

Paycheck Protection Program (PPP) Loan Forgiveness - A Focus on Calculating FTEs

September 29, 2020

You likely applied for your PPP loan months ago, received your PPP loan, and are now in the process of preparing to submit your loan forgiveness application once your lender is ready to accept it (SBA Form 3508 or Form 3508EZ).^[1] Borrowers who received a PPP loan before June 5, 2020 can elect to calculate their eligible costs using either an 8-week or 24-week Covered Period.^[2] Borrowers who received their PPP loan on or after June 5, 2020 must use the 24-week period. Any Borrower who files a loan forgiveness application using a 24-week Covered Period can file their loan forgiveness application before the end of the 24-week Covered Period.^[3]

Many Borrowers are still in the process of gathering payroll data, health and retirement costs, rent, utilities and mortgage interest costs so that they can file their PPP Loan Forgiveness Application. Although there may be many questions on various facets of how to calculate eligible payroll and non-payroll costs, **the focus** of this Alert is on the definition of average Full-Time Equivalent (“FTE”) Employees and how this is calculated.

First, Determine which Loan Forgiveness Application Form to file - Form 3508 or Form 3508 EZ

Before thinking about how to calculate FTEs, the Borrower should know which form to file, as this will impact the computations the Borrower will need to perform for purposes of calculating loan forgiveness. Does the Borrower meet the requirements to file Form 3508 EZ (the short-form filing) or will the Borrower be required to file Form 3508 (the long-form filing)? As discussed in our Anchin Alert dated [June 18, 2020](#), if the Borrower meets one of three criteria as provided on Form 3508 EZ

Instructions,^[4] they are able to avoid calculating an FTE Reduction Quotient (as discussed below). However, Borrowers who file Form 3508 EZ by meeting the second set of requirements (checking the second box on page 1 of Form 3508EZ),^[5] are still required to calculate FTEs, but as of January 1, 2020 and as of the last day of their Covered Period.

Key Definitions

When calculating FTEs, it is critical that you know certain definitions:

- **FTE**

The Small Business Administration (SBA) defines a Full-Time Equivalent employee [FTE] as “an employee who works **40 hours** or more, on average, each week.” The hours of employees who work less than 40 hours are calculated as proportions of a single FTE employee and aggregated.^[6] The calculation of an FTE is explained in more detail below.

- **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 8-week (56-day) Covered Period.^[7] Borrowers using the 24-week Covered Period can file their loan application before the end of the 24-week period. In no event may the Covered Period extend beyond December 31, 2020.

- **Reference Period**

The Reference Period for FTEs is either (i) February 15, 2019 to June 30, 2019, or (ii) January 1, 2020 to February 29, 2020.^[8] The Borrower can choose which reference period is most beneficial to them (i.e., results in a lower FTE). Seasonal employers have a third period to choose from, which can be any consecutive 12-week period from May 1, 2019 to September 15, 2019.

How to Calculate FTEs

For filers of Form 3508, Borrowers must calculate average FTEs for both (i) the Covered Period, ^[9] and (ii) the chosen Reference Period. The Borrower calculates an average FTE separately for each employee and then aggregates them for the Covered Period and also separately for the Reference Period.

To calculate the average FTE for each employee, Borrowers need to accumulate the total hours paid during the Covered Period (and chosen Reference Period) and divide the average number of **hours paid per week** during the relevant period by 40, and round to the nearest tenth.^[10] (e.g., If an employee's average FTE was calculated to be 0.65 FTE, that amount would be rounded to 0.7 FTE). The maximum FTE for each employee is capped at 1.0 FTE (i.e., any employee working on average 40 or more hours will count as an FTE of 1.0).

Borrowers can choose a **simplified method** that assigns 1.0 FTE for employees who work on average 40 or more hours per week and 0.5 FTE for employees who work on average less than 40 hours per week. If choosing this method, Borrowers must apply it consistently to both the Covered Period and Reference Period.

Owner employees are excluded from the FTE calculation

The Borrower should not calculate FTEs for those individuals that are deemed owner-employees of the company. For S and C Corporations, to be deemed an owner, an employee must own at least 5% of the company stock.^[11] If an LLC is treated as an S-Corporation for tax purposes, the same 5% rule applies.^[12] See Anchin Alert dated [June 26, 2020](#) for additional owner-employee rules.

Where do you Report the FTEs for each employee for the Covered Period and the Reference Period

Borrowers should report each employee's average FTEs for the **Covered Period** on Table 1 (for employees earning \$100,000 or less per year or those who were not employed in 2019) and Table 2 (for those employees earning more than \$100,000 per year) of **PPP Schedule A Worksheet** (Form 3508, p.4 see link at footnote 1). Then, add up each employee's FTEs for Table 1 and Table 2. These totals are reported on PPP Schedule A Line 2 (from Table 1) and Line 5 (from Table 2), which are then totaled on Line 12 of PPP Schedule A (See Form 3508, p.3, see link at footnote 1).

Borrowers report total average FTEs for the chosen **Reference Period** on Line 11 of PPP Schedule A. *Id.*

Calculating the FTE Reduction Quotient – This is calculated on Form 3508, Line 13, on page 3 by dividing FTEs during the Covered Period by FTEs during the chosen Reference Period. On page 1 of Form 3508, Line 8, Borrowers multiply the FTE Reduction Quotient by the sum of all eligible costs, which include payroll, rent, utilities, and mortgage interest reduced by any salary/hourly wage reduction amount. The product of these amounts multiplied by the FTE Reduction Quotient is referred to as the Modified Total.

FTE Reduction Exceptions (See Form 3508, page 5)

The FTE Reduction Exceptions apply on an employee by employee basis and if the employee's (can be multiple employees who meet the exceptions) circumstances meet any of these exceptions. A reduction in FTEs for any such employee does not reduce the Borrower's loan forgiveness. For example, if Employee A had an FTE of 1.0 during the Reference Period and this employee met one of the reduction exception criteria below, such as Employee A voluntarily resigned at some point before or during the Covered Period, the Borrower would include this employee as 1.0 FTE during the Covered Period.

The **FTE Reduction Exceptions** are as follows:^{[\[13\]](#)}

(1) any positions for which the Borrower made a good-faith, written offer to rehire

an individual who was an employee on February 15, 2020, and the Borrower was unable to hire similarly qualified employees for unfilled positions on or before December 31, 2020;

(2) any positions for which the Borrower made a good-faith, written offer to restore any reduction in hours, at the same salary or wages, during the Covered or Alternative Covered Period, and the employee rejected the offer; and

(3) any employees who during the Covered or Alternative Payroll Covered Period (a) were fired for cause, (b) voluntarily resigned, or (c) voluntarily requested and received a reduction of their hours.

In all of these cases, include these FTEs only if the position was not filled by a new employee.

FTE Reduction Safe Harbors

There are two FTE Reduction Safe Harbors, that if either is met, the Borrower is exempt from having to reduce the eligible costs by the FTE Reduction Quotient (assuming it is below 100%). If the Borrower meets either Safe Harbor, then the Borrower would skip reporting FTEs on PPP Schedule A, line 11 (FTE for chosen Reference Period) and line 12 (FTE for Covered Period), and report an FTE Reduction Quotient of 1.0 (or 100%) on line 13, FTE Reduction Quotient.

Safe Harbor #1 (See Form 3508 Instructions, page 5)

The Borrower is exempt from the reduction in loan forgiveness based on a reduction in FTEs described above if the Borrower, in good faith, is able to document that they were **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 for sanitation, social distancing, or any other worker or customer safety requirement related to COVID-19. This Safe Harbor includes the reduction in business activity stemming from COVID Requirements or Guidance resulting from state and local government shutdown orders that are based in part on guidance from the three federal agencies.^[14]

Safe Harbor #2 (See Form 3508 Instructions, page 5)

This Safe Harbor requires two additional FTE calculations: one for the number of FTEs during the pay period that included February 15, 2020, and another to determine the average FTEs during the period beginning February 15, 2020, and ending April 26, 2020. The Borrower is exempt from the reduction in loan forgiveness based on a reduction in FTEs described above if both of the following conditions are met: (a) the Borrower reduced its FTE levels in the period beginning February 15, 2020, and ending April 26, 2020; and (b) the Borrower then restored its FTE levels by not later than December 31, 2020 to its FTE levels in the Borrower's pay period that included February 15, 2020. This safe harbor can be met as of the end of the Covered Period or the application date if earlier than the end of the 24 week period.

The Anchin COVID-19 Resource Team continues to monitor ongoing updates to the PPP Program. To better understand how the changes impact your unique situation, please contact your Anchin Relationship Partner or our COVID-19 Resource Team at COVID19@anchin.com.

Disclaimer: Please note this is based on the information that is currently available and is subject to change.

[1] SBA Form 3508, Loan Forgiveness Application Revised June 16, 2020, <https://www.sba.gov/document/sba-form-paycheck-protection-program-loan-forgiveness-application>

SBA Form 3508EZ, PPP Loan Forgiveness Application Form 3508 EZ,
<https://www.sba.gov/document/sba-form-paycheck-protection-program-ez-loan-forgiveness-application>

[2] SBA Form 3508, Loan Forgiveness Application Instructions for Borrowers dated June 16, 2020, p. 1
<https://www.sba.gov/sites/default/files/2020-12/PPP%20Loan%20Forgiveness%20Application%20%28Revised%2012.29.2020%29-508.pdf>

[3] SBA's PPP FAQs on PPP Loan Forgiveness, Originally issued August 4, 2020
Section Loan Forgiveness Reductions FAQs, Q#4
<https://www.sba.gov/document/support-frequently-asked-questions-ppp-loan-forgiveness>

[4] SBA Form 3508EZ, PPP Loan Forgiveness Application Form 3508EZ Instructions for Borrowers,
<https://www.sba.gov/document/sba-form-3508ez-ppp-ez-loan-forgiveness-application-instructions>

[5] See footnote 4, Form 3508 EZ instructions page 1

[6] What Does "Full-Time Equivalent Employee" Mean?
<https://www.federalregister.gov/documents/2020/06/01/2020-11536/business-loan-program-temporary-changes-paycheck-protection-program-requirements-loan-forgiveness>

[7] Form 3508 Instructions. See footnote 2 for link

[8] Form 3508 Instructions, page 3, Line 11 to PPP Schedule A. See footnote 2 for link.

[9] If the Borrower chooses to use the Alternative Payroll Covered Period, they would calculate FTEs during this period.

[10] See Form 3508 Instructions, page 4. See footnote 2 for link

[11] SBA Interim Final Rule, PPP-Treatment of Owners and Forgiveness of Certain

Nonpayroll Costs,

<https://www.federalregister.gov/documents/2020/08/27/2020-18940/business-loan-program-temporary-changes-paycheck-protection-program-treatment-of-owners-and>

[12] SBA's PPP FAQs on PPP Loan Forgiveness, Originally issued August 4, 2020,

Section: Loan Forgiveness Payroll Costs FAQs, Q#8

<https://www.sba.gov/document/support-frequently-asked-questions-ppp-loan-forgiveness>

[13] Form 3508 Instructions, page 5. For link see footnote 2

[14] SBA Interim Final Rule, PPP – Revisions to Loan Forgiveness Interim Final Rule and SBA Loan Review Procedures Interim Final Rule, pp. 20-24,

<https://www.federalregister.gov/documents/2020/06/26/2020-13782/business-loan-program-temporary-changes-paycheck-protection-program-revisions-to-loan-forgiveness>