Application Instructions]
Salary or wage reduction basic formula	Not applicable	Total dollar-for-dollar reduction of salary or wages – [Section 1106]; the sum of the reductions for each employee individually [Forgiveness Application Instructions]
Salary – baseline reference period for computing average salaries or wages (the initial denominator to determine salary reduction)	Not applicable	Average wage or salary January 1 – March 31, 2020 [Forgiveness Application Instructions]

<i>Item</i>	<i>Initial Borrowing Sec. 1102</i>	<i>Loan Forgiveness Sec. 1106</i>
Period of reductions in salary or wages that can trigger lower forgiveness rules	Not applicable	Covered Period [Fourteenth Interim Final Rule] or Alternative Covered Period, average
Time increment/method for computing average wages and salaries	Not applicable	Aggregate wages or salary divided by weeks or total hours [Implicit in method of computation in the Forgiveness Application Instructions]
<i>Forgiveness Reduction Safe Harbor – Reduction in Salaries</i>		
Period of baseline reduction of average salaries or wages to determine eligibility for safe harbor (the safe harbor denominator)	Not applicable	February 15, to April 26, 2020 [Fourteenth Interim Final Rule; Forgiveness Application Instructions; Sec. 1106]
Baseline date for baseline salary or wage	Not applicable	February 15 [Forgiveness Application Instructions]
Date/deadline for restoration or salaries	Not applicable	Not later than December 31, 2020 [Forgiveness Application Instructions; Flexibility Act]
Deadline for restoring salaries or wages	Not applicable	The earlier of submission of the Forgiveness Application or December 31, 2020 [Forgiveness Application Instructions]
<i>Deadlines and Timing</i>		
Deadline for forgiveness application to avoid interest	Not applicable	Ten months after end of loan forgiveness covered period [Flexibility Act; Seventeenth Issuance]; October 10, 2020 [Seventeenth Issuance]
Timing – lender submits request for forgiveness	Not applicable	“Lender has 60 days from receipt of a complete application to issue a decision to SBA.... SBA will, subject to any SBA review of the loan or loan application, remit the appropriate forgiveness amount to the lender, plus any interest accrued through the date of payment, not later than 90 days after the lender issues its decision to SBA.”
<i>Flexibility to Accommodate Payroll and Billing Periods</i>		
Date payroll considered paid	Not applicable	Date of either delivery of paycheck or making of ACH payment
Date payroll incurred		Date worked and earned

<i>Item</i>	<i>Initial Borrowing Sec. 1102</i>	<i>Loan Forgiveness Sec. 1106</i>
Last date for payroll incurred, but not paid, and included in forgiveness amount		Payment by the last payroll period following the end of the forgiveness covered period (or alternative covered period)
Last date for payment of non-payroll expenses incurred but not paid, and included in forgiveness amount		Before the next regular billing date