



## PPP 3508EZ:

# Forgiveness Form Instructions

---

Form 3508EZ was created to provide a simpler forgiveness application form for borrowers who could attest that certain conditions were true (we will get to these in a moment). Before we do, we would note that after the release of this EZ form, the SBA released a third forgiveness application (3508S) for businesses who received less than \$50,000 in their PPP loan. Form 3508S is even easier than this EZ form, so if you received less than \$50,000, you may want to stop here and go look at that form—with one exception.

For sole proprietors, independent contractors and self-employed with no employees, there is some confusion on whether they will need to file this 3508EZ form or use the 3508S form. According to the rules for the 3508S form, it seems that these businesses could use that form. However, there is specific language in an SBA document from October 13, 2020 stating that sole proprietors, independent contractors and self-employed with no employees should use the 3508EZ form. As of the date this document is published, we do not have clarification, so check with your bank. In any event, the 3508EZ form is not significantly more difficult for these businesses since they did not have employees and so they do not have to worry about FTE or salary/wage reductions on either form.

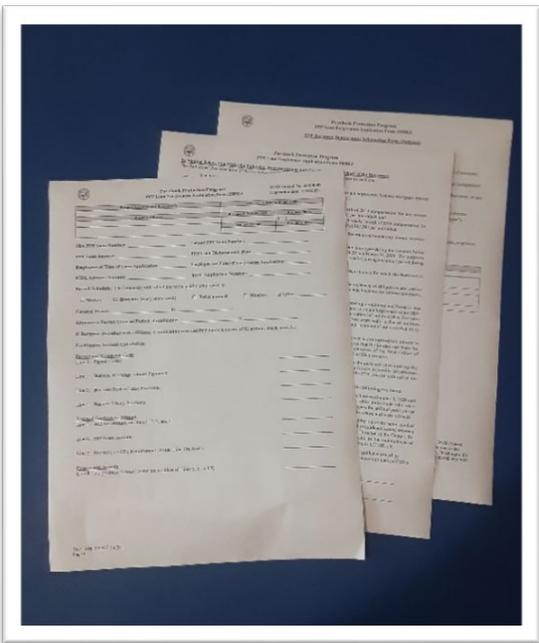
The rules on PPP forgiveness were greatly simplified when Congress passed the flexibility act. Even with that, some of the rules are dense and not very easy to follow. In this document, we will present the basics on how to fill out this form and will assume that your business, like the vast majority of businesses, does not have special circumstances that would require a more in-depth explanation. In many cases, we will provide a footnote to our comments for businesses that do require a more detailed explanation.

Now, let's look at the forms.

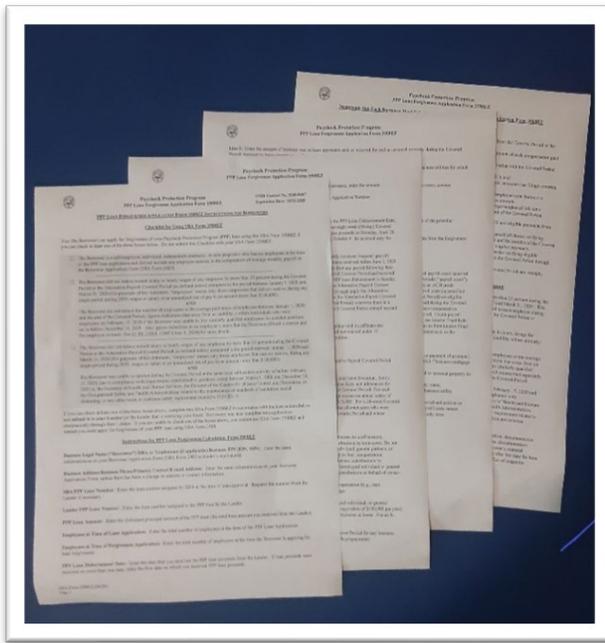
The EZ form is exactly that—easy. There are two parts of the application: the three-page application and the four-page instructions. There is always a possibility that the form may change, so make sure you have the most current one. Remember, each bank may have a somewhat different interface when you submit your application. However, if you prepare all of the information needed to complete the SBA application, you should have all of the information needed to complete your bank's forms.

Copies of all of the applications can be found at <https://home.treasury.gov/policy-issues/cares/assistance-for-small-businesses> under the heading "For Borrowers."

### 3-page Application



### 4-page Instructions



You must be qualified to use the EZ form. The rules for determining if you are qualified can be found on top of Page 1 of the instructions.



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

**OMB Control No. 3245-0407**  
**Expiration Date: 10/31/2020**

**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.



To qualify to use the EZ form, there are three questions (or sets of questions) and you must be able to check the box by one of these question in order to use the EZ form. Let's look at these questions one at a time.

The first box asks if you are self-employed, an independent contractor or a sole proprietor with no employees. If you are, you will check this box and you can use this form.

The second box is a two-part question, and you must be able to answer each part in the affirmative.

In the first part, you must certify that you did not reduce any individual employee's salary or hourly wages by more than 25%. The periods to make this calculation are specified in the question. Keep in mind that you can reduce an hourly wage employees' hours by more than 25%, you just cannot not reduce their hourly wage by more than 25%. In the same vein, you can also reduce a salaried employees' hours worked by more than 25%, you just cannot reduce their effective annual salary by more than 25%. Note that if the employee had an annualized rate of pay in excess of \$100,000, you do not have to make this calculation. There are some interesting methods on how to determine if an employee has an annualized rate of pay in excess of \$100,000 and they may not be what you think. If you want to know more, see the first foot note.<sup>1</sup>

In the second part, you must certify that you 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. So essentially, the business had no reduction in its overall employment during the specified period. Please note that the test here is based on the average paid hours of all employees. You are allowed to reduce any individual employee's hours as long as the average paid hours for all employees did not decline.

There are also two notable exceptions which allow a business to reduce its overall employment and still answer in the affirmative. First, if the business was unable to hire similarly-qualified employees and second, if the business offered to restore an employee's hours and the employee refused the offer. If one of these is the reason for the reduction, the business can ignore that reduction. Basically, you can just act as if the employee was still there and working their regular hours.

As stated, this must be true for the period between January 1, 2020, and the end of the Covered Period or Alternative Covered Period. Before we can answer this, we will need to understand what our **Covered or Alternative Covered Periods** are. Every borrower will have a Covered Period, but only some borrowers will have an Alternative Covered Period. The vast majority of businesses will use a 24-week Covered Period, which is the 24-week period beginning on the disbursement date of our loan.<sup>2</sup>

Some borrowers may also have an Alternative Covered Period. This is only available for borrowers who have pay periods that are bi-weekly or less frequently (weekly? daily?). The only advantage to using an Alternative Covered Period is that it allows you to begin your Alternative Covered Period on the same day as the beginning of a pay period. This makes the payroll calculations easier since you will not have to calculate payroll amounts for partial payroll periods. Even if you use an Alternative Covered Period, the calculation of all non-payroll expenses must still be done for the Covered Period time frame.



Let's move on to the third two-part question. The first part of this question is the same as the first part of the second question discussed above.

The second part of the question says that if the business was unable to operate at the same level of business activity due to compliance with requirements or guidance issued by HHS, the CDC or OSHA, the business does not have to make a calculation for changes in Full Time Equivalent (FTE) employees. Note that this is a "yes" or "no" question. The business does not have to link a 50% FTE reduction to a 50% business reduction. If they were not able to operate at the **same level**, they are exempt from making the calculation. Please know that you do not have to have a direct order from HHS, CDC or OSHA to use this clause. Additional guidance from SBA says that an order from state or local governments is sufficient since it is based in part from guidance from one of the federal agencies.

We made it through the questions! If you have successfully checked one of these boxes, you can use this form. Let's start looking at the form.

### 3508EZ Application Page 1 - Top

	<b>Paycheck Protection Program</b> <b>PPP Loan Forgiveness Application Form 3508EZ</b>	OMB Control No. 3245-0407 Expiration date: 10/31/2020
Business Legal Name ("Borrower")		DBA or Tradename, if applicable
Business Address		Business TIN (EIN, SSN)
		( ) -
		Primary Contact
		E-mail Address

SBA PPP Loan Number: \_\_\_\_\_ Lender PPP Loan Number: \_\_\_\_\_

PPP Loan Amount: \_\_\_\_\_ PPP Loan Disbursement Date: \_\_\_\_\_

Employees at Time of Loan Application: \_\_\_\_\_ Employees at Time of Forgiveness Application: \_\_\_\_\_

EIDL Advance Amount: \_\_\_\_\_ EIDL Application Number: \_\_\_\_\_

**Payroll Schedule:** The frequency with which payroll is paid to employees is:

Weekly     Biweekly (every other week)     Twice a month     Monthly     Other \_\_\_\_\_

Covered Period: \_\_\_\_\_ to \_\_\_\_\_

Alternative Payroll Covered Period, if applicable: \_\_\_\_\_ to \_\_\_\_\_

If Borrower (together with affiliates, if applicable) received PPP loans in excess of \$2 million, check here:

On Page 1 of the application, the first sections are straightforward and will come from your loan documentation.

Let's focus on **Employees at Time of Loan Application**.



Although it is not critical for the EZ application, remember that when the SBA says employees, they mean Full Time Equivalent Employees (FTEs). There are two accepted ways for calculating FTEs<sup>3</sup>. If you are using the EZ form, it really won't matter which one you use, so we suggest using the easier method— that everyone who works 40 hours or more a week counts as 1 FTE, and everyone who works less than 40 hours per week counts as .5 FTE. "Employees at the Time of Application" means for the pay period that included the date you applied on. If you think you may have used a different number when you applied for PPP (or EIDL), don't worry. It doesn't matter anymore. Just calculate the correct number now and put it on the form.

### **Employees at Time of Forgiveness Application**

This is the same calculation just now done at the time you are submitting the application. The time period for the calculation is the pay period that includes the date you are submitting the application. That could be a week, two weeks, half a month—whatever your normal pay period is.

### **EIDL Advance Amount**

If you received an EIDL Advance, you will need to enter that amount here and include the EIDL Application number that you received. You will not use that number in any of your calculations, but this amount will not be forgiven. We will discuss how this will work later on. For now, we will continue filling out the form.

### **Covered Period and Alternative Covered Period**

We discussed these above. Enter your dates.

**Did you get more than \$2 million?** Check the box and make sure you have a good accountant because it is highly likely that you will be audited.<sup>4</sup> All loans may be audited, it is just less likely if you received less than \$2 million.

We have finally arrived at the actual calculations. There are only eight lines in the form and we will look at them one by one.



### 3508EZ Application Page 1 - Bottom

**Forgiveness Amount Calculation:**

Payroll and Nonpayroll Costs

Line 1. Payroll Costs: \_\_\_\_\_

Line 2. Business Mortgage Interest Payments: \_\_\_\_\_

Line 3. Business Rent or Lease Payments: \_\_\_\_\_

Line 4. Business Utility Payments: \_\_\_\_\_

Potential Forgiveness Amounts

Line 5. Add the amounts on lines 1, 2, 3, and 4: \_\_\_\_\_

Line 6. PPP Loan Amount: \_\_\_\_\_

Line 7. Payroll Cost 60% Requirement (divide Line 1 by 0.60): \_\_\_\_\_

Forgiveness Amount

Line 8. Forgiveness Amount (enter the smallest of Lines 5, 6, and 7): \_\_\_\_\_

SBA Form 3508EZ (06/20)  
Page 1

- **Line 1. Payroll Costs**

This is where you will enter the total payroll costs that the business paid or incurred during the Covered Period—or Alternative covered period if you are using one.

The cash compensation portion is pretty straightforward for most employees. It includes salaries, wages, tips, commissions, paid leave (unless that leave is related to the Families First Coronavirus Act<sup>5</sup> and allowances for dismissal and separation. Remember, you can include cash compensation that is paid during the covered period AND cash compensation that is incurred during the covered period. If you are unclear on this, see the footnote.<sup>6</sup>

Now, here are the employees for whom the cash compensation is a little less clear.

First, employees making more than \$100,000 per year are capped at \$100,000 per year. If you have a 24-week covered period, the most that this can amount to is \$46,154, which is \$100,000 divided by 52 weeks in a year times 24 weeks. You can pay your employees more, you just cannot count it towards the forgiveness amount.

The other type of employee for whom cash compensation is limited is an owner-employee. Owner-employee are limited to the lesser of 2.5 months of their 2019 reported income from the business or 2.5 months at a rate of \$100,000, which comes to \$20,833.<sup>7</sup>



Finally, payroll costs also include benefits paid or incurred during the covered period as well as state and local income taxes paid. There is a list of what types of benefits can be included in the instructions and there are limits on what can be used for the owner-employee or self-employed.<sup>8</sup>

- **Line 2. Business Mortgage Interest Payments**

This seems pretty straightforward. One point to note is that a business can include interest payments paid and incurred during the covered period but cannot include prepaid interest payments. These are not allowed to count towards forgiveness. Note that the mortgage has to have been in place on or before February 15, 2020. Also note that this is for secured debt only. Interest payments for unsecured debt (credit cards) cannot be used towards forgiveness.

- **Line 3. Business Rent or Lease Payments**

Again, you can include paid and incurred expenses. Unlike mortgage interest, there is no limitation on prepayments as long as they were paid during the covered period.<sup>9</sup>

- **Line 4. Business Utility Payments**

You can include both paid and incurred. In theory you could prepay, but probably most of us won't do that for this expense. Transportation is only for transportation utility fees charged by state and local governments. If your business has vehicles and you thought you could use expenses related to those vehicles, that is not the case.

- **Line 5.**

We add up lines 1 through 4.

- **Line 6.**

We enter the amount of our PPP loan.

- **Line 7.**

We divide our payroll costs on line 1 by .60. This is the threshold—we must spend at least 60% of the amount forgiven on payroll. Remember, it used to be 75% but is now 60%.

- **Line 8. Forgiveness Amount**

We enter the smallest of lines 5, 6 or 7. As long as we spent all of the PPP (or more) on allowed expenses and spent at least 60% of it on payroll costs, this will be line 6, the PPP loan amount.

In theory, we are done—except for assembling documentation and signing all of the certifications. The required documentation is laid out pretty clearly on Page 4 of the instructions, so we won't review it here. Just remember that the more carefully you assemble this documentation, the more easily your forgiveness process will go when you submit the application to your bank.

This finishes the application. If the business has documented eligible expenses in excess of the amount of the PPP, with at least 60% of these expenses in the form of payroll expenses, they should be approved for the maximum level of forgiveness. For some businesses, that will mean that 100% of the PPP loan will be



forgiven. However, if your business received an EIDL Advance, SBA will deduct the amount of this advance from the forgiveness calculation. The amount of the EIDL Advance will be treated as an open balance and the business will need to repay this amount under the terms of its PPP loan. Interest on this amount, or any unforgiven amount, will be accrued from the date of disbursement.

## Footnotes

---

### 1. \$100,000 Employees

Which employees have an annualized rate of pay in excess of \$100,000? Well, it can be employees who made less than \$100,000 for the year. To calculate the annualized rate of pay, the business can select any pay period in 2019 and annualize it for the whole year. For an employee who makes a large commission or bonus, the business can choose to annualize the pay period in which the employee was paid the bonus, and on this basis, the employee could make more than \$100,000 on an annualized basis. Example: An employee makes \$50,000 per year and receives a year-end bonus of \$10,000 in December. Use the week of the bonus and—~~violat~~—the employee is a \$100,000 employee ( $\$50,000/52 = \$961.55$ ;  $\$961.55 + \$10,000 = \$10,961$ ;  $\$10,961 * 52 = \$569,972$ ).

### 2. Covered Period

#### *Start of the Covered Period*

The covered period can either start on the day the business receives the loan proceeds, or if the business pays more frequently than bi-weekly, the business can choose to have it start on the beginning of the pay period following receipt of the loan proceeds. This is known as the Alternative Covered Period. The major advantage to using an alternative covered period is that since it lines up with your payroll periods, it will make some of your calculations for incurred payroll easier.

#### *End of the Covered Period*

The covered period is defined in these instructions as the 8-week or 24-week period after receipt of the loan proceeds (or the alternative start date mentioned above). Only businesses that received their PPP Loan prior to June 5, 2020, can choose to use an 8-week covered period. There is very little advantage for doing so and we think the few business who do choose an 8-week period will have a sophisticated CPA on board.

One further point. Previously, we believed that the covered period could be any length of weeks between 8-weeks and 24-weeks. We had reasons to believe this, but we now know that it is not true. The covered period must be either an 8-week or 24-week period.

### 3. The Two Methods for Calculating Full Time Equivalent Employees (FTEs)

Back when we all first started filling out these applications, the definition of what an employee meant was not clear. In fact, there were several contradictory definitions floating around. Many businesses just counted every individual who worked for them and counted them as 1, no matter how many or how few hours the individual worked. Many people have been concerned that they made a mistake at that point. Well, don't worry about it. There are clear definitions now and all is forgiven for mistakes on the application (at least in this one regard). What are the definitions of FTEs? Remember, it really doesn't matter too much to you if you are able to use the EZ form because there is no FTE calculation required. That said, here they are:

- 1) Everyone who works 40 hours or more a week counts as 1. Everyone who works less than 40 hours per week counts as .5. Yes, someone working 38 hours a week is .5 and someone working 2 hours a week is .5.
- 2) Everyone who works 40 hours per week counts as 1. Everyone who works less counts as a percentage of an FTE rounded to the nearest tenth and the calculation is Hours Worked Per Week/40 hours. Using the numbers above, our 38 hour per week employee is now .95, which of course rounds up to 1, and the employee working 2 hours per week is .05. which rounds up to a 0.1.

The business gets to choose which calculation to use, but once they choose, they must be consistent.



4. We are not naming names, but most of us will recall that there were some very large and well-capitalized businesses that received PPP loans early on. Remember, when you applied for the loan you certified that:

*Current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.*

The key word being necessary. For some businesses, the PPP loan was NOT necessary. They had sufficient cash or balance sheet strength to fund their own way through the COVID downturn. Admittedly, the word necessary had not been well defined, but when the press got word of some of the major players who received large sums of PPP money, the government took notice. They essentially gave businesses an opportunity to give the money back—no harm, no foul—and they also said that if a business received more than \$2 million, they should expect to be audited and that a focus of that audit would be on whether the PPP loan was necessary.

If you received less than \$2 million, this does not mean that you will not be audited. It is just less likely. Later in the forgiveness application you will be certifying:

*I understand, acknowledge, and agree that SBA may request additional information for the purposes of evaluating the Borrower's eligibility for the PPP loan and for loan forgiveness, and that the Borrower's failure to provide information requested by SBA may result in a determination that the Borrower was ineligible for the PPP loan or a denial of the Borrower's loan forgiveness application.*

If you are not certain that the PPP loan was necessary for your business, you should talk to your CPA and/or attorney.

#### **5. Families First Coronavirus Response Act Leaves (FFCRA)**

The FFCRA requires most employers to allow their employees to take a paid leave. We won't go into the details here (that would be for another session). As it relates to PPP, the FFCRA allows businesses to take the cost of the leave as a tax credit at the end of the year, so you cannot use it here for forgiveness. That would be double dipping.

#### **6. Paid or Incurred**

This was pretty important when we all thought we had to use an 8-week covered period and is less important now that we can spread the use of the PPP out over to 24-weeks. However, it may still be important for some businesses. When you calculate payroll costs, you can include items that were paid and incurred during the covered period. Let's say your covered period started on a Thursday and you paid your employees the next day, Friday, for work they had performed during the preceding two weeks. You get to count this payment toward forgiveness. Even though it was incurred before your covered period, it was paid during your covered period. Similarly, when we get to the end of the covered period, we will have hours that employees worked (we owe them, i.e. incurred) but we have not paid them. The payment will happen after the covered period ends. We get to include those amounts towards forgiveness as well. This also works with benefits as well as with the other allowed expenses of rent and utilities. It does not work with mortgage interest payments.

#### **7. Why are owners capped at 2.5 months of their historic pay?**

The theory is that in the calculations for determining the PPP amount, owners could only include this amount. The fear is that some owners could now fire all of their employees, pay themselves all of the PPP proceeds over 24-weeks and be unfairly enriched. We know we would never do that, but someplace there is someone who would if they could. Now they can't.

#### **8. Why is there all this special language about not adding benefits for self-employed, general partners or owner-employees of S-corporations and limitations on retirement contributions for self-employed or general partners?**

Basically, it is a similar answer as above. For these classes of people, these payments should have already been included in the total compensation calculations they used for 2019. Since they can include their total compensation amount for forgiveness, they have already been paid for these amounts and adding them now would be double dipping.

#### **9. Why can I prepay rent and utility expenses?**



There is language in the guidance that talks about this. The SBA has determined that since you have to spend at least 60% of the PPP on payroll, you will be limited in the amount you can use for prepayment of rent and utilities.