



COVID-RELATED TAX RELIEF ACT OF 2021 -- Economic Disaster Relief, PPP Loan Forgiveness and Employer Credits

DISCLAIMER

It is the intent of the writer, contributors, and editors to provide the most accurate and up to date information at the time of writing. Every effort has been made to verify the content with the Internal Revenue Code, Treasury Regulations and Court Cases. This should not be construed to be expert advice, your sole source of information, nor should it be used as any type of authority when representing taxpayers before the Internal Revenue Service.

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Introduction and Learning Objectives

The year 2020 has been unprecedented in so many ways. It began with nationwide shelter-in-place orders due to the COVID-19 pandemic, followed by tax professionals suspending services or modifying face-to-face contact, Congress passing in light speed one of the largest economic stimulus packages in history after the President declared a National Economic Disaster, and the IRS extended the due date of tax returns after closing service centers all over the country. The light speed legislation, The CARES Act (Coronavirus Aid, Relief, and Economic Security Act, Public Law No. 116-136, March 27, 2020), offered much needed stimulus money to individuals and small businesses. The act was effective between March 1, 2020 and December 31, 2020. The legislation offered nearly immediate funding to small business owners through the Small Business Administration (SBA) in the form of loans or grants not only to assist businesses with operating funds but also to relieve the state unemployment systems which were already overburdened and underfunded before the pandemic shelter-in-place orders. On December 28, 2020 Congress passed the Consolidated Appropriations Act of 2021 which extended many provisions of The CARES Act as well as providing further guidance on the taxation of economic relief funds. Contained in the Consolidated Appropriations Act (the Omnibus bill) is the COVID-related Tax Relief Act of 2020 (COVID Act) which directly addresses changes in handling of certain provisions of The CARES Act.

The learning objectives for this course are:

- ✓ Review the funding options provided under the CARES Act
- ✓ Differentiate between the loans and grants
- ✓ Discuss the loan forgiveness process
- ✓ Determine the taxation of loans and grants
- ✓ Understand the restrictions on expenses of the loans and the impact on Partner/Shareholder Basis
- ✓ Discuss changes to Employee Retention Credit under the COVID-related Tax Relief Act of 2020
- ✓ Review changes in Casualty Loss Rules

Review CARES Act Funding Options

The CARES Act provided much needed relief to small businesses during the COVID-19 pandemic. Congress charged the Small Business Administration (SBA) with administering, processing and ultimately verifying compliance with the programs. The funding options provided consisted of Economic Injury Disaster Loans (EIDL), Economic Injury Disaster Loan Advance (EIDLA) and the Paycheck Protection Program (PPP). Small businesses and private nonprofit organizations in the United States, Washington DC and territories were eligible to apply for the loan programs. Originally these programs were set to expire or had already expired by tax year ending December 31, 2020. However, the Omnibus bill extended the provisions and offers a second round of funding for certain small business taxpayers.

Review of COVID-related Tax Relief Act of 2020

The COVID-related Tax Relief Act of 2020 (the COVID Act) specifically targets small business taxpayers in the hardest hit industries by offering a second round of PPP funding. Section 311 (37)(A)(iv) defines and eligible entity as follows:

- “any business concern” including nonprofit, housing cooperative, veteran organization, tribal business, self-employed individual, sole proprietor, independent contractor, or small agricultural cooperative: and
- Has less than 300 employees; and
- Has a 25% reduction in gross receipts in a calendar quarter as compared to the same calendar quarter in calendar year 2019.

For first time PPP borrowers the following eligibility criteria must be met:

- “any business concern” including nonprofit, housing cooperative, veteran organization, tribal business, self-employed individual, sole proprietor, independent contractor, or small agricultural cooperative: and
- Has less than 500 employees; and
- In operation February 15, 2020; and

- Eligible under the SBA 7(a) loan program; and
- Does NOT have to meet the 25% gross receipts restriction.

Industry Specific COVID Act PPP Loan

For the hardest hit industries, those specifically with NAICS code sector 72, Accommodation and Food Sector, will use the following multiples for their loan disbursements:

- Average total monthly payroll costs incurred or paid, the lesser of
 - 1-year period before the date of the loan; or
 - Calendar year 2019; or
 - 3.5 times average monthly payroll costs; or
 - \$ 2,000,000.
- Not more than 500 employees
- 25% reduction of Gross Receipts

Loans and Grants

The EIDL is a loan administered by the SBA. Taxpayers applied through the SBA website, signed a promissory note with the SBA and promised to repay the loan to the SBA. There was a minimum loan amount was \$ 15,000 for this program. There are no restrictions placed on the use of funds received under this program; like every working capital loan received from a regional or local bank. The EIDL has an amortization term of thirty (30) years, 3.75% annual interest rate and payment deferral of one (1) year from the date of funding. Interest begins accruing on the date of funding; payments will be accepted during the deferral period. Because the EIDL is a loan the income received is not taxable. The COVID Act extends this program through December 31, 2021.

Example: Whoville Manufacturing Inc, taxed as an S Corp, received an EIDL of \$ 45,000 on April 22, 2020. They until April 22, 2021 to begin making their payments.

Journal Entry: Cash/Checking \$ 45,000

The Economic Injury Disaster Loan Advance (EIDLA) on the other hand is a Grant to eligible small businesses or nonprofits. Eligible recipients could receive up to \$ 1,000 per employee and per owner, with a maximum of \$ 10,000 per entity. There was a short life for this program and funding was exhausted quickly. Because the EIDLA is a grant it was first considered taxable income under I.R.C §61. The COVID Act precludes this from income suggesting when Congress passed the CARES Act its' intent was to exclude it from income, hence "the Sense of Congress" (COVID Act § 333(b)). Additionally, there is no longer an interplay between the EIDLA and the PPP in that the amount of loan forgiven under the PPP (discussed later) will not be reduced by the amount of EIDLA received (§ 333 (c) repeal of § 1110 (e)(6) of the CARES Act). In fact, the EIDLA will be treated as "tax-exempt" income thereby affecting basis calculations for Partners or Shareholders, (§ 278(b)). Basis will be discussed later. The COVID Act further extended this funding program to December 31, 2021. (COVID Act § 332)

Example: Whoville Manufacturing Inc, taxed as an S Corp, had 5 employees plus 2 owners, they received an EIDLA of \$ 7,000 (\$ 1,000 per employee and owners).

Journal Entry: Cash/Checking \$ 7,000
 Tax-Exempt Income 7,000

Question: How do I differentiate between the EIDL and the EIDLA, the client says they do not know.

Answer: There will be 2 separate deposits into the bank and the EIDL requires the borrower to sign loan documents. The deposits will look like this:

External Deposit SBAD TREAS 310 - MISC PAY	\$ 7,000
NTE*PMT*EIDLADV: _____ \ EIDLADV: _____	

The Paycheck Protection Program from the CARES Act was followed by the Paycheck Protection Program Flexibility Act of 2020 (Pub. L., No. 116-142). Both will be referred to as PPP hereafter. The PPP was designed to provide relatively immediate funding to eligible small businesses and nonprofits to pay for specific expenses, payroll, state unemployment (SUTA), rents, mortgage interest and covered utilities. Originally the PPP restricted eligible expenses to 75% for payroll and the remaining 25% for the other eligible expenses, however that changed with the PPP Flexibility Act to 60% for payroll and 40% remaining for the other eligible expenses (CARES Act §1106(d)(8)). It also allows for funds received to potentially be forgiven. While the funds will ultimately be disbursed from the SBA as presented in the CARES Act, it will be administered through the banking system; taxpayers apply through local or regional lenders to obtain the PPP loan. As stated earlier the PPP has strict spending requirements, as well as strict guidelines to what amounts will be forgiven. This funding program ended August 8, 2020. The loans were based upon 2.5 times the average monthly payroll for 2019 with an optional safe harbor of 2.5 months of 2019 net income for self-employed individuals.

The COVID Act expanded the program to include a “second draw” for those who already received a loan and opens it up to businesses that had not taken a loan before. The new qualifications are primarily found in Title III § 302 - § 304. Eligible taxpayers will need to apply through their local or regional lender and the SBA will administer the program like the first round of PPP. The SBA has ten (10) days from the date of enactment (December 28, 2020) to provide guidance. The covered period ends March 31, 2021. All criteria from the CARES Act PPP are relevant, the COVID Act expands the 40% non-payroll expense items to include the following (§ 304(2)(3-9):

- Covered Operations – “...*business software or cloud computing service that facilitates business operations, product or service deliver, the processing, payment, or tracking of payroll expenses, human resources, sales and billing functions, or accounting or tracking of supplies, inventory, records and expenses;*”

- Covered Property Damage – “...cost related to property damage and vandalism or looting due to public disturbances that occurred during 2020 that was not covered by insurance or other compensation;”
- Covered Supplier Costs – “...an expenditure made by an entity to a supplier for goods for the supply of goods that (A) are essential to the operations of the entity at the time of which the expenditure is made; and (B) made pursuant to a contract order, or purchase order...”
- Covered Worker Protection – “...operating or a capital expenditure to facilitate the adaptation of the business activities or an entity to comply with requirements established or guidance issued by the Department of Health and Human Services, the Centers for Disease Control, or the Occupational Safety and Health Administration, or any equivalent...” Expenses may include renovations to property, plant, and equipment to comply with guidance. For example, “...assets that create or expand drive-through window facility; indoor, outdoor, or combined air or air pressure ventilation or filtration systems; or physical barrier such as a sneeze guard...”

PPP Loan Forgiveness

For the PPP loan to be forgiven, the taxpayer must apply for forgiveness “within 10 months after the last day of the borrower’s loan forgiveness covered period...” (CARES Act 1106(a)). The covered period is determined by when a taxpayer received their loan. If the taxpayer received the funds prior to June 5, 2020 they may choose either an 8-week covered period or a 24-week covered period otherwise the covered period is 24-weeks. Regardless of which covered period is chosen it must begin on February 15, 2020 and end on March 31, 2021 (The COVID Act § 343). The following additional criteria must also be met for loan forgiveness:

1. Annual salaries or hourly wages may not decrease by more than 25% compared to January 1, 2020 through March 31, 2020;
2. Salary limitations for employees receiving more than \$ 100,000 annually (\$ 15,384.62 prorated for 8-week covered period or \$ 46,154 for 24-week covered period);

3. Owner compensation is limited to the SMALLER of \$ 15,384.62 for 8-week covered period or \$ 20,833 for 24-week covered period or the prorate of 2.5x their monthly compensation/equivalent from 2019;
4. Full-time equivalent (FTE) employee headcount could not have decreased between January 1, 2020 and the end of the covered period. FTE is defined as 40 hours on average with aggregation for part-time employees. (Act §1106(d)(2));
5. FTE safe harbor allows the taxpayer to elect a reference period between February 15, 2019 through June 30, 2019 OR January 1, 2020 through February 29, 2020; AND
6. Seasonal employers may elect the 12-week period from May 1, 2019 through September 15, 2019.

Early in the pandemic many employees expressed concern in returning to the workplace, some due to the enhanced state unemployment benefits provided under the CARES Act, others genuinely out of fear of contracting the virus. To not penalize employers who received PPP funding but fell short of their FTE headcount requirements, the Treasury and the SBA provided guidance that indicated new hires may fill the FTE headcount requirements.

Once the taxpayer has decided to request forgiveness of qualified amounts, their first step is to contact their lender. Many lenders are providing online portals to handle the forgiveness process, others are requiring borrowers to complete SBA Form 3508EZ, SBA form 3508S or SBA Form 3508. Copies of all forms may be found in the Appendix. The COVID Act provides streamlined forgiveness for loans less than \$ 150,000. The SBA has 24 days from the date of enactment (December 28, 2020) to provide a one (1) page loan forgiveness application, with minimal verification required by the borrower. (SBA form is unavailable at the time of writing)

The loan terms of any unforgiven amount are as follows:

- Annual interest rate of 1%;
- Amortized over 2 years for loans received prior to June 5, 2020 or 5 years if the lender agrees;
- Amortized over 5 years for loans received after June 5, 2020.

Taxation of Loans and Grants

Funds received from Economic Injury Disaster Loans (EIDL) are not taxable as they are working capital loans without use restrictions. The Economic Injury Disaster Loan Advance (EIDLA) is also tax-exempt income. The Paycheck Protection Program Loans (PPP) are tax-exempt income and amounts of the PPP that are not forgiven will become a loan payable. (CARES Act §1106(i))

Any amount of the PPP loan that is forgiven under Act §1106(i) is excluded from gross income and is not considered cancellation of debt under I.R.C. §108. This is particularly important because normally cancellation of debt includes debt forgiveness. However, the CARES Act specifically excludes it from income. Therefore, excluding it from cancellation of debt under I.R.C. §108. Equally as important is I.R.C. §265, indicating when income is excluded so too are any deductions/expense paid out of those funds. Further guidance regarding the restrictions on deductions/expenses may be found in IRS Notice 2020-32 issued May 1, 2020 as well as Rev. Proc. 2020-27 issued April 15, 2020 and Rev. Proc 2020-51 issued November 19, 2020. Rev. Rul. 2021-2, issued on January 6, 2021, makes IRS Notice 2020-32 and Rev. Rul. 2020-27 obsolete.

However, because of the “Sense of Congress” in the COVID-related Tax Relief Act of 2020 all-expenses paid out of PPP funds are now deductible. (COVID Act §276) The amount of PPP forgiven will be treated as Tax Exempt Income thereby only affecting the Partner/Shareholders basis and all expenses are deductible.

The CARES Act provided many funding options to small business taxpayers during an unprecedented pandemic. The Economic Injury Disaster Loan, the Economic Injury Disaster Loan Advance as well as the Paycheck Protection Program Loan provided viable funding options to help taxpayers maintain their businesses and are not included in income. The CARES Act also provided payment relief for businesses with existing SBA 504 or 7(a) loans where the SBA would pay up to six (6) months of payments on those existing loans. The COVID Act repealed the taxation of these payments and treats the payments made by the SBA treated as tax-exempt again affecting on basis. The COVID Act increased the “payment deferral” to one year (§ 334(B)(i)).

Basis Impact of Loan Forgiveness

The COVID Act indicates in multiple sections that the EIDL Advance and any amounts forgiven under either of the Paycheck Protection Loan Programs shall not be included in income but rather will be treated as tax-exempt income. Additionally, amounts paid on behalf of a taxpayer, by the SBA for example, are also treated as tax-exempt income. Tax-exempt income for pass through entities are separately stated items that affect a Partner or Shareholders Basis. The COVID Act goes on to stipulate that this income “...shall be treated as tax exempt income for purposes of (I.R.C. 1986) § 705 and § 1366...the Secretary of Treasury (or the Secretary’s delegate) shall prescribe rules for determining a partner’s distributive share of any amount described in subparagraph (A) for purposes of section 705 of the Internal Revenue Code of 1986.” Tax-exempt income by nature increases basis, so the impact of amounts excluded from income under either the CARES Act or the COVID Act will increase basis as well. There will be book-to-tax adjustments at the entity level, with inside and outside basis implications.

Example: Whoville Manufacturing Inc, taxed as an S Corp, received an EIDLA of \$ 7,000 as well as a PPP of \$ 25,000. Whoville Manufacturing meets all the criteria for PPP loan forgiveness. Whoville will have \$ 25,000 forgiven. There are two shareholders of the S Corp.

Worksheet for Figuring a Shareholder's Stock and Debt Basis					
Part 1 -- Shareholder Stock Basis					
1	Stock basis at the beginning of the corporations tax year			1	8,000.00
2	Basis from any capital contributions made or additional stock acquired during the tax year			2	
3a	Ordinary business income	a			
b	Net rental real estate income	b	22,000.00		
c	Other net rental income	c			
d	Interest income	d	53.00		
e	Ordinary dividends	e			
f	Royalties	f			
g	Net capital gains	g			
h	Net section 1231 gain	h			
i	Other income	i			
j	Excess depletion adjustment	j			
k	Tax-exempt income	k	32,000.00		
l	Recapture of business credits	l			
m	Other items that increase stock basis	m			
4	Add lines 3a through 3m		54,053.00		
5	Stock basis before distributions. Add lines 1, 2, and 4			5	62,053.00
6	Distributions (excluding dividend distributions)			6	
	Note: If line 6 is larger than line 5, subtract line 5 from line 6 and report the result as a capital gain on Form 8949 and Schedule D				
7	Stock basis after distributions. Subtract line 6 from line 5. If the result is < zero, enter -0-, skip lines 8 through 14 and enter -0- on line 15			7	62,053.00
8a	Nondeductible expenses	a	1,100.00		
b	Depletion for oil and gas	b			
9	Add lines 8a and 8b		1,100.00		
10	Stock basis before loss and deduction items. Subtract line 9 from line 7. If the result is < zero, enter -0-, skip lines 11 through 14, and enter -0- on line 15			10	60,953.00
11	Allowable loss and deduction items.	11	43,050.00		
12	Debt basis restoration	12			
13	Other items that decrease stock basis	13			
14	Add lines 11, 12, and 13		43,050.00		
15	Stock basis at the end of the corporations tax year. Subtract line 14 from line 10. If the result is < zero, enter -0-			15	17,903.00

Basis Limitations

While the COVID Act, under the “Sense of Congress”, made taxpayers whole by allowing expenses paid out of PPP funds to be deductible and/or by excluding EIDLA and other grant funds from taxable income, these provisions may still have a profound impact on Partners or Shareholders. The service has been extremely focused over the years on pass-through entities, specifically targeting basis calculations of its Partners or Shareholders, in fact beginning in 2020 the LB & I division of the IRS began sending out Letter 5969 to Partners or Shareholders requesting basis clarification.

The tax-exempt income reported under the COVID Act provisions will directly affect basis. In addition to computing basis is the application of I.R.C § 465, Deductions Limited to At-Risk as well as I.R.C. § 469, Passive Activity Losses and Credits Limited.

I.R.C. § 465 – “...engaged in an activity to which this section applies, any loss from such activity for the taxable year shall be allowed only to the extent of the aggregate amount with respect to which the taxpayer is at risk (within the meaning of subsection (b)) for such activity at the close of the taxable year.”

- 465(b)(1) *In general.*— For purposes of this section, a taxpayer shall be considered at risk for an activity with respect to amounts including—
- 465(b)(1)(A) – the amount of money and the adjusted basis of other property contributed by the taxpayer to the activity, and
- 465(b)(1)(B) – amounts borrowed with respect to such activity (as determined under paragraph (2)).

I.R.C. § 469

- **469©(1) In general.**—The term “passive activity” means any activity
- **469©(1)(A)** – which involves the conduct of any trade or business, and
- **469©(1)(B)** – in which the taxpayer does not materially participate.

Due to time constraints of this course, we are unable to discuss the At-Risk and Passive Loss Limitations in more detail as they are complicated issues beyond the scope of this course.

Employee Retention Credit

Taxpayer Certainty & Disaster Relief Act of 2020 (Division EE, Title II, § 206 & 207)

The CARES Act provided several credits to employers, Sick Leave, Family Leave, and the Employee Retention Credit. Originally if a taxpayer/entity received a PPP Loan they were not eligible to receive the Employee Retention Credit (ERC). The COVID Act amended that indicating an eligible employer may take the ERC so long as the same wage dollar is not used for both. It expands the ERC the 1st and 2nd Quarter of 2021 to 70% of qualified wages, capped at \$ 10,000 per employee, per quarter, repealing the 50% qualified wages and \$ 10,000 per year criteria stated in the CARES Act. There is also a carryforward provision should qualify wages exceed the threshold. Gross receipts must have decreased by 20% rather than the 50% origin provision under the CARES Act. Qualified wages have also been expanded to include the employer portion of health insurance costs, (insurance premiums, FSA or HSA contributions).

The COVID Act provision also makes the ERC retroactive back to January 1, 2020 with the new provisions expiring on June 30, 2021. (COVID Act § 207 and (Alistair M Nevius, 2020)) If an employer is going to take advantage of the retroactive credit, the 2020 criteria remain unchanged under the CARES Act.

The ERC is reported on quarterly or annual payroll returns, Form 941, Employer's Quarterly Federal Tax Return, Form 944, Employer's Annual Federal Tax Return, or Form 943, Employer's Annual Federal Tax Return for Agricultural Employees. Advance payment of the ERC may be filed on Form 7200, Advance Payment of Employer Credits Due to COVID-19. Form 7200 must be filed prior to filing either Form 941 or 943 and will reconcile back to Form 941 or 943.

Example: Whoville Manufacturing Inc, taxed as an S Corp, received a PPP of \$ 25,000 and payroll cost of \$ 30,000. Whoville used the PPP funds over two months in the same quarter as well as paying the remaining \$ 5,000 of payroll costs. Whoville is eligible for the ERC on \$ 5,000 of the payroll cost.

Form **941 for 2020: Employer's QUARTERLY Federal Tax Return**
(Rev. July 2020) Department of the Treasury — Internal Revenue Service

950120
OMB No. 1545-0029

Employer identification number (EIN) -

Name (not your trade name) WhoVille Manufacturing Inc

Trade name (if any)

Address 1 Grinch Lane

Number Street Suite or room number

WhoVille MI

City State ZIP code

Foreign country name Foreign province/county Foreign postal code

Report for this Quarter of 2020
(Check one.)

☐ 1: January, February, March

☐ 2: April, May, June

☐ 3: July, August, September

☒ 4: October, November, December

Go to www.irs.gov/Form941 for instructions and the latest information.

Read the separate instructions before you complete Form 941. Type or print within the boxes.

Part 1: Answer these questions for this quarter.

1 Number of employees who received wages, tips, or other compensation for the pay period including: Sept. 12 (Quarter 3) or Dec. 12 (Quarter 4) 1

2 Wages, tips, and other compensation 2 30000 . 00

3 Federal income tax withheld from wages, tips, and other compensation 3 6000 . 00

4 If no wages, tips, and other compensation are subject to social security or Medicare tax ☐ Check and go to line 6.

	Column 1	Column 2
5a Taxable social security wages	<input type="text"/> 30000 . 00	<input type="text"/> 3720 . 00
5a (i) Qualified sick leave wages	<input type="text"/> .	<input type="text"/> .
5a (ii) Qualified family leave wages	<input type="text"/> .	<input type="text"/> .
5b Taxable social security tips	<input type="text"/> .	<input type="text"/> .
5c Taxable Medicare wages & tips	<input type="text"/> 30000 . 00	<input type="text"/> 870 . 00
5d Taxable wages & tips subject to Additional Medicare Tax withholding <input type="text"/> .	<input type="text"/> .	<input type="text"/> .
5e Total social security and Medicare taxes. Add Column 2 from lines 5a, 5a(i), 5a(ii), 5b, 5c, and 5d		<input type="text"/> 4590 . 00
5f Section 3121(q) Notice and Demand—Tax due on unreported tips (see instructions)		<input type="text"/> .
6 Total taxes before adjustments. Add lines 3, 5e, and 5f		<input type="text"/> 10590 . 00
7 Current quarter's adjustment for fractions of cents		<input type="text"/> .
8 Current quarter's adjustment for sick pay		<input type="text"/> .
9 Current quarter's adjustments for tips and group-term life insurance		<input type="text"/> .
10 Total taxes after adjustments. Combine lines 6 through 9		<input type="text"/> 10590 . 00
11a Qualified small business payroll tax credit for increasing research activities. Attach Form 8974		<input type="text"/> .
11b Nonrefundable portion of credit for qualified sick and family leave wages from Worksheet 1		<input type="text"/> .
11c Nonrefundable portion of employee retention credit from Worksheet 1		<input type="text"/> 1860 . 00

► You MUST complete all three pages of Form 941 and SIGN it. **Next** ➡

For Privacy Act and Paperwork Reduction Act Notice, see the back of the Payment Voucher. Cat. No. 17001Z Form 941 (Rev. 7-2020)

950220

Name (not your trade name)	Employer identification number (EIN)
Whoville Manufacturing Inc	

Part 1: Answer these questions for this quarter. (continued)

11d	Total nonrefundable credits. Add lines 11a, 11b, and 11c	11d	1860 . 00
12	Total taxes after adjustments and nonrefundable credits. Subtract line 11d from line 10	12	8730 . 00
13a	Total deposits for this quarter, including overpayment applied from a prior quarter and overpayments applied from Form 941-X, 941-X (PR), 944-X, or 944-X (SP) filed in the current quarter	13a	10590 . 00
13b	Deferred amount of social security tax	13b	.
13c	Refundable portion of credit for qualified sick and family leave wages from Worksheet 1	13c	.
13d	Refundable portion of employee retention credit from Worksheet 1	13d	640 . 00
13e	Total deposits, deferrals, and refundable credits. Add lines 13a, 13b, 13c, and 13d	13e	11230 . 00
13f	Total advances received from filing Form(s) 7200 for the quarter	13f	.
13g	Total deposits, deferrals, and refundable credits less advances. Subtract line 13f from line 13e	13g	11230 . 00
14	Balance due. If line 12 is more than line 13g, enter the difference and see instructions	14	.
15	Overpayment. If line 13g is more than line 12, enter the difference	2500 . 00	Check one: <input type="checkbox"/> Apply to next return. <input checked="" type="checkbox"/> Send a refund.

Part 2: Tell us about your deposit schedule and tax liability for this quarter.

If you're unsure about whether you're a monthly schedule depositor or a semiweekly schedule depositor, see section 11 of Pub. 15.

16 Check one: ☐ Line 12 on this return is less than \$2,500 or line 12 on the return for the prior quarter was less than \$2,500, and you didn't incur a \$100,000 next-day deposit obligation during the current quarter. If line 12 for the prior quarter was less than \$2,500 but line 12 on this return is \$100,000 or more, you must provide a record of your federal tax liability. If you're a monthly schedule depositor, complete the deposit schedule below; if you're a semiweekly schedule depositor, attach Schedule B (Form 941). Go to Part 3.

☒ You were a monthly schedule depositor for the entire quarter. Enter your tax liability for each month and total liability for the quarter, then go to Part 3.

Tax liability: Month 1	5295 . 00
Month 2	5295 . 00
Month 3	.
Total liability for quarter	10590 . 00

Total must equal line 12.

☐ You were a semiweekly schedule depositor for any part of this quarter. Complete Schedule B (Form 941), Report of Tax Liability for Semiweekly Schedule Depositors, and attach it to Form 941. Go to Part 3.

► You MUST complete all three pages of Form 941 and SIGN it.

Next ►

Worksheet 1. Credit for Qualified Sick and Family Leave Wages and the Employee Retention Credit

Keep for Your Records



Determine how you will complete this worksheet

If you paid both qualified sick and family leave wages and qualified wages for purposes of the employee retention credit this quarter, complete Step 1, Step 2, and Step 3. If you paid qualified sick and family leave wages this quarter but you didn't pay any qualified wages for purposes of the employee retention credit this quarter, complete Step 1 and Step 2. If you paid qualified wages for purposes of the employee retention credit this quarter but you didn't pay any qualified sick and family leave wages this quarter, complete Step 1 and Step 3.

Step 1. Determine the employer share of social security tax this quarter after it is reduced by any credit claimed on Form 8974 and any credit to be claimed on Form 5884-C			
1a	Enter the amount of social security tax from Form 941, Part 1, <u>line 5a</u> , column 2	1a	3720.00
1b	Enter the amount of social security tax from Form 941, Part 1, <u>line 5b</u> , column 2	1b	3720.00
1c	Add lines 1a and 1b	1c	1860.00
1d	Multiply line 1c by 50% (0.50)	1d	1860.00
1e	If you're a third-party payer of sick pay that isn't an agent and you're claiming credits for amounts paid to your employees, enter the employer share of social security tax included on Form 941, Part 1, <u>line 8</u> (enter as a positive number)	1e	
1f	Subtract line 1e from line 1d	1f	1860.00
1g	If you received a Section 3121(g) Notice and Demand during the quarter, enter the amount of the employer share of social security tax from the notice	1g	
1h	Employer share of social security tax. Add lines 1f and 1g	1h	1860.00
1i	Enter the amount from Form 941, Part 1, <u>line 11a</u> (credit from Form 8974)	1i	
1j	Enter the amount to be claimed on Form 5884-C, line 11, for this quarter	1j	
1k	Total nonrefundable credits already used against the employer share of social security tax. Add lines 1i and 1j	1k	0.00
1l	Employer share of social security tax remaining. Subtract line 1k from line 1h	1l	1860.00
Step 2. Figure the sick and family leave credit			
2a	Qualified sick leave wages reported on Form 941, Part 1, <u>line 5a(i)</u> , column 1	2a	
2a(i)	Qualified sick leave wages included on Form 941, Part 1, line 5c, but not included on Form 941, Part 1, line 5a(i), column 1, because the wages reported on that line were limited by the social security wage base	2a(i)	
2a(ii)	Total qualified sick leave wages. Add lines 2a and 2a(i)	2a(ii)	
2b	Qualified health plan expenses allocable to qualified sick leave wages (Form 941, Part 3, <u>line 19</u>)	2b	
2c	Employer share of Medicare tax on qualified sick leave wages. Multiply line 2a(ii) by 1.45% (0.0145)	2c	
2d	Credit for qualified sick leave wages. Add lines 2a(ii), 2b, and 2c	2d	
2e	Qualified family leave wages reported on Form 941, Part 1, <u>line 5a(ii)</u> , column 1	2e	
2e(i)	Qualified family leave wages included on Form 941, Part 1, line 5c, but not included on Form 941, Part 1, line 5a(ii), column 1, because the wages reported on that line were limited by the social security wage base	2e(i)	
2e(ii)	Total qualified family leave wages. Add lines 2e and 2e(i)	2e(ii)	
2f	Qualified health plan expenses allocable to qualified family leave wages (Form 941, Part 3, <u>line 20</u>)	2f	
2g	Employer share of Medicare tax on qualified family leave wages. Multiply line 2e(ii) by 1.45% (0.0145)	2g	
2h	Credit for qualified family leave wages. Add lines 2e(ii), 2f, and 2g	2h	
2i	Credit for qualified sick and family leave wages. Add lines 2d and 2h	2i	
2j	Nonrefundable portion of credit for qualified sick and family leave wages. Enter the smaller of line 1l or line 2i. Enter this amount on Form 941, Part 1, line 11b	2j	
2k	Refundable portion of credit for qualified sick and family leave wages. Subtract line 2j from line 2i and enter this amount on Form 941, Part 1, line 13c	2k	
Step 3. Figure the employee retention credit			
3a	Qualified wages (excluding qualified health plan expenses) for the employee retention credit (Form 941, Part 3, <u>line 21</u>)	3a	5000.00
3b	Qualified health plan expenses allocable to qualified wages for the employee retention credit (Form 941, Part 3, <u>line 22</u>)	3b	
3c	Add lines 3a and 3b	3c	5000.00
3d	Retention credit. Multiply line 3c by 50% (0.50)	3d	2500.00
3e	Enter the amount of the employer share of social security tax from Step 1, line 1l	3e	1860.00
3f	Enter the amount of the nonrefundable portion of the credit for qualified sick and family leave wages from Step 2, line 2j	3f	
3g	Subtract line 3f from line 3e	3g	1860.00
3h	Nonrefundable portion of employee retention credit. Enter the smaller of line 3d or line 3g. Enter this amount on Form 941, Part 1, line 11c	3h	1860.00
3i	Refundable portion of employee retention credit. Subtract line 3h from line 3d and enter this amount on Form 941, Part 1, line 13d	3i	640.00

Casualty Loss Update

The Tax Cuts and Jobs Act of 2017 (TCJA), Pub. L. No. 115-97 restricted the types of individual casualty losses to those in federally declared disaster areas. The TCJA does include a provision requiring gain recognition on a casualty outside of a federally declared disaster area. For an event to qualify as a casualty, aside from being in a federally declared disaster area, it must be sudden, unexpected, and unusual. The event may not be due to normal wear and tear, gradual or progressive deterioration.

Casualty Examples: hurricanes, tornadoes, earthquakes, fire, flood, automobile accident, terrorist, vandalism, or economic etc.

Non-Casualty Examples: termite damage, rotten timber, infestation of plants not used in trade or business, etc.

There are several steps to calculating the individual casualty loss:

1. Deduction limitation – the lesser of the adjusted tax basis or decrease in fair market value (FMV) of the property.
2. Reductions –
 - a. Insurance proceeds
 - b. \$ 100 per casualty event; AND
 - c. 10% of taxpayers adjusted gross income (AGI) for all casualty events for the tax year.
 - d. For federally declared disasters declared before February 19, 2020 and occurred in 2018 but before December 21, 2019 through January 19, 2020 the \$ 100 per casualty increased to \$ 500 and the 10% AGI reduction was eliminated.
3. Report Casualty on Schedule A of Form 1040 – if a taxpayer does not use the Schedule A for the casualty loss, they will receive no tax benefit.

Congress has provided relief from penalties in federally declared disaster areas when taxpayers withdraw funds from the retirement plans to rebuild following a casualty. The CARES Act provides for that 10% penalty relief, I.R.C. §72(t)(2), again. The Act allows an individual to withdraw up to \$ 100,000 penalty free; it further adds a three-year repayment or tax-free rollover provision.

To qualify for the penalty, repayment or tax-free rollover the individual must meet the following criteria:

1. Diagnosed with COVID-19, verified with testing;
2. Spouse or dependent is diagnosed, verified with testing;
3. Experiences adverse financial consequences due to quarantine, furlough, lay off, work reduction due to COVID-19;
4. Experiences adverse financial consequences due to childcare, school, business closures due to COVID-19.

Appendix A – SBA PPP Forgiveness Procedures



Paycheck Protection Program Loan Forgiveness

For Borrowers

Paycheck Protection Program (PPP) borrowers may be eligible for loan forgiveness if the funds were used for eligible payroll costs, payments on business mortgage interest payments, rent, or utilities during either the 8- or 24-week period after disbursement. A borrower can apply for forgiveness once it has used all loan proceeds for which the borrower is requesting forgiveness. Borrowers can apply for forgiveness any time up to the maturity date of the loan. If borrowers do not apply for forgiveness within 10 months after the last day of the covered period, then PPP loan payments are no longer deferred and borrowers will begin making loan payments to their PPP lender.

How to Apply for Loan Forgiveness

1. Contact your PPP Lender and complete the correct form

Your Lender can provide you with either the SBA Form 3508, SBA Form 3508EZ, SBA Form 3508S, or a Lender equivalent.

The 3508EZ and the 3508S are shortened versions of the application for borrowers who meet specific requirements. Your Lender can provide further guidance on how to submit the application.



2. Compile your documentation

Payroll (provide documentation for all payroll periods that overlapped with the Covered Period or the Alternative Payroll Covered Period):

- Bank account statements or third-party payroll service provider reports documenting the amount of cash compensation paid to employees.
- Tax forms (or equivalent third-party payroll service provider reports) for the periods that overlap with the Covered Period or the Alternative Payroll Covered Period:
 - Payroll tax filings reported, or that will be reported, to the IRS (typically, Form 941); and
 - State quarterly business and individual employee wage reporting and unemployment insurance tax filings reported, or that will be reported, to the relevant state.
- Payment receipts, cancelled checks, or account statements documenting the amount of any employer contributions to employee health insurance and retirement plans that the borrower included in the forgiveness amount.



Non-payroll (for expenses that were incurred or paid during the covered period and showing that obligations or services existed prior to February 15, 2020):

- Business mortgage interest payments: Copy of lender amortization schedule and receipts verifying payments, or lender account statements.
- Business rent or lease payments: Copy of current lease agreement and receipts or cancelled checks verifying eligible payments.
- Business utility payments: Copies of invoices and receipts, cancelled checks or account statements.

This list of documents required to be submitted to the Lender is not all-inclusive. Please refer to www.sba.gov/ppp for a complete list of requirements, instructions and forms.

3. Submit the forgiveness form and documentation to your PPP Lender



Complete your loan forgiveness application and submit it to your Lender with the required supporting documents and follow up with your Lender to submit additional documentation as requested. Consult your Lender for additional guidance and provide requested documentation in a timely manner.

4. Continue to communicate with your Lender throughout the process



If SBA undertakes a loan review of your loan, your Lender will notify you of the review and the SBA loan review decision. You have the right to appeal certain SBA loan review decisions. Your Lender is responsible for notifying you of the forgiveness amount paid by SBA and the date on which your first payment will be due, if applicable.

Please Note:

If applicable, SBA will deduct any EIDL advance amount you have received from the forgiveness amount remitted to the Lender, as required by section 1110(e)(6) of the CARES Act. Borrowers are required to retain certain documents for six years after the date the loan is forgiven or repaid in full.

Questions? Contact your PPP Lender or find more information at www.sba.gov/ppp



All SBA programs and services are extended to the public on a non-discriminatory basis. (10/2020)

Appendix B – SBA Form 3508EZ



Paycheck Protection Program PPP Loan Forgiveness Application Form 3508EZ

OMB Control No. 3245-0407
Expiration Date: 11/30/2020

PPP LOAN FORGIVENESS APPLICATION FORM 3508EZ INSTRUCTIONS FOR BORROWERS

Checklist for Using SBA Form 3508EZ

You (the Borrower) can apply for forgiveness of your Paycheck Protection Program (PPP) loan using this SBA Form 3508EZ if you can check at least one of the three boxes below. Do not submit this Checklist with your SBA Form 3508EZ.

- ☐ The Borrower is a self-employed individual, independent contractor, or sole proprietor who had no employees at the time of the PPP loan application and did not include any employee salaries in the computation of average monthly payroll in the Borrower Application Form (SBA Form 2483).
- ☐ The Borrower did not reduce annual salary or hourly wages of any employee by more than 25 percent during the Covered Period or the Alternative Payroll Covered Period (as defined below) compared to the period between January 1, 2020 and March 31, 2020 (for purposes of this statement, "employees" means only those employees that did not receive, during any single period during 2019, wages or salary at an annualized rate of pay in an amount more than \$100,000);
AND
The Borrower did not reduce the number of employees or the average paid hours of employees between January 1, 2020 and the end of the Covered Period. (Ignore reductions that arose from an inability to rehire individuals who were employees on February 15, 2020 if the Borrower was unable to hire similarly qualified employees for unfilled positions on or before December 31, 2020. Also ignore reductions in an employee's hours that the Borrower offered to restore and the employee refused. See [85 FR 33004](#), 33007 (June 1, 2020) for more details.
- ☐ The Borrower did not reduce annual salary or hourly wages of any employee by more than 25 percent during the Covered Period or the Alternative Payroll Covered Period (as defined below) compared to the period between January 1, 2020 and March 31, 2020 (for purposes of this statement, "employees" means only those employees that did not receive, during any single period during 2019, wages or salary at an annualized rate of pay in an amount more than \$100,000);
AND
The Borrower was unable to operate during the Covered Period at the same level of business activity as before February 15, 2020, due to compliance with requirements established or guidance issued between March 1, 2020 and December 31, 2020 by the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention, or the Occupational Safety and Health Administration, related to the maintenance of standards of sanitation, social distancing, or any other work or customer safety requirement related to COVID-19.

If you can check at least one of the three boxes above, complete this SBA Form 3508EZ in accordance with the instructions below, and **submit it to your Lender** (or the Lender that is servicing your loan). Borrowers may also complete this application electronically through their Lender. If you are unable to check one of the boxes above, you cannot use SBA Form 3508EZ and instead you must apply for forgiveness of your PPP loan using SBA Form 3508.

Instructions for PPP Loan Forgiveness Calculation Form 3508EZ

Business Legal Name ("Borrower")/DBA or Tradename (if applicable)/Business TIN (EIN, SSN): Enter the same information as on your Borrower Application Form (SBA Form 2483 or lender's equivalent).

Business Address/Business Phone/Primary Contact/E-mail Address: Enter the same information as on your Borrower Application Form, unless there has been a change in address or contact information.

SBA PPP Loan Number: Enter the loan number assigned by SBA at the time of loan approval. Request this number from the Lender if necessary.

Lender PPP Loan Number: Enter the loan number assigned to the PPP loan by the Lender.

PPP Loan Amount: Enter the disbursed principal amount of the PPP loan (the total loan amount you received from the Lender).

Employees at Time of Loan Application: Enter the total number of employees at the time of the PPP Loan Application.

Employees at Time of Forgiveness Application: Enter the total number of employees at the time the Borrower is applying for loan forgiveness.

PPP Loan Disbursement Date: Enter the date that you received the PPP loan proceeds from the Lender. If loan proceeds were received on more than one date, enter the first date on which you received PPP loan proceeds.



**Paycheck Protection Program
PPP Loan Forgiveness Application Form 3508EZ**

EIDL Advance Amount: If the Borrower received an Economic Injury Disaster Loan (EIDL) advance, enter the amount.

EIDL Application Number: If the Borrower applied for an EIDL, enter the Borrower's EIDL Application Number.

Payroll Schedule: Select the box that corresponds to your payroll schedule.

Covered Period: The Covered Period is either: (1) the 24-week (168-day) period beginning on the PPP Loan Disbursement Date, or (2) if the Borrower received its PPP loan before June 5, 2020, the Borrower may elect to use an eight-week (56-day) Covered Period. For example, if the Borrower is using a 24-week Covered Period and received its PPP loan proceeds on Monday, April 20, the first day of the Covered Period is April 20 and the last day of the Covered Period is Sunday, October 4. In no event may the Covered Period extend beyond December 31, 2020.

Alternative Payroll Covered Period: For administrative convenience, Borrowers with a biweekly (or more frequent) payroll schedule may elect to calculate eligible payroll costs using the 24-week (168-day) period or for loans received before June 5, 2020 at the election of the borrower, the eight-week (56-day) period that begins on the first day of their first pay period following their PPP Loan Disbursement Date. For example, if the Borrower is using a 24-week Alternative Payroll Covered Period and received its PPP loan proceeds on Monday, April 20, and the first day of its first pay period following its PPP loan disbursement is Sunday, April 26, the first day of the Alternative Payroll Covered Period is April 26 and the last day of the Alternative Payroll Covered Period is Saturday, October 10. Borrowers that elect to use the Alternative Payroll Covered Period must apply the Alternative Payroll Covered Period wherever there is a reference in this application to "the Covered Period or the Alternative Payroll Covered Period." However, Borrowers must apply the Covered Period (not the Alternative Payroll Covered Period) wherever there is a reference in this application to "the Covered Period" only. In no event may the Alternative Payroll Covered Period extend beyond December 31, 2020.

If Borrower Received PPP Loans in Excess of \$2 Million: Check the box if the Borrower, together with its affiliates (to the extent required under SBA's interim final rule on affiliates ([85 FR 20817](#) (April 15, 2020))) and not waived under 15 U.S.C. 636(a)(36)(D)(iv)), received PPP loans with an original principal amount in excess of \$2 million.

Forgiveness Amount Calculation (see Summary of Costs Eligible for Forgiveness below):

Line 1: Enter total eligible payroll costs incurred or paid during the Covered Period or the Alternative Payroll Covered Period. To calculate these costs, sum the following:

Cash Compensation: The sum of gross salary, gross wages, gross tips, gross commissions, paid leave (vacation, family, medical or sick leave, not including leave covered by the Families First Coronavirus Response Act), and allowances for dismissal or separation paid or incurred during the Covered Period or the Alternative Payroll Covered Period. For each individual employee, the total amount of cash compensation eligible for forgiveness may not exceed an annual salary of \$100,000, as prorated for the Covered Period. For an 8-week Covered Period, that total is \$15,385. For a 24-week Covered Period, that total is \$46,154 for purposes of this 3508EZ. You can only include compensation of employees who were employed by the Borrower at any point during the Covered Period or Alternative Payroll Covered Period and whose principal place of residence is in the United States.

Employee Benefits: The total amount paid by the Borrower for:

1. Employer contributions for employee health insurance, including employer contributions to a self-insured, employer-sponsored group health plan, but excluding any pre-tax or after-tax contributions by employees. Do not add employer health insurance contributions made on behalf of a self-employed individual, general partners, or owner-employees of an S-corporation, because such payments are already included in their compensation.
2. Employer contributions to employee retirement plans, excluding any pre-tax or after-tax contributions by employees. Do not add employer retirement contributions made on behalf of a self-employed individual or general partners, because such payments are already included in their compensation, and contributions on behalf of owner-employees are capped at 2.5 months' worth of the 2019 contribution amount.
3. Employer state and local taxes paid by the borrower and assessed on employee compensation (e.g., state unemployment insurance tax), excluding any taxes withheld from employee earnings.

Owner Compensation: Enter any amounts paid to owners (owner-employees, a self-employed individual, or general partners). For a 24-week Covered Period, this amount is capped at \$20,833 (the 2.5-month equivalent of \$100,000 per year) for each individual or the 2.5-month equivalent of their applicable compensation in 2019, whichever is lower. For an 8-week Covered Period, this amount is capped at 8/52 of 2019 compensation (up to \$15,385).

Line 2: Enter the amount of business mortgage interest payments paid or incurred during the Covered Period for any business mortgage obligation on real or personal property incurred before February 15, 2020. Do not include prepayments.



**Paycheck Protection Program
PPP Loan Forgiveness Application Form 3508EZ**

Line 3: Enter the amount of business rent or lease payments paid or incurred for real or personal property during the Covered Period, pursuant to lease agreements in force before February 15, 2020.

Line 4: Enter the amount of business utility payments paid or incurred during the Covered Period, for business utilities for which service began before February 15, 2020.

NOTE: For lines 2-4, you are not required to report payments that you do not want to include in the forgiveness amount.

Line 5: Add lines 1 through 4, enter the total.

Line 6: Enter the PPP Loan Amount.

Line 7: Divide the amount on line 1 by 0.60, and enter the amount. This determines whether at least 60% of the potential forgiveness amount was used for payroll costs.

Line 8: Enter the smallest of lines 5, 6, or 7. Note: If applicable, SBA will deduct EIDL Advance Amounts from the forgiveness amount remitted to the Lender.

Summary of Costs Eligible for Forgiveness:

Borrowers are eligible for loan forgiveness for the following costs:

1. **Eligible payroll costs.** Borrowers are generally eligible for forgiveness for the payroll costs paid and payroll costs incurred during the 24-week (168-day) or 8-week (56-day) Covered Period (or Alternative Payroll Covered Period) ("payroll costs"). Payroll costs are considered paid on the day that paychecks are distributed or the Borrower originates an ACH credit transaction. Payroll costs are considered incurred on the day that the employee's pay is earned. Payroll costs incurred but not paid during the Borrower's last pay period of the Covered Period (or Alternative Payroll Covered Period) are eligible for forgiveness if paid on or before the next regular payroll date. Otherwise, payroll costs must be paid during the Covered Period (or Alternative Payroll Covered Period). For each individual employee, the total amount of cash compensation eligible for forgiveness may not exceed an annual salary of \$100,000, as prorated for the Covered Period. Count payroll costs that were both paid and incurred only once. For information on what qualifies as payroll costs, see Interim Final Rule on Paycheck Protection Program posted on April 2, 2020 ([85 FR 20811](#)), as amended by the Revisions to First Interim Final Rule, posted on June 11, 2020). Include only payroll costs for employees whose principal place of residence is in the United States.
2. **Eligible nonpayroll costs.** Nonpayroll costs eligible for forgiveness consist of:
 - (a) covered mortgage obligations: payments of mortgage interest (not including any prepayment or payment of principal) on any business mortgage obligation on real or personal property incurred before February 15, 2020 ("business mortgage interest payments");
 - (b) covered rent obligations: business rent or lease payments pursuant to lease agreements for real or personal property in force before February 15, 2020 ("business rent or lease payments"); and
 - (c) covered utility payments: business payments for a service for the distribution of electricity, gas, water, telephone, transportation, or internet access for which service began before February 15, 2020 ("business utility payments").

An eligible nonpayroll cost must be paid during the Covered Period or incurred during the Covered Period and paid on or before the next regular billing date, even if the billing date is after the Covered Period. Eligible nonpayroll costs cannot exceed 40% of the total forgiveness amount. Count nonpayroll costs that were both paid and incurred only once.



**Paycheck Protection Program
PPP Loan Forgiveness Application Form 3508EZ**

Documents that Each Borrower Must Submit with its PPP Loan Forgiveness Application Form 3508EZ

PPP Loan Forgiveness Calculation Form 3508EZ

Payroll: Documentation verifying the eligible cash compensation and non-cash benefit payments from the Covered Period or the Alternative Payroll Covered Period consisting of each of the following:

- a. Bank account statements or third-party payroll service provider reports documenting the amount of cash compensation paid to employees.
- b. Tax forms (or equivalent third-party payroll service provider reports) for the periods that overlap with the Covered Period or the Alternative Payroll Covered Period:
 - i. Payroll tax filings reported, or that will be reported, to the IRS (typically, Form 941); and
 - ii. State quarterly business and individual employee wage reporting and unemployment insurance tax filings reported, or that will be reported, to the relevant state.
- c. Payment receipts, cancelled checks, or account statements documenting the amount of any employer contributions to employee health insurance and retirement plans that the Borrower included in the forgiveness amount.
- d. If you checked only the second box on the checklist on page 1 of these instructions, the average number of full-time equivalent employees on payroll employed by the Borrower on January 1, 2020 and at the end of the Covered Period.

Nonpayroll: Documentation verifying existence of the obligations/services prior to February 15, 2020 and eligible payments from the Covered Period.

- a. Business mortgage interest payments: Copy of lender amortization schedule and receipts or cancelled checks verifying eligible payments from the Covered Period; or lender account statements from February 2020 and the months of the Covered Period through one month after the end of the Covered Period verifying interest amounts and eligible payments.
- b. Business rent or lease payments: Copy of current lease agreement and receipts or cancelled checks verifying eligible payments from the Covered Period; or lessor account statements from February 2020 and from the Covered Period through one month after the end of the Covered Period verifying eligible payments.
- c. Business utility payments: Copy of invoices from February 2020 and those paid during the Covered Period and receipts, cancelled checks, or account statements verifying those eligible payments

Documents that Each Borrower Must Maintain but is Not Required to Submit

Documentation supporting the certification that annual salaries or hourly wages were not reduced by more than 25 percent during the Covered Period or the Alternative Payroll Covered Period relative to the period between January 1, 2020 and March 31, 2020. This documentation must include payroll records that separately list each employee and show the amounts paid to each employee during the period between January 1, 2020 and March 31, 2020, and the amounts paid to each employee during the Covered Period or Alternative Payroll Covered Period.

Documentation regarding any employee job offers and refusals, refusals to accept restoration of reductions in hours, firings for cause, voluntary resignations, written requests by any employee for reductions in work schedule, and any inability to hire similarly qualified employees for unfilled positions on or before December 31, 2020.

Documentation supporting the certification, if applicable, that the Borrower did not reduce the number of employees or the average paid hours of employees between January 1, 2020 and the end of the Covered Period (other than any reductions that arose from an inability to rehire individuals who were employees on February 15, 2020, if the Borrower was unable to hire similarly qualified employees for unfilled positions on or before December 31, 2020). This documentation must include payroll records that separately list each employee and show the amounts paid to each employee between January 1, 2020 and the end of the Covered Period.

Documentation supporting the certification, if applicable, that the Borrower was unable to operate between February 15, 2020 and the end of the Covered Period at the same level of business activity as before February 15, 2020 due to compliance with requirements established or guidance issued between March 1, 2020 and December 31, 2020 by the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention, or the Occupational Safety and Health Administration, related to the maintenance of standards of sanitation, social distancing, or any other work or customer safety requirement related to COVID-19. This documentation must include copies of the applicable requirements for each borrower location and relevant borrower financial records.

All records relating to the Borrower's PPP loan, including documentation submitted with its PPP loan application, documentation supporting the Borrower's certifications as to the necessity of the loan request and its eligibility for a PPP loan, documentation necessary to support the Borrower's loan forgiveness application, and documentation demonstrating the Borrower's material compliance with PPP requirements. The Borrower must retain all such documentation in its files for six years after the date the loan is forgiven or repaid in full, and permit authorized representatives of SBA, including representatives of its Office of Inspector General, to access such files upon request.

Appendix C – SBA Form 3508S



Paycheck Protection Program PPP Loan Forgiveness Application Form 3508S

OMB Control No. 3245-0407
Expiration Date: 11/30/2020

PPP LOAN FORGIVENESS APPLICATION FORM 3508S INSTRUCTIONS FOR BORROWERS

You (the Borrower) can apply for forgiveness of your Paycheck Protection Program (PPP) loan using this SBA Form 3508S only if the total PPP loan amount you received from your Lender was \$50,000 or less. However, a borrower that, together with its affiliates (see [85 FR 20817](#) (April 15, 2020) regarding application of SBA's affiliation rules and the exemption of otherwise qualified faith-based organizations from SBA's affiliation rules), received PPP loans totaling \$2 million or more cannot use this form. If you are not eligible to use this form, you must apply for forgiveness of your PPP loan using SBA Form 3508 or 3508EZ (or lender's equivalent form).

SBA Form 3508S requires fewer calculations and less documentation for eligible borrowers. Borrowers that use SBA Form 3508S are exempt from reductions in loan forgiveness amounts based on reductions in full-time equivalent (FTE) employees or in salaries or wages. SBA Form 3508S also does not require borrowers to show the calculations used to determine their loan forgiveness amount. However, SBA may request information and documents to review those calculations as part of its loan review process.

Complete this SBA Form 3508S in accordance with the instructions below, and **submit it to your Lender** (or the Lender that is servicing your loan). Borrowers may also complete this application electronically through their Lender.

Instructions for PPP Loan Forgiveness Application Form 3508S

Business Legal Name ("Borrower")/DBA or Tradename (if applicable)/Business TIN (EIN, SSN): Enter the same information as on your Borrower Application Form (SBA Form 2483 or lender's equivalent).

Business Address/Business Phone/Primary Contact/E-mail Address: Enter the same information as on your Borrower Application Form, unless there has been a change in address or contact information.

SBA PPP Loan Number: Enter the loan number assigned by SBA at the time of loan approval. Request this number from the Lender if necessary.

Lender PPP Loan Number: Enter the loan number assigned to the PPP loan by the Lender.

PPP Loan Amount: Enter the disbursed principal amount of the PPP loan (the total loan amount you received from the Lender).

Employees at Time of Loan Application: Enter the total number of employees at the time of the PPP Loan Application.

Employees at Time of Forgiveness Application: Enter the total number of employees at the time the Borrower is applying for loan forgiveness.

PPP Loan Disbursement Date: Enter the date that you received the PPP loan proceeds from the Lender. If loan proceeds were received on more than one date, enter the first date on which you received PPP loan proceeds.

EIDL Advance Amount: If the Borrower received an Economic Injury Disaster Loan (EIDL) advance, enter the amount.

EIDL Application Number: If the Borrower applied for an EIDL, enter the Borrower's EIDL Application Number.

Forgiveness Amount: Enter the total amount of your payroll and nonpayroll costs eligible for forgiveness. The amount entered cannot exceed the principal amount of the PPP loan. Use the following instructions to determine your forgiveness amount.

1. **Eligible payroll costs.** Borrowers are generally eligible for forgiveness for the payroll costs paid and payroll costs incurred during the 24-week (168-day) or 8-week (56-day) Covered Period or Alternative Payroll Covered Period ("payroll costs").

Covered Period: The Covered Period is either: (1) the 24-week (168-day) period beginning on the PPP Loan Disbursement Date, or (2) if the Borrower received its PPP loan before June 5, 2020, the Borrower may elect to use an eight-week (56-day) Covered Period. For example, if the Borrower is using a 24-week Covered Period and received its PPP loan proceeds on Monday, April 20, the first day of the Covered Period is April 20 and the last day of the Covered Period is Sunday, October 4. In no event may the Covered Period extend beyond December 31, 2020.

Alternative Payroll Covered Period: For administrative convenience, Borrowers with a biweekly (or more frequent) payroll schedule may elect to calculate eligible payroll costs using the 24-week (168-day) period or for loans received before June 5, 2020 at the election of the borrower, the eight-week (56-day) period that begins on the first day of their first pay period following their PPP Loan Disbursement Date. For example, if the Borrower is using a 24-week Alternative Payroll Covered Period and received its PPP loan proceeds on Monday, April 20, and the first day of its first pay period following its PPP loan disbursement is Sunday, April 26, the first day of the Alternative Payroll Covered Period is April 26 and the last day of the Alternative Payroll Covered Period is Saturday, October 10. Borrowers that elect to use the Alternative Payroll Covered Period must apply the Alternative Payroll Covered Period wherever there is a reference in this application to "the Covered Period or the Alternative Payroll Covered Period." However, Borrowers must apply the Covered Period



**Paycheck Protection Program
PPP Loan Forgiveness Application Form 3508S**

(not the Alternative Payroll Covered Period) wherever there is a reference in this application to “the Covered Period” only. In no event may the Alternative Payroll Covered Period extend beyond December 31, 2020.

To calculate eligible payroll costs incurred or paid during the Covered Period or the Alternative Payroll Covered Period, sum Cash Compensation, Employee Benefits, and Owner Compensation, as follows:

Cash Compensation: The sum of gross salary, gross wages, gross tips, gross commissions, paid leave (vacation, family, medical or sick leave, not including leave covered by the Families First Coronavirus Response Act), and allowances for dismissal or separation paid or incurred during the Covered Period or the Alternative Payroll Covered Period. For each individual employee, the total amount of cash compensation eligible for forgiveness may not exceed an annual salary of \$100,000, as prorated for the Covered Period. For an 8-week Covered Period, that total is \$15,385. For a 24-week Covered Period, that total is \$46,154 for purposes of this 3508S. You can only include compensation of employees who were employed by the Borrower at any point during the Covered Period or Alternative Payroll Covered Period and whose principal place of residence is in the United States.

Employee Benefits: The total amount paid by the Borrower for:

1. Employer contributions for employee health insurance, including employer contributions to a self-insured, employer-sponsored group health plan, but excluding any pre-tax or after-tax contributions by employees. Do not add employer health insurance contributions made on behalf of a self-employed individual, general partners, or owner-employees of an S-corporation, because such payments are already included in their compensation.
2. Employer contributions to employee retirement plans, excluding any pre-tax or after-tax contributions by employees. Do not add employer retirement contributions made on behalf of a self-employed individual or general partners, because such payments are already included in their compensation, and contributions on behalf of owner-employees are capped at 2.5 months’ worth of the 2019 contribution amount.
3. Employer state and local taxes paid by the borrower and assessed on employee compensation (e.g., state unemployment insurance tax), excluding any taxes withheld from employee earnings.

Owner Compensation: Include any amounts paid to owners (owner-employees, a self-employed individual, or general partners). For a 24-week Covered Period, this amount is capped at \$20,833 (the 2.5-month equivalent of \$100,000 per year) for each individual or the 2.5-month equivalent of their applicable compensation in 2019, whichever is lower. For an 8-week Covered Period, this amount is capped at 8/52 of 2019 compensation (up to \$15,385).

Payroll costs are considered paid on the day that paychecks are distributed or the Borrower originates an ACH credit transaction. Payroll costs are considered incurred on the day that the employee’s pay is earned. Payroll costs incurred but not paid during the Borrower’s last pay period of the Covered Period (or Alternative Payroll Covered Period) are eligible for forgiveness if paid on or before the next regular payroll date. Otherwise, payroll costs must be paid during the Covered Period (or Alternative Payroll Covered Period). For each individual employee, the total amount of cash compensation eligible for forgiveness may not exceed an annual salary of \$100,000, as prorated for the Covered Period. Count payroll costs that were both paid and incurred only once. For information on what qualifies as payroll costs, see Interim Final Rule on Paycheck Protection Program posted on April 2, 2020 ([85 FR 20811](#)), as amended by the Revisions to First Interim Final Rule, posted on June 11, 2020 ([85 FR 36308](#)). Include only payroll costs for employees whose principal place of residence is in the United States.

2. **Eligible nonpayroll costs.** Nonpayroll costs eligible for forgiveness consist of:
 - (a) covered mortgage obligations: payments of mortgage interest (not including any prepayment or payment of principal) on any business mortgage obligation on real or personal property incurred before February 15, 2020 (“business mortgage interest payments”);
 - (b) covered rent obligations: business rent or lease payments pursuant to lease agreements for real or personal property in force before February 15, 2020 (“business rent or lease payments”); and
 - (c) covered utility payments: business payments for a service for the distribution of electricity, gas, water, telephone, transportation, or internet access for which service began before February 15, 2020 (“business utility payments”).

An eligible nonpayroll cost must be paid during the Covered Period or incurred during the Covered Period and paid on or before the next regular billing date, even if the billing date is after the Covered Period. Eligible nonpayroll costs cannot exceed 40% of the total forgiveness amount. Count nonpayroll costs that were both paid and incurred only once.



**Paycheck Protection Program
PPP Loan Forgiveness Application Form 3508S**

Documents that Each Borrower Must Submit with its PPP Loan Forgiveness Application Form 3508S

PPP Loan Forgiveness Application Form 3508S

Payroll: Documentation verifying the eligible cash compensation and non-cash benefit payments from the Covered Period or the Alternative Payroll Covered Period consisting of each of the following:

- a. Bank account statements or third-party payroll service provider reports documenting the amount of cash compensation paid to employees.
- b. Tax forms (or equivalent third-party payroll service provider reports) for the periods that overlap with the Covered Period or the Alternative Payroll Covered Period:
 - i. Payroll tax filings reported, or that will be reported, to the IRS (typically, Form 941); and
 - ii. State quarterly business and individual employee wage reporting and unemployment insurance tax filings reported, or that will be reported, to the relevant state.
- c. Payment receipts, cancelled checks, or account statements documenting the amount of any employer contributions to employee health insurance and retirement plans that the Borrower included in the forgiveness amount.

Nonpayroll: Documentation verifying existence of the obligations/services prior to February 15, 2020 and eligible payments from the Covered Period.

- a. Business mortgage interest payments: Copy of lender amortization schedule and receipts or cancelled checks verifying eligible payments from the Covered Period; or lender account statements from February 2020 and the months of the Covered Period through one month after the end of the Covered Period verifying interest amounts and eligible payments.
- b. Business rent or lease payments: Copy of current lease agreement and receipts or cancelled checks verifying eligible payments from the Covered Period; or lessor account statements from February 2020 and from the Covered Period through one month after the end of the Covered Period verifying eligible payments.
- c. Business utility payments: Copy of invoices from February 2020 and those paid during the Covered Period and receipts, cancelled checks, or account statements verifying those eligible payments.

Documents that Each Borrower Must Maintain but is Not Required to Submit

All records relating to the Borrower's PPP loan, including documentation submitted with its PPP loan application, documentation supporting the Borrower's certifications as to its eligibility for a PPP loan, documentation necessary to support the Borrower's loan forgiveness application, and documentation demonstrating the Borrower's material compliance with PPP requirements. The Borrower must retain all such documentation in its files for six years after the date the loan is forgiven or repaid in full, and permit authorized representatives of SBA, including representatives of its Office of Inspector General, to access such files upon request.

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Editors

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