



## **Paycheck Protection Program – Loan Forgiveness FAQ**

(updated as of December 3, 2020; material updates since November 16, 2020 marked with an asterisk\*)

**UPDATE (January 15, 2021): The Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, signed into law on December 27, 2020 (“Economic Aid Act”), reopened PPP for first-time borrowers, allowed for 2<sup>nd</sup> Draw PPP loans for the hardest hit PPP borrowers, and made significant improvements to forgiveness requirements. The Small Business Administration (“SBA”) is expected to issue updated forgiveness guidance to implement these changes. Self-Help is closely monitoring PPP rules and guidance, and we will update our Forgiveness FAQ as new information becomes available.**

### **FORGIVENESS SUMMARY**

The CARES Act was signed into law on March 27, 2020, creating the Paycheck Protection Program (“PPP”). PPP is intended to provide forgivable loans to help small businesses and nonprofits continue operating and paying employees during the current economic uncertainty caused by COVID-19. On June 5, 2020, the PPP Flexibility Act provided more flexibility for PPP borrowers, and on July 4, the PPP Extension Act extended the time period to apply for a PPP loan through August 8, 2020. Renewal of the program and other changes are being considered by Congress, and the Treasury Department and Small Business Administration continue to issue guidance for the program. Self-Help is closely monitoring PPP rules and guidance, and we will update our Forgiveness FAQ as new information becomes available.

**In general, under the current laws and guidance, your PPP loan will be eligible for forgiveness if:**

- **At least 60% of PPP loan funds are used to pay employees and any remaining loan funds are used to pay the following business expenses:**
  - **Interest portion of mortgage payments**
  - **Rent/lease payments**
  - **Utilities**
- **PPP loan funds are used within the required time period; and**
- **Staff and wage levels are maintained (subject to exceptions).**

**Any portion of your PPP loan that does not meet the above forgiveness requirements will be repayable under the terms of your Note.**

For more information, please refer to our Forgiveness FAQ.

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## FREQUENTLY ASKED QUESTIONS

### I. USE OF PPP FUNDS

#### **I.1 What are forgivable uses of PPP funds?**

To be forgiven, PPP loan funds must be used for eligible payroll costs (“Payroll Costs”) and other eligible business expenses (“Non-Payroll Costs”).

#### A. Payroll Costs

##### **I.A.1 What are forgivable Payroll Costs?**

Payroll Costs include the following payments paid by the borrower for any employee whose principal place of residence is in the United States:

- Salary, wage, commission, cash tip or similar compensation (up to \$100,000 annualized per employee);
  - Payroll Costs are calculated on a gross basis, without subtracting federal taxes that are imposed on the employee or withheld from employee wages.
- Vacation, parental, family, medical, or sick leave (other than qualified sick and family leave wages for which a credit is allowed under the Families First Coronavirus Response Act);
- Group health care benefits, including insurance premiums;
  - Group health care benefits include vision and dental; and
  - If a borrower has an insured group health plan, insurance premiums paid or incurred by the borrower during the Covered Period (or APCP, if applicable) qualify as Payroll Costs;
- Retirement benefits; and
- Employer-side state and local taxes (but not employer-side federal taxes) assessed on the compensation of employees.

Note that additional limitations apply for owner-employees (see FAQs I.A.4 and I.A.5).

##### **I.A.2 Do I have to use a portion of my PPP loan for Payroll Costs?**

Yes, to be fully forgivable, at least 60% of your PPP loan must be used for Payroll Costs (and you may use more than 60% of your PPP loan for Payroll Costs). If less than 60% is used for Payroll Costs, your requested forgiveness amount will be reduced.

##### **I.A.3 May I increase the compensation I pay to my employees (for example, hazard pay or a cost-of-living adjustment from 2019)? If I increase employee compensation, may I pay myself the same increase?**

For non-owner employees, there is no prohibition on paying your employees a higher amount than they were paid in 2019, as long as you do not exceed cash compensation of \$100,000 annualized per employee. For owner-employees, however, compensation may not be increased.

##### **I.A.4.a Who are owner-employees?**

For purposes of determining forgivable Payroll Costs, SBA considers all of the following to be owner-employees:

- Any owner of 5% or more of the business;
- General partner;
- Sole proprietor;
- Independent contractor;
- Self-employed individual.

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### **I.A.4.b As a business owner-employee, what amount of my own compensation can I include as Payroll Costs?**

This will depend on whether you are using the 8-week or 24-week Covered Period and on the amount of the owner-employee’s compensation in 2019:

- If the owner-employee’s annualized 2019 compensation was \$100,000 or less:
  - If you use the 8-week period, the maximum amount you may include in your forgiveness request for an owner-employee is eight weeks’ worth of their average 2019 compensation; and
  - If you use the 24-week period, the maximum amount you may include in your forgiveness request for an owner-employee is two-and-a-half months’ worth of their average 2019 compensation.
- If the owner-employee’s annualized 2019 compensation was over \$100,000:
  - If you use the 8-week period, the maximum amount you may include in your forgiveness request for an owner-employee is \$15,385; and
  - If you use the 24-week period, the maximum amount you may include in your forgiveness request for an owner-employee is \$20,833.
- For owner-employees with more than one business that received a PPP loan, the capped amount is cumulative. SBA allows you to choose how to allocate the capped amount among your businesses.

### **I.A.5 As an owner-employee, may I include amounts paid for my own retirement contributions, healthcare insurance and state and local taxes as Payroll Costs?**

A: This will depend on your entity type and how you file your business taxes.

- C Corporations (IRS Form 1120 filers): Any owner of 5% or more of the borrower is an owner-employee.
  - Borrowers using the 8-week Covered Period may receive forgiveness for cash compensation paid to owner-employees in an amount up to 8/52 of the owner-employee’s 2019 employee cash compensation (capped at \$15,385), with cash compensation defined as it is for all other employees. Borrowers are also eligible for loan forgiveness for payments for employer state and local taxes paid by the borrowers and assessed on their compensation, for the amount paid by the borrower for employer contributions for their employee health insurance, and for employer retirement contributions to their employee retirement plans capped at the amount of 8/52 of the 2019 employer retirement contribution. Payments other than for cash compensation (*e.g.*, taxes and benefits) do not count toward the \$15,385 cap per individual.
  - Borrowers using the 24-week Covered Period may receive forgiveness for cash compensation paid to owner-employees in an amount up to 2.5/12 of the owner-employee’s 2019 employee cash compensation (capped at \$20,833), with cash compensation defined as it is for all other employees. Borrowers are also eligible for loan forgiveness for payments for employer state and local taxes paid by the borrowers and assessed on their compensation, for the amount paid by the borrower for employer contributions for their employee health insurance, and for employer retirement contributions to their employee retirement plans capped at the amount of 2.5/12 of the 2019 employer retirement contribution. Payments other than for cash compensation (*e.g.*, taxes and benefits) do not count toward the \$20,833 cap per individual.
- S Corporations (IRS Form 1120-S filers): Any owner of 5% or more of the borrower is an owner-employee.
  - Borrowers using the 8-week Covered Period may receive forgiveness for cash compensation paid to owner-employees in an amount up to 8/52 of their 2019 employee cash compensation (capped at \$15,385), with cash compensation defined as it is for all other employees. Borrowers are also eligible for loan forgiveness for payments for employer state and local taxes paid by the borrowers and assessed on their compensation, and for employer retirement contributions to their employee

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retirement plans capped at the amount of 8/52 of their 2019 employer retirement contribution. Employer contributions for health insurance are not eligible for additional forgiveness for S-corporation owner-employees, because those contributions are included in cash compensation. The eligible non-cash compensation payments do not count toward the \$15,385 cap per individual.

- Borrowers using the 24-week Covered Period may receive forgiveness for cash compensation paid to owner-employees in an amount up to 2.5/12 of their 2019 employee cash compensation (capped at \$20,833), with cash compensation defined as it is for all other employees. Borrowers are also eligible for loan forgiveness for payments for employer state and local taxes paid by the borrowers and assessed on their compensation, and for employer retirement contributions to their employee retirement plans capped at the amount of 2.5/12 of their 2019 employer retirement contribution. Employer contributions for health insurance are not eligible for additional forgiveness for S-corporation owner-employees, because those contributions are included in cash compensation. The eligible non-cash compensation payments do not count toward the \$20,833 cap per individual.
- Self-employed (IRS Form 1040, Schedule C (or Schedule F) filers): Any sole proprietor, independent contractor, or self-employed individual is an owner-employee. SBA requires you to provide a copy of your 2019 IRS Form 1040, Schedule C (or Schedule F).
  - Borrowers using the 8-week Covered Period may receive forgiveness for cash compensation paid to owner-employees in an amount up to 8/52 of 2019 net profit as reported on IRS Form 1040, Schedule C, line 31 or Schedule F, line 34 (capped at \$15,385). SBA has determined that separate payments for health insurance, retirement, or state or local taxes are not eligible for additional loan forgiveness, because these expenses are paid out of net self-employment income.
  - Borrowers using the 24-week Covered Period may receive forgiveness for cash compensation paid to owner-employees in an amount up to 2.5/12 of 2019 net profit as reported on IRS Form 1040, Schedule C, line 31 or Schedule F, line 34 (capped at \$20,833). SBA has determined that separate payments for health insurance, retirement, or state or local taxes are not eligible for additional loan forgiveness, because these expenses are paid out of net self-employment income.
- General Partners (IRS Form 1065 filers): Any general partner of the borrower is an owner-employee, and any partner owning 5% or more of the borrower is an owner-employee. SBA requires you to provide a copy of your 2019 IRS Form 1065, Schedule K-1.
  - Borrowers using the 8-week Covered Period may receive forgiveness for cash compensation paid to owner-employees in an amount up to 8/52 of their 2019 net earnings from self-employment that is subject to self-employment tax, which is computed from 2019 IRS Form 1065 Schedule K-1 box 14a (reduced by box 12 section 179 expense deduction, unreimbursed partnership expenses deducted on their IRS Form 1040 Schedule SE, and depletion claimed on oil and gas properties) multiplied by 0.9235 (capped at \$15,385). Separate payments for health insurance, retirement, or state or local taxes are not eligible for additional loan forgiveness.
  - Borrowers using the 24-week Covered Period may receive forgiveness for cash compensation paid to owner-employees in an amount up to 2.5/12 of their 2019 net earnings from self-employment that is subject to self-employment tax, which is computed from 2019 IRS Form 1065 Schedule K-1 box 14a (reduced by box 12 section 179 expense deduction, unreimbursed partnership expenses deducted on their IRS Form 1040 Schedule SE, and depletion claimed on oil and gas properties) multiplied by 0.9235 (capped at \$20,833). Separate payments for health insurance, retirement, or state or local taxes are not eligible for additional loan forgiveness.
- LLC owners: LLC owners must follow the instructions that apply to how their business was organized for tax filing purposes for tax year 2019, or if a new business, the expected tax filing situation for 2020. For example, if your LLC filed (or will file) taxes on IRS Form 1040, Schedule C, you will follow the

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instructions for Schedule C filers. If your LLC filed (or will file) taxes on IRS Form 1120-S, you will follow the instructions for S-Corporations.

### **I.A.6 My business hires 1099 and independent contractor workers. May I include payments to 1099 and independent contractors for purposes of loan forgiveness?**

No. Independent contractors can obtain their own PPP loan to cover their compensation, so entities that hire independent contractors cannot include 1099 pay.

### **I.A.7.a May I receive both a PPP loan and unemployment compensation for the same time period?**

No. In general, if you are a self-employed individual, an independent contractor, or a sole proprietor with no employees other than yourself, you should consider whether unemployment compensation would be more beneficial to you than a PPP loan for the period during which your PPP loan will be used. Contact your State unemployment office to determine the amount of unemployment compensation you would qualify to receive. You are not permitted to seek forgiveness of PPP funds for your own payroll for any week for which you received unemployment benefits.

### **I.A.7.b My nonprofit receives federal funding and/or restricted funding that covers some employee salaries. Can I still use PPP funds to pay those employee salaries?**

If other federal or restricted funding pays some employee’s salaries, you should not use PPP funds to pay those salaries for the same period. Under current guidance, you must use at least 60% of PPP funds for Payroll Costs to maximize loan forgiveness, so we recommend you talk with your other funders to determine whether your other funding can be used for alternative purposes, or during a different time period, to allow your organization to obtain the maximum benefit from your PPP loan. Please refer to Office of Management & Budget (“OMB”) Guidance M20-26 issued June 18, 2020.

### **I.A.8 Are prepayments of Payroll Costs forgivable?**

Prepayment of a Payroll Cost (payment of payroll not yet incurred, in advance of the regularly scheduled pay date) is not eligible for forgiveness. For example, forgiveness is not permitted for expenses for group health benefits or retirement benefits accelerated from periods outside the Covered Period (or ACP, if applicable).

## **B. Non-Payroll Costs**

### **I.B.1 What are forgivable Non-Payroll Costs?**

Forgivable Non-Payroll Costs include the following payments for obligations of the borrower that existed on or prior to February 15, 2020:

- Interest payments on any business mortgage obligation on real or personal property (but not payment or prepayment of principal);
  - If you have refinanced your mortgage/secured obligation since February 15, 2020, interest payments on this secured obligation are still eligible for forgiveness since the original loan was in place on or before February 15, 2020.
  - If you have a mortgage on your office building and lease a portion of the space to tenants, you may not include the proportional amount of mortgage interest for the space leased to your tenants. For example, if the space leased to your tenants represents 25% of the fair market value of the office building, then you may only claim forgiveness on 75% of your mortgage interest.

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- If your mortgage loan is to a related party, your mortgage interest payments are not eligible for forgiveness. For purposes of determining forgivable Non-Payroll Costs, SBA will consider entities with any ownership in common to be related parties.
- Business rent or lease payments for real or personal property;
  - If you have renewed your lease February 15, 2020, lease payments are still eligible for forgiveness since the original lease was in place on or before February 15, 2020.
  - If you sublease a portion of your space, you may not include the portion of your rent that is paid by your subtenant. For example, if you rent an office building for \$10,000 per month and sublease out a portion of the space to another business for \$2,500 per month, only \$7,500 per month would be eligible for forgiveness on your PPP loan.
  - If you share rented space with another business, then when determining the amount that is eligible for loan forgiveness, you must prorate rent payments in the same manner as on your tax filings.
  - If you are a home-based business, then when determining the amount of rent payments that are eligible for loan forgiveness, you must prorate payments in the same manner as on your 2019 tax filings (or if you are a new business, in the same manner you expect for your 2020 tax filings).
  - If your rent payments are to a related party, you may request forgiveness for rent payments up to the amount of mortgage interest owed by the related party on the property (if you rent less than 100% of the property, you must prorate this amount based on the portion you rent). Your lease and the related party’s mortgage must both have been in place on or prior to February 15, 2020. For purposes of determining forgivable Non-Payroll Costs, SBA will consider entities with any ownership in common to be related parties.
- Business utility payments for a service for the distribution of electricity, gas, water, transportation, telephone, and internet access.
  - A “service for the distribution of transportation” refers to transportation utility fees (sometimes known as street maintenance fees or road user fees) assessed by state and local governments. No other transportation-related cost is eligible for loan forgiveness.
  - If you work out of your home, then when determining the amount of utilities payments that are eligible for loan forgiveness, you must prorate payments in the same manner as on your tax filings; you may not include any amount attributable to household expenses.
  - If you have tenants or subtenants, you may not include any amount attributable to the operation of your tenant or subtenant.

### **I.B.2 Do I have to use a portion of my PPP loans for Non-Payroll Costs?**

No, you may choose to use your full loan for Payroll Costs. To be fully forgivable, at least 60% of your loan must be used for Payroll Costs and any remainder must be used for Non-Payroll Costs. You may use up to 40% of your loan for Non-Payroll Costs; if more than 40% is used for Non-Payroll Costs, your requested forgiveness amount will be reduced.

### **I.B.3 Are interest payments on my business equipment loan forgivable?**

Yes, interest payments on a secured obligation of the borrower on personal property, such as equipment, are forgivable (provided the secured obligation was in place on or before February 15, 2020 and you would typically include it as a business interest expense on your federal tax return). You may not include payment (or prepayment) of principal.

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### **I.B.4 Are interest payments on my business vehicle loan forgivable?**

Yes, interest payments on a secured obligation of the borrower on a business vehicle are forgivable (provided the secured obligation was in place on or before February 15, 2020 and you would typically include it as a business interest expense on your federal tax return). You may not include payment (or prepayment) of principal.

### **I.B.5 Are lease payments on my business equipment forgivable?**

Yes, business lease payments pursuant to lease agreements of the borrower for equipment are forgivable (provided the lease agreement was in place on or before February 15, 2020 and you would typically include it as a business rent or lease expense on your federal tax return).

### **I.B.6 Are lease payments on my business vehicle lease forgivable?**

Yes, business lease payments pursuant to lease agreements of the borrower for personal property, such as a business vehicle, are forgivable (provided the lease agreement was in place on or before February 15, 2020 and you would typically include it as a business rent or lease expense on your federal tax return).

### **I.B.7 Are prepayments of interest on mortgage obligations forgivable?**

No, advance payments of mortgage interest are not eligible for forgiveness.

### **I.B.8 Are prepayments of Non-Payroll Costs forgivable?**

Prepayment of a Non-Payroll Cost (payment of a Non-Payroll Cost not yet incurred, in advance of the regularly scheduled due date) is not eligible for forgiveness.

## **C. Unauthorized Uses**

### **I.C.1 What happens if I use my PPP loan funds for purposes that are not eligible?**

SBA will direct you to repay misused amounts. If you knowingly use the funds for unauthorized purposes, you may be subject to additional liability and charges of fraud. SBA (and Treasury) will also have recourse against all shareholders, members, partners or owners of the borrower if funds were knowingly used for unauthorized purposes.

### **I.C.2 What types of actions would subject me to charges of fraud?**

Examples of fraud allegations against PPP borrowers that have appeared in the news include:

- A PPP borrower was charged by the FBI with fraud for allegedly submitting PPP loan applications in the names of multiple businesses, none of which existed, all containing materially false statements and altered IRS payroll tax documents.
- A PPP borrower was charged by the FBI with fraud for allegedly submitting PPP loan applications for a business that had closed in 2018, falsely claiming the business had over 100 employees. After receiving the loan, the borrower allegedly used the funds to pay off the business owner’s home mortgage, purchase a new car for personal use, and make personal investments.
- A PPP borrower was charged by the FBI with fraud for allegedly submitting altered copies of payroll tax filings that more than tripled the amount of total 2019 employee compensation, as compared to the actual payroll tax filings that had been submitted by the business to the IRS.
- A PPP borrower was charged by the FBI with fraud for allegedly submitting altered copies of bank records, payroll tax records and insurance records to show that the company had hundreds of employees paid millions of dollars in wages, when in fact, the company had one employee.



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### II. TIME PERIOD FOR USE OF FUNDS: “COVERED PERIOD”

#### II.1 How long do I have to use PPP funds?

PPP loan funds must be used within a certain time period (“Covered Period”) to be eligible for forgiveness.

- If your PPP loan was approved by SBA prior to June 5, you may choose either an 8-week (56 days) Covered Period or a 24-week (168 days) Covered Period.
- If your PPP loan was approved by SBA on or after June 5, you have a 24-week (168 days) Covered Period.
- In no event may the Covered Period extend beyond December 31, 2020.

#### II.2 When does my Covered Period start and end?

Your Covered Period begins the day you receive your PPP loan funds. For example, if your PPP funds were wired by your lender to your bank account on May 15, then May 15 is day 1 of your Covered Period. If you choose an 8-week Covered Period, your last day would be July 9, 2020. If you choose a 24-week Covered Period, your last day would be October 29, 2020.

No Covered Period may extend beyond December 31, 2020. If your PPP funds were wired by your lender to your bank account on August 10, 2020, then August 10, 2020 is day 1 of your Covered Period and your last day would be December 31, 2020.

#### II.3 What do I need to do to choose an 8-week or 24-week Covered Period?

If your loan was approved by SBA prior to June 5, you have the option to choose either an 8-week or 24-week Covered Period, and you will identify the option you have chosen as part of your forgiveness application. If your loan was approved by SBA on or after June 5, you have a 24-week Covered Period. No Covered Period may extend beyond December 31, 2020.

#### II.4 For loans approved by SBA prior to June 5 that have the option to choose either the 8-week or 24-week Covered Period, which option is better?

This will depend on your specific circumstances. Some things to consider when choosing your Covered Period include:

- Whether you can spend at least 60% of PPP funds on Payroll Costs and any remainder on Non-Payroll Costs in 8 weeks or will need longer. Using less than 60% for Payroll Costs will reduce your forgiveness amount.
- Whether you have employees other than yourself. Businesses with no employees other than the owner (ex: self-employed individuals, independent contractors, some sole proprietors) should consider 24 weeks if you would like to use all PPP loan proceeds for your own payroll (likely the easiest method for you to obtain forgiveness, with the least amount of documentation). Your PPP loan amount is based on 2½ months of 2019 average monthly payroll, and SBA will not let a business owner pay themselves more (or at a faster rate), so:
  - If you choose the 8-week period, you cannot use your full PPP loan for your own payroll;
  - If you choose the 24-week period, you can use your full PPP loan for your own payroll (you would need to wait at least 2½ months from the date you receive your PPP loan proceeds to apply for forgiveness).
- If your PPP loan is over \$50,000, whether you have made a reduction of more than 25% to any employee’s compensation. For loans over \$50,000, forgiveness will be reduced by average weekly wage reductions greater than 25% for the full Covered Period, even if you apply before the end of your Covered Period. For example:

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- If you choose the 8-week period and the reduction over 25% in an employee’s average weekly wages is \$100, your forgiveness amount will be reduced by \$800 (\$100 x 8 weeks);
- If you choose the 24-week period and the reduction over 25% in an employee’s average weekly wages is \$100, your forgiveness amount will be reduced by \$2,400 (\$100 x 24 weeks).
- If your PPP loan is over \$50,000, whether you will have fewer FTEs after the end of week 8 and no FTE Reduction Exceptions apply. For loans over \$50,000, forgiveness will be reduced proportionately with FTE reductions unless FTE Reduction Exceptions apply, so you may want to choose the 8-week period to show fewer FTE reductions. Review FTE Reduction Exceptions carefully – in many cases, the FTE Reduction Exceptions will prevent reduction of your forgiveness amount, which may make the longer 24-week Covered Period a better option for you.

### II.5 Can I align my Covered Period with my payroll cycle?

If you have a bi-weekly (or more frequent) payroll cycle, then you have the option to start the time period for use of PPP funds for Payroll Costs on the first day of the first regularly scheduled payroll cycle following the receipt of your PPP funds (“Alternative Payroll Covered Period” or “APCP”). SBA provided the following example: if you received your PPP funds on April 20 and your next bi-weekly payroll cycle starts April 26, then you may either choose your regular Covered Period (April 20 – October 4), or you may choose the APCP (April 26 – October 10). In no event may the APCP extend beyond December 31, 2020. Even if you choose the APCP for Payroll Costs, however, you still must use your regular Covered Period for any Non-Payroll Costs included in your forgiveness request.

### II.6 To be forgiven, must Payroll Costs be paid, incurred, or both during my Covered Period (or APCP, if applicable)?

Payroll Costs paid during your Covered Period (or APCP, if applicable) will be forgiven, even if incurred before your Covered Period (or APCP, if applicable). Payroll Costs incurred during your Covered Period (or APCP, if applicable) will be forgiven even if paid after your Covered Period (or APCP, if applicable), if paid on or before the next regularly scheduled pay date. Prepayments of Payroll Costs, however, prior to the date such costs are incurred or due, do not appear to be eligible for forgiveness.

- Payroll Costs are considered paid on the date paychecks are distributed (or the date the ACH payroll transaction is originated).
- Payroll Costs are considered incurred on the date the employee pay is earned (the day the employee worked). If you are paying employees who are not currently working, Payroll Costs are considered incurred on the date the employees would have worked.
- Examples:
  - Covered Period: April 20 (Day 1) – October 4 (Day 168); monthly payroll paid in arrears
    - Payroll paid May 1 is *fully* eligible – include the amount paid during the Covered Period, even though a portion was incurred prior to Day 1
    - Payroll paid November 1 is *partially* eligible – include the portion that was incurred during the Covered Period, even though paid after Day 168
    - Payroll paid during Covered Period for payroll incurred in December does not appear to be eligible for forgiveness
  - APCP: April 26 (Day 1) – October 10 (Day 168); biweekly payroll paid in arrears
    - Payroll paid April 26 is *fully* eligible – include the amount paid during the APCP, even though incurred prior to Day 1
    - Payroll paid October 25 is *fully* eligible – include the amount incurred during the APCP, even though paid after Day 168

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- Payroll paid during ACP for payroll incurred in December does not appear to be eligible for forgiveness

### II.7 To be forgiven, must Non-Payroll Costs be paid or incurred during my Covered Period?

Non-Payroll Costs incurred before or during your Covered Period may be forgiven if paid during your Covered Period. Non-Payroll Costs incurred during your Covered Period may also be included even if paid after your Covered Period, if paid on or before the next regularly scheduled due date. Prepayments of Non-Payroll Costs, however, prior to the date such costs are incurred or due do not appear to be eligible for forgiveness.

- Examples: Covered Period from June 1 (Day 1) through November 15 (Day 168):
  - Electricity bill paid on its regular due date of June 15, for electricity used May 1 – May 31, is *fully* eligible – include the amount paid during the Covered Period, even though it was incurred prior to Day 1
  - Electricity bill paid on its regular due date of December 15, for electricity used November 1 – November 30, is *partially* eligible – include the amount incurred during the Covered Period, even though it was paid after Day 168
  - Electricity bill paid during Covered Period prior to its regular due date, for electricity to be used December 1 – December 31, does not appear to be eligible for forgiveness.

## III. MAINTAIN STAFF

If your PPP loan is \$50,000 or less (and all PPP loans received by you and your affiliates total less than \$2 million), then reductions in staff wages and/or full-time equivalent (“FTE”) hours will not reduce your forgiveness amount. If your PPP loan is more than \$50,000 (or if all PPP loans received by you and your affiliates total \$2 million or more), your forgiveness amount will be reduced if you do not maintain staff wages and FTEs and do not meet any exception.

### A. Maintain Staff Wages

#### III.A.1 Do reductions in an employee’s salary/hourly wages reduce the amount of loan forgiveness?

- If your PPP loan is \$50,000 or less (and all PPP loans received by you and your affiliates total less than \$2 million), then reductions in an employee’s salary/hourly wages will not reduce the amount of your loan forgiveness.
- If your PPP loan is more than \$50,000 (or if all PPP loans received by you and your affiliates total \$2 million or more), then reductions of more than 25% in any employee’s salary/hourly wages will reduce the amount of forgiveness, unless:
  - The reduction is for an employee who made more than \$100,000 in 2019;
  - The reduction is for an owner-employee; or
  - The employee’s salary/hourly wage is restored to pre-COVID levels on or before December 31, 2020 (and before you apply for forgiveness). To meet this exception, you would resume paying your employee their pre-COVID hourly wage/annual salary. You are not required to restore lost wages for the period during which you had to reduce the employee’s hourly wage/annual salary.
- Calculation of a reduction in employee compensation is separate from the determination of whether you have reduced FTEs. For example, assume you have an employee who made \$20/hour and worked 40 hours per week prior to COVID. During your Covered Period, the employee continued to make \$20 per hour, but you had to reduce her hours from 40 hours per week to 20 hours per week. Although this

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is an FTE reduction (from 1 FTE to ½ FTE), it is not a reduction in compensation – you have continued to pay the employee \$20 per hour.

- **Hourly Employee Example:** Pre-COVID, you employed Samuel at \$20/hour and he worked 10 hours per week. During your Covered Period, you reduced Samuel’s pay to \$14/hour. The reduction over 25% is equal to \$1/hour. To determine the impact on your loan forgiveness, you must calculate Samuel’s average weekly wage reduction. Since Samuel worked an average of 10 hours per week pre-COVID, you will multiply the reduction over 25% by Samuel’s average pre-COVID hours (\$1 x 10), which results in an average weekly wage reduction of \$10. SBA will reduce your forgiveness amount by \$10 for each week of your Covered Period. For an 8-week Covered Period, your forgiveness will be reduced by \$80; for a 24-week Covered Period, your forgiveness will be reduced by \$240 (even if you apply early). If you resume paying Samuel \$20/hour before December 31, 2020 (and before you apply for forgiveness), SBA will not reduce your forgiveness amount.
- **Salaried Employee Example:** Pre-COVID, you employed Veronica at an annual salary of \$52,000/year. During your Covered Period, you reduced Veronica’s annual salary to \$33,800/year. The reduction over 25% is equal to \$5,200. To determine the impact on your loan forgiveness, you must calculate Veronica’s average weekly wage reduction. Since Veronica was a salaried employee, you will divide her reduction over 25% by the number of weeks in the year (\$5,200/52), which results in an average weekly wage reduction of \$100. SBA will reduce your forgiveness amount by \$100 for each week of your Covered Period. For an 8-week Covered Period, your forgiveness will be reduced by \$800; for a 24-week Covered Period, your forgiveness will be reduced by \$2,400 (even if you apply early). If you resume paying Veronica \$52,000/year before December 31, 2020 (and before you apply for forgiveness), SBA will not reduce your forgiveness amount.

### **III.A.2 What is the pre-COVID reference period for comparison of employee wages for loans over \$50,000?**

January 1, 2020 – March 31, 2020. If your PPP loan is more than \$50,000 (or if all PPP loans received by you and your affiliates total \$2 million or more), you will consider each employee’s average wages during this pre-COVID reference period, and compare it to that same employee’s average wages during your Covered Period.

### **III.A.3 For loans over \$50,000, how do employee compensation reductions impact my forgiveness amount?**

If your PPP loan is more than \$50,000 (or if all PPP loans received by you and your affiliates total \$2 million or more), and you have an employee with an average weekly compensation reduction of more than 25% (as compared to the period between January 1, 2020 – March 31, 2020), then the amount in excess of 25% will be multiplied by the number of weeks in your Covered Period, and your total eligible payroll and nonpayroll costs eligible for forgiveness will be reduced by the result. For example, assume you have a 24-week Covered Period, you reduced an employee’s average weekly wages by more than 25%, and the portion over 25% is \$100 per week. Your total payroll and nonpayroll costs eligible for forgiveness will be reduced by \$2,400 (\$100 x 24 weeks).

### **III.A.4 For loans over \$50,000, what is the date by which I need to restore an employee’s wages to pre-COVID levels to avoid a reduction in forgiveness?**

If your PPP loan is more than \$50,000 (or if all PPP loans received by you and your affiliates total \$2 million or more), you have reduced an employee’s average hourly wages or annual salary by more than 25%, and no other wage reduction exceptions apply, then you can avoid a reduction in forgiveness if you restore the employee’s wages to pre-COVID levels on or before December 31, 2020 (and before you apply for forgiveness). To meet this exception, you would resume paying your employee their pre-COVID hourly wage/annual salary. You are not

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required to restore lost wages for the period during which you had to reduce the employee’s hourly wage/annual salary.

### B. Maintain Total Average Full-Time Equivalent (“FTE”) Employees

#### III.B.1.1 Do reductions in total FTEs reduce the amount of loan forgiveness?

- If your PPP loan is \$50,000 or less (and all PPP loans received by you and your affiliates total less than \$2 million), then reductions in total FTEs will not reduce the amount of your loan forgiveness.
- If your PPP loan is more than \$50,000 (or if all PPP loans received by you and your affiliates total \$2 million or more), then reductions in total FTEs may reduce the amount of your loan forgiveness if you do not meet an FTE Reduction Exception.

#### III.B.1.2 For loans over \$50,000, what time period will SBA use to determine whether I have reduced total FTEs?

If your PPP loan is more than \$50,000 (or if all PPP loans received by you and your affiliates total \$2 million or more), then SBA will compare your Covered Period (or APCP, if applicable) average FTE employees to your pre-COVID average FTE employees. You may choose one of the following time periods for your pre-COVID reference period:

- For non-seasonal businesses:
  - February 15, 2019 to June 30, 2019; or
  - January 1, 2020 to February 29, 2020.
- For seasonal businesses only:
  - February 15, 2019 to June 30, 2019; or
  - January 1, 2020 to February 29, 2020; or
  - Any consecutive 12-week period between May 1, 2019 and September 15, 2019. If you elected to use a 12-week period between May 1, 2019 and September 15, 2019 to calculate your PPP loan amount, you must use the same 12-week period as your pre-COVID reference period.

#### III.B.2 For loans over \$50,000, how do I calculate average FTE employees?

If your PPP loan is more than \$50,000 (or if all PPP loans received by you and your affiliates total \$2 million or more), then you will calculate average FTE employees in one of the following ways. You may choose your calculation method, provided you use the same method for your pre-COVID reference period and your Covered Period (or APCP, if applicable):

- For each employee, enter the average number of hours paid per week, divide by 40, and round the total to the nearest tenth; provided no employee may count as more than 1.0 FTE.
- Count each employee that works 40 hours or more per week as 1.0 FTE, and count each employee that works fewer than 40 hours per week as 0.5 FTE.

#### III.B.3 Do I have to restart operations and put my employees back to work?

No, there is no requirement that you restart operations at this time. The intent of the CARES Act is to continue paying your employees, whether you currently have work for them to do or not. This allows your employees to continue to receive income and benefits. This also benefits your organization by keeping your trained employees on your payroll; when you reopen, you will not need to hire and train new employees before you can resume operations.

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### III.B.4 If I already had to reduce staff, am I still eligible for forgiveness?

Yes. If your PPP loan is \$50,000 or less (and all PPP loans received by you and your affiliates total less than \$2 million), then staff reductions do not impact your eligibility for forgiveness. If your PPP loan is more than \$50,000 (or if all PPP loans received by you and your affiliates total \$2 million or more), then you are still eligible for forgiveness if you refill those positions or otherwise meet an FTE Reduction Exception.

### III.B.5 For loans over \$50,000, some former employees are no longer available. May I refill those positions with new employees?

Yes, you may hire new employees to fill open positions to avoid FTE reductions.

### III.B.6 For loans over \$50,000, how do FTE reductions impact my forgiveness amount?

If your PPP loan is more than \$50,000 (or if all PPP loans received by you and your affiliates total \$2 million or more), you have FTE reductions as compared to your pre-COVID reference period, and no FTE Reduction Exceptions apply, your total eligible payroll and nonpayroll costs will be reduced by a proportional amount. For example, assume during your pre-COVID reference period, you averaged 10 FTEs, but for your Covered Period/APCP, you average only 9 FTEs, and no FTE Reductions Exceptions apply. You will multiply your total eligible payroll and nonpayroll costs by 9/10.

## C. FTE Reduction Exceptions

If your PPP loan is more than \$50,000 (or if all PPP loans received by you and your affiliates total \$2 million or more), and you have reduced FTEs, then your forgiveness amount will be reduced unless you meet an FTE Reduction Exception.

### III.C.1 If I already had to lay off an employee, and offer to rehire that employee but they refuse, will my forgiveness amount be reduced?

No. This is an FTE Reduction Exception. Laid-off employees will be excluded from the forgiveness reduction calculation if you document all of the following:

- During your Covered Period (or Alternative Payroll Covered Period, if applicable), you made a good faith, written offer of rehire (or restoration of reduced hours),
- the offer was for the same salary/wages and same number of hours as the employee previously worked,
- the employee rejected your offer, and
- within 30 days of the employee’s rejection, you notify the applicable State unemployment insurance office. (SBA plans to provide information on how to report rejected reemployment offers to State unemployment insurance offices on its website at [www.sba.gov](http://www.sba.gov).) Employees who reject offers of re-employment may forfeit eligibility for continued unemployment compensation.

### III.C.2 If I had to fire an employee for cause, will my forgiveness amount be reduced?

No. This is an FTE Reduction Exception. Employees fired for cause will be excluded from the forgiveness reduction calculation if you document they were fired for cause.

### III.C.3 If an employee voluntarily resigned, or voluntarily requested and received a reduction in hours, will my forgiveness amount be reduced?

No. This is an FTE Reduction Exception. Employees who voluntarily resigned, and employees who voluntarily requested and received a reduction in hours, will be excluded from the forgiveness reduction calculation if you document they resigned or reduced their hours voluntarily.

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### **III.C.4 If I am unable to fill open positions with qualified employees, will my forgiveness amount be reduced?**

No. This is an FTE Reduction Exception. If you document that you are unable to hire qualified employees for unfilled positions, then these unfilled positions will not reduce your forgiveness amount.

### **III.C.5 If I am unable to return to my pre-COVID level of business activity, and therefore cannot maintain staff, will my forgiveness amount be reduced?**

No. This is an FTE Reduction Exception. If you document that you were unable to operate at the same level of business activity between February 15, 2020 and the end of your Covered Period (or forgiveness application date, if earlier) as you were before February 15, 2020, due to compliance with federal, State or local requirements or guidance issued during the period from March 1, 2020 through December 31, 2020 related to the maintenance of standards for sanitation, social distancing, or any other worker or customer safety requirement related to COVID-19, then your reduction in staff will not reduce your forgiveness amount. To document this exception, you should keep copies of (i) the guidance issued for your location, and (ii) borrower financials for the pre-COVID period and for your Covered Period.

### **III.C.6 What is the date by which I need to rehire or replace employees to avoid a reduction in forgiveness?**

This is an FTE Reduction Exception. If you do not meet any other FTE Reduction Exception, you must rehire or replace employees on or before December 31, 2020 to avoid a reduction in forgiveness. To use this FTE Reduction Exception, you would wait to apply for forgiveness until you have filled your open positions.

## **IV. FORGIVENESS APPLICATION, PROCESS, & DOCUMENTATION REQUIREMENTS**

### **IV.1 How do I apply for forgiveness on my PPP loan?**

You will log on to Self-Help’s on-line forgiveness portal, complete your forgiveness application, and upload all required documents. When it is time for you to apply, we will notify you and send you a unique link by email from “notifications@venturesgo.com,” which will allow you to access and complete the forgiveness application for your loan. We will also provide you with step-by-step instructions on how to submit your forgiveness application securely.

### **IV.2 When do I apply for forgiveness on my PPP loan?**

Self-Help is staggering access to our forgiveness portal. When it is time for you to apply, we will notify you and send you a unique link by email from “notifications@venturesgo.com,” which will allow you to access and complete the forgiveness application for your loan. Borrowers should apply for forgiveness within ten months of the last day of the Covered Period (or ACP, if applicable) for your loan. If you do not apply for loan forgiveness within that ten-month time period, loan payments are no longer deferred and you must begin making payments on the loan.

### **IV.3 Do I have to wait until after the end of my Covered Period (or ACP, if applicable) to apply for forgiveness?**

No, you can apply for forgiveness once you have used your PPP funds, even if your Covered Period (or ACP, if applicable) has not yet ended.

### **IV.4 How long do I have to apply for forgiveness after the end of my Covered Period (or ACP, if applicable)?**

Borrowers may apply for forgiveness at any time prior to the maturity of your PPP loan; however, borrowers should apply for forgiveness within ten months of the last day of your Covered Period (or ACP, if applicable). If

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a borrower does not apply for loan forgiveness within that ten-month time period, loan payments are no longer deferred and you must begin making payments on the loan.

### IV.5 Are the SBA forgiveness applications available?

There are currently 3 versions of the SBA loan forgiveness application:

- SBA Form 3508S Loan Forgiveness Application (released October 8, 2020): This form may be used by any borrower who received a PPP loan of \$50,000 or less (if all PPP loans received by you and your affiliates total less than \$2 million). For borrowers who use Form 3508S, reductions in an employee’s wages and/or reductions in total average FTEs will not reduce your forgiveness amount.
- SBA Form 3508EZ PPP Loan Forgiveness Application (released June 16, 2020): This form may be used by any of the following borrowers who are not eligible for SBA Form 3508S:
  - Small business borrowers with no employees other than the owner at the time of the PPP loan application (*i.e.*, you are a self-employed individual, an independent contractor or a sole proprietor whose PPP loan was based solely on your income as owner, and you did not include Payroll Costs for any other employee in your loan amount calculation);
  - Small business borrowers with employees, provided that:
    - As compared to the period between January 1, 2020 – March 31, 2020, you did not reduce any employee’s salary/hourly wages by more than 25% (excluding employees that made over \$100,000 in 2019 or owner-employees); and
    - One of the following is true:
      - You had no FTE reductions from January 1, 2020 through the end of your Covered Period/APCP or your forgiveness application date, if earlier, other than FTE reductions resulting from furloughed employees who refused to return despite a good faith offer, or from unfilled positions for which you could not find similarly qualified employees. (Note we are waiting on additional SBA guidance to determine whether any other FTE Reduction Exceptions may be considered in determining whether a borrower may use SBA Form 3508EZ or must instead use SBA Form 3508.); or
      - You were unable to operate during your Covered Period/APCP at the same level of business activity as before February 15, 2020, due to compliance with federal, state or local COVID-19 guidance and restrictions issued from March 1, 2020 to December 31, 2020.
  - Nonprofits, provided that:
    - As compared to the period between January 1, 2020 – March 31, 2020, you did not reduce any employee’s salary/hourly wages by more than 25% (excluding employees that made over \$100,000 in 2019); and
    - One of the following is true:
      - You had no FTE reductions from January 1, 2020 through the end of your Covered Period/APCP or your forgiveness application date, if earlier, other than FTE reductions resulting from furloughed employees who refused to return despite a good faith offer, or from unfilled positions for which you could not find similarly qualified employees. (Note we are waiting on additional SBA guidance to determine whether any other FTE Reduction Exceptions may be considered in determining whether a borrower may use SBA Form 3508EZ or must instead use SBA Form 3508.); or
      - You were unable to operate during your Covered Period/APCP at the same level of business activity as before February 15, 2020, due to compliance with federal,



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state or local COVID-19 guidance and restrictions issued from March 1, 2020 to December 31, 2020.

- The SBA Form 3508 PPP Loan Forgiveness Application (revised June 16, 2020) is the long form of the application, and may be used by any borrower who is not eligible to use SBA Form 3508S or SBA Form 3508EZ.

All SBA forgiveness application forms (and instructions) are available on SBA’s website at <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program>. You do not need to download a copy of the forgiveness application from SBA’s website. To apply for forgiveness with Self-Help, you will complete the appropriate forgiveness application through our on-line forgiveness portal, which will lead you through the steps to complete your forgiveness application.

### **IV.7 What documents do I need to submit to the lender to apply for loan forgiveness?**

Under the current guidance, SBA will require you to provide the applicable SBA loan forgiveness application form and all related supporting documentation required to be submitted with the applicable form. SBA also requests that you submit the optional Borrower Demographic Information Form. Supporting documentation required to be submitted with each loan forgiveness application form is set forth in the Borrower Documentation in the Tools & Resources section of our [website](#).

### **IV.8 Are there any documents I will need to keep that are not required to be submitted with my forgiveness request?\***

Yes. Regardless of which SBA forgiveness application form you complete, SBA requires you to keep a copy of all documents submitted with your PPP loan application, your forgiveness request, and all supporting documentation for at least 6 years after the date your loan is forgiven or repaid in full. SBA may review any PPP loan at any time, and may require you to provide documentation at the time of its review, including:

- Documentation for each employee of (i) salary/wages paid for the period from January 1, 2020 – March 31, 2020 and (ii) salary/wages included in your forgiveness request for your Covered Period/APCP (or from your loan disbursement date through your forgiveness application date, if you apply prior to the end of your Covered Period/APCP);
- Documentation of any healthcare or retirement benefits included in your forgiveness request;
- Documentation of any State or local taxes assessed on employee compensation included in your forgiveness request;
- Documentation supporting payment of any Non-Payroll Costs included in your forgiveness request (proof those obligations existed on or before February 15, 2020 and documentation showing payments made);
- Documentation supporting your calculation of average total FTEs for (i) your pre-COVID reference period and (ii) your Covered Period/APCP (or from your loan disbursement date through your forgiveness application date, if you apply prior to the end of your Covered Period/APCP);
- Documentation supporting any FTE Reduction Exceptions, including, in the case of the FTE Reduction Exception for inability to return to pre-COVID levels of business activity due to COVID-related restrictions, copies of (i) any COVID-related restrictions or guidance for the borrower location and (ii) borrower financial statements;
- For loans over \$2 million, documentation supporting your certification that economic uncertainty at the time of your PPP loan application made the request necessary to support ongoing operations. In addition, SBA has now released its Necessity Questionnaires (SBA Form 3509, to be completed by for-profit borrowers, and SBA Form 3510, to be completed by nonprofit borrowers). Under the current process, SBA will request that you complete the questionnaire once you have submitted your

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forgiveness application. Upon SBA’s request, you will have ten business days to return the completed form. You can find copies of the SBA Necessity Questionnaires in the Tools & Resources section of our [website](#).

### **IV.9 Will I have to provide documentation to support my certification that current economic uncertainty makes my PPP loan request necessary to support ongoing operations?\***

This depends on the size of your PPP loan.

- **For loans less than \$2 million:** Your good faith certification made at the time you applied for your PPP loan does not require additional documentation. SBA has determined that any borrower that received a PPP loan of less than \$2 million (including PPP loans to affiliates) will be deemed to have made the required certification in good faith. SBA has determined that this safe harbor is appropriate because borrowers with loans below this threshold are generally less likely to have had access to adequate sources of liquidity in the current economic environment, and because it will promote economic certainty for borrowers with more limited resources as they endeavor to retain and rehire employees. **For loans of \$2 million or more:** Yes, your good faith certification made at the time you applied for your PPP loan will require supporting documentation at the time of your forgiveness request. SBA has now released its Necessity Questionnaires (SBA Form 3509, to be completed by for-profit borrowers, and SBA Form 3510, to be completed by nonprofit borrowers). Under the current process, SBA will request that you complete the questionnaire once you have submitted your forgiveness application. Upon SBA’s request, you will have ten business days to return the completed form. You can find copies of the SBA Necessity Questionnaires in the Tools & Resources section of our [website](#). SBA will review your loan for compliance with program requirements, including the basis for your certification that current economic uncertainty makes the PPP loan necessary to support ongoing operations, based on individual circumstances and SBA guidance. While there was initially no guidance provided to applicants with respect to this certification, SBA subsequently issued guidance that “large companies with adequate sources of liquidity to support the business’s ongoing operations” should carefully assess whether they can make this certification, “taking into account their current business activity and their ability to access other sources of liquidity sufficient to support their ongoing operations in a manner that is not significantly detrimental to the business.” Treasury noted that “it is unlikely that a public company with substantial market value and access to capital markets will be able to make the required certification in good faith,” and subsequently clarified that this standard also applies to private companies. If SBA determines in the course of its review that a borrower lacked an adequate basis for the required certification, SBA will seek repayment of the outstanding PPP loan balance and the loan will not be eligible for forgiveness. If the borrower repays the loan after receiving notification from SBA, then SBA will not pursue further administrative enforcement or referrals to other agencies with respect to this certification.

### **IV.10 For a self-employed individual, an independent contractor, or a sole proprietor with no employees other than the business owner (i.e, your loan amount was based solely on your income as the business owner and did not include Payroll Costs for any other employee), what documentation is needed to show the entire PPP loan was used to pay owner income?**

Because SBA calculates the amount of owner income on a strict formula based on your 2019 average monthly income, you do not need to write yourself a check to show that you have used your PPP loan to pay yourself your owner income. Your 2019 compensation records provided at the time you applied for your PPP loan document your 2019 average monthly income. If you file your business taxes on IRS Form 1040, Schedule C (or Schedule F) and have not already provided your lender with a copy of your 2019 Schedule C (or Schedule F), you will need to provide a copy when you apply for forgiveness.

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### **IV.11 What if SBA determines I was ineligible for a PPP loan?**

SBA may direct a lender to deny your forgiveness request if SBA determines that the borrower was ineligible for a PPP loan. It is important to remember that SBA may review and make this determination at any time, and requires borrowers to keep all documentation related to your PPP loan and forgiveness request for at least 6 years from the date your loan is forgiven or repaid in full. If SBA makes this determination after your loan has been forgiven, you will be required to repay SBA in full.

### **IV.12 What if SBA determines I was ineligible for the amount of forgiveness requested?**

SBA may direct a lender to deny any portion of your forgiveness request that it determines that amount was ineligible for forgiveness. It is important to remember that SBA may review and make this determination at any time, and requires borrowers to keep all documentation related to your PPP loan and forgiveness request for at least 6 years from the date your loan is forgiven or repaid in full. If SBA makes this determination after your loan has been forgiven, you will be required to repay SBA the portion that was ineligible for forgiveness.

### **IV.13 If I obtained my PPP loan through another lender, may I apply for forgiveness with Self-Help?**

No, you must work with your lender to apply for forgiveness for your loan.

## **v. UNFORGIVEN AMOUNTS**

### **V.1 What happens if there is any unforgiven balance on my PPP loan?**

Any balance remaining on your loan will be due under the terms of your PPP Note (amortizing payments over the remaining loan term at 1% interest). Interest accrues on the unforgiven portion of your PPP loan from the date the loan was made. You are not responsible for interest on the forgiven portion of your PPP loan. For PPP loans approved by SBA prior to June 5, your PPP Note has a 2-year term, but you and your lender may mutually agree to extend your repayment term for any unforgiven amount if needed. For PPP loans approved by SBA on or after June 5, your PPP Note has a 5-year term. In either case, if you prefer, you may choose to prepay your PPP Note in full (there is no prepayment fee on your PPP loan.)

### **V.2 When will the debt forgiveness be applied to the loan?**

Your forgiveness amount will be submitted to SBA within 60 days of the lender’s receipt of all required forgiveness application documentation. Unless SBA places your loan under review, SBA is required to remit payment of the forgiven amount to the lender within 90 days of our forgiveness determination submission. Your PPP loan will remain in deferral until the lender receives payment from SBA for the forgiven amount, if any. It is important to remember that SBA may review the loan at any time, whether before or after forgiveness is applied. If SBA determines the borrower was ineligible for a PPP loan, the borrower will be required to repay the loan in full. If SBA determines the borrower was ineligible for forgiveness of all or part of the PPP loan, the borrower will be required to repay the ineligible forgiveness amount. SBA requires borrowers to keep all documentation for 6 years from the date your loan is forgiven or repaid in full, and may ask for copies of your documentation as part of any review.

### **V.3 When do I have to start making payments on my PPP loan?**

As long as you submit your forgiveness application within ten months of the end of your Covered Period, no payment is due until the date the forgiven amount has been determined and SBA has paid the PPP loan down by the forgiven amount. You are not responsible for payment of accrued interest on the portion of your PPP loan

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that is forgiven, but interest accrues on the unforgiven portion from the date of your PPP Note. If 100% of your PPP loan is forgiven, you will not be required to make principal or interest payments on your loan.

### **V.4 Am I responsible for interest on the forgiven loan amount?**

No, you are not responsible for accrued interest on the portion of the loan that is forgiven. For any unforgiven portion, you are responsible for accrued interest from the date the loan was made.

### **V.5 If I received an SBA Economic Injury Disaster Loan (“EIDL”) advance, does the amount of the EIDL advance reduce my PPP forgiveness amount?**

Under current regulations, your PPP forgiveness amount will be reduced by the amount of any EIDL advance you received. (If you received an EIDL loan, but did not receive an EIDL advance, there should be no impact on your forgiveness amount.) For example, if you received a \$100,000 PPP loan and meet all PPP requirements to have the full PPP loan forgiven, but you also received a \$10,000 EIDL advance, SBA will forgive only \$90,000 of your PPP loan. The unforgiven \$10,000 balance will be due under the terms of your PPP Note. You may instead choose to repay the unforgiven amount immediately (there is no prepayment fee on your PPP loan).

## VI. MISCELLANEOUS

### **VI.1 Are forgiven PPP dollars considered cancellation-of-indebtedness income for federal tax purposes?**

No. Unlike normal circumstances where canceled debt is considered as taxable income, forgiven PPP loan amounts will not be considered as taxable income.

### **VI.2 Can I include forgiven payroll costs and expenses as deductible expenses in calculating my taxable income?**

No. Under IRS Notice 2020-32, forgiven PPP loan amounts may not be included as deductions from income on your tax return. For example, if you use PPP loan proceeds to pay eligible rent for May and June, and receive forgiveness for those payments, you may not include May and June rent payments as rent expense on your tax return. This may result in increased tax liability for your business, so we recommend you work with your accountant or tax advisor to determine your best options. We are continuing to monitor pending legislation in Congress that, if passed, may reverse this IRS decision.

### **VI.3 May I defer payment of payroll taxes?**

Yes. Under the original CARES Act, PPP borrowers were excluded from the provision allowing employers to defer the payment of payroll taxes, but the Paycheck Protection Program Flexibility Act expands this benefit to include PPP borrowers. Payroll taxes may be deferred through December 31, 2020. We recommend you work with your accountant or tax advisor to determine the deferred amounts and the dates by which the deferred amounts must be paid in full to avoid penalties.

### **VI.4 Do I need SBA approval to sell my business or to change the ownership structure of my business?**

For purposes of PPP, SBA will consider each of the following to be a “Change of Ownership” if it occurs at any time between (i) the date you submitted your application for a PPP loan and (ii) the date your PPP loan is fully forgiven or repaid in full:

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- 20% or more of ownership of the PPP borrower is sold or otherwise transferred, whether in one or more transactions (including if the transfer is to an affiliate or another existing owner),
- 50% or more of the PPP borrower’s assets are sold or otherwise transferred, whether in one or more transactions, or
- The PPP borrower merges with or into another entity.

If you have a Change of Ownership, the following rules apply:

- **Notice Requirements:** SBA requires you to provide your PPP lender with advance written notice of any Change of Ownership, along with a copy of the proposed agreements. You may notify us of a Change of Ownership by email at [Postclosing-PPP@self-helpfcu.org](mailto:Postclosing-PPP@self-helpfcu.org).
- **SBA Approval:**
  - SBA approval of your Change of Ownership is not required if SBA has made its forgiveness determination on your PPP loan and you have repaid any unforgiven amount in full.
  - SBA approval of your Change of Ownership is not required if 50% or less of the ownership interest or assets of the PPP borrower are being transferred.
  - SBA approval of your Change of Ownership is required if more than 50% of the ownership interest or assets of the PPP borrower are being transferred and your PPP loan is still outstanding (unless you submit your completed PPP forgiveness application and establish an escrow account with your PPP lender in the full amount of your PPP loan pending SBA’s forgiveness determination). To obtain SBA approval, you must provide your PPP lender with the following information:
    - An explanation of why you cannot either (i) complete the forgiveness process and repay any unforgiven amount in full prior to the Change of Ownership or (ii) establish an escrow account for the full amount of your PPP loan;
    - The details of the proposed Change of Ownership;
    - Documentation, including any letter of intent or purchase agreement, setting forth the terms of the Change of Ownership;
    - Disclosure of any existing PPP loan of the new owner, including the PPP loan number; and
    - A list (including names and tax identification numbers) of all owners of 20% or more of the new owner/successor entity.

SBA will review and provide a determination within 60 calendar days of SBA’s receipt of a complete Change of Ownership request. If deemed appropriate, SBA may require additional risk mitigation measures as a condition of its approval of the transaction.

- **Continuing Responsibilities:** Regardless of any Change of Ownership, the PPP borrower remains responsible for (1) performance of all obligations under the PPP loan, (2) the certifications made in connection with the PPP loan application, and (3) compliance with all other applicable PPP requirements. Additionally, the PPP borrower remains responsible for obtaining, preparing, and retaining all required PPP forms and supporting documentation and providing those forms and supporting documentation to the PPP lender or to SBA upon request. The new owner/successor entity will be subject to all obligations under the PPP loan. If the new owner/successor entity has a separate PPP loan, PPP funds and expenses must be segregated to document compliance with PPP requirements by each borrower. SBA reserves all rights and remedies available under the law in the event of fraud, false statements, and/or unauthorized uses of PPP loan proceeds by the original PPP borrower, the new owner and/or any successor entity.

To review the complete SBA Change of Ownership rules, please refer to SBA Procedural Notice Control No. 5000-20057, issued October 2, 2020.