



Payroll Protection Program: What You Need to Know About Loan Forgiveness

There are three (3) tests for loan forgiveness under the PPP loan program. Each test can result in separate reductions of your loan forgiveness. You must comply and document all three sets of rules.

The three tests are as follows:

1. **The 75/25 Test** – A minimum of 75% of your loan proceeds must be used for payroll costs. A maximum of 25% of your loan proceeds can be used toward rent, utilities, and mortgage interest. Eligible payroll costs include gross wages, but remember wages are limited to an annualized wage of \$100,000 per employee, and this must be prorated over the eight-week period. You can also include employer-paid health insurance and employer paid 401K contributions that is remitted to the vendor. You cannot just accrue these obligations; you must pay them. You must keep documentation of qualifying costs paid during the eight-week period. There will need to be a formal request for loan forgiveness submitted to your bank, along with documentation, in order to be eligible for forgiveness. The process of requesting formal forgiveness has not been determined yet. Your bank should, in the near future, be prepared to provide guidance.
2. **The FTE requirement** – You must maintain the average number of full time equivalent (FTE) employees, during the eight-week period, as you had during a base test period.

First, determine the average number of FTE's employees you had for:

- a. The eight-week period following your initial loan disbursement;
- b. February 15, 2019 to June 30, 2019 or January 1, 2020 to February 29, 2020, whichever is lower;
- c. "a" above should be equal to or higher than "b" above, or it will begin to affect your loan forgiveness.

Employees who were laid off or put on furlough may not wish to be rehired at this time. If an employee rejects your re-employment offer, you may be allowed to exclude this employee when calculating the forgiveness; however, you must have made a written, good faith offer to rehire the employee at the same pay rate and number of hours they worked prior to being laid off and you must have documentation of the employee's rejection of the offer. If an employee rejects your offer to be rehired, as part of your documentation, you should consider reporting the employee's change in status to the appropriate state unemployment office.

3. **Pay Requirements** – During the eight-week period, you must pay each employee at least 75% of their average compensation, as paid in the first quarter of year 2020. This requirement will be assessed for every employee that did not receive more than \$100,000 in annualized pay in 2019. If the employee's average pay over the eight week period is less than 75% of the average pay they received during the most recent quarter in which they were employed, the eligible amount of forgiveness will be reduced by their decline in their average current pay and their prior average quarterly pay.

To comply with test 2 and 3 above, there is a rehiring grace period. If you restore the number of FTEs and/or the average pay requirements no later than June 30, 2020, then you will be deemed to have passed the two tests. Your loan forgiveness will not be reduced for any amounts corrected by June 30, 2020.

You should work with your banker and accountant to ensure compliance with each test.