

PPP Flexibility Act (Take 3) PPP Loan Forgiveness Regulations and Revised (Again) Strategies

Kerkering Barberio & Co
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INTRODUCTION



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What's New?

- Extension of covered period to 24 weeks from 8
- Extended covered period ends at the earlier of 24 weeks or Dec 31
- Borrowers have until December 31, 2020 to restore wages and FTE's
- Payroll % of loan must exceed 60%
- Additional FTE exclusions available
- Up to 5 years to repay loan amounts that are not forgivable
- Deferral of payroll taxes during the covered period now possible

How Does This All Fit in With our Current Plan?

Pause

Get the Facts

Determine your new Strategy

Non-Payroll Costs - 4 MORE MONTHS OF SPEND!

- Mortgage obligations
- Rent obligations
- Utility payments
- Interest on REAL or PERSONAL property
- Business rent or lease agreements for REAL or PERSONAL property*
- Electric, water, sewer, telephone, internet, gas, transportation

• *in place before Feb 15, 2020

Payment of Non-Payroll Costs

Paid during the covered period
Incurred during the covered period

Paid on or before the next regular billing date

Even

If

The billing date is after the covered period.

Erin Hentrich, CPA

FTE HOURS REVISITED

FTE Hours Measurement Dates

- January 1, 2020 – February 29, 2020
- February 15, 2019 – June 30, 2019
- Seasonal employees: either of those periods or a consecutive twelve-week period between May 1, 2019 and September 15, 2019
- Do you need to calculate all measurements periods?
 - No, only needs to pick one. May need to run more than one to see which would be most beneficial if you find you have an FTE reduction issue.

FTE Equivalency

Normal Method

- For each employee, enter the average number of hours worked per week.
- Divide by 40
- Round to the nearest 10th.

OR

Simplified Method

- Assign a 1.0 to each employee who works 40 hours or more per week.
- The maximum for each employee is capped at 1.0
- All others who work less than 40 per week are assigned .5

Do you need to use the same method?

Yes, must be consistent – must use the same method for measurement period, covered period, and safe harbors

FTE Equivalency Example

	Hours During Measurement Period	# of Week in Period	Avg Weekly Hours	Normal Method	Simple Method
Employee 1	80.00	8	10.00	0.3	0.5
Employee 2	326.04	8	40.76	1.0	1.0
Employee 3	320.00	8	40.00	1.0	1.0
Employee 4	331.93	8	41.49	1.0	1.0
Employee 5	203.36	8	25.42	0.6	0.5
			FTE Count	3.9	4.0
Employee 1	311.42	8	38.93	1.0	0.5
Employee 2	260.00	8	32.50	0.8	0.5
Employee 3	320.00	8	40.00	1.0	1.0
Employee 4	307.84	8	38.48	1.0	0.5
Employee 5	313.58	8	39.20	1.0	0.5
Employee 6	257.28	8	32.16	0.8	0.5
			FTE Count	5.5	3.5

FTE Reduction Exceptions

Employers can disregard any employee who:

1. Received a good faith WRITTEN offer to rehire
2. Any employee who during covered period or alternative covered period was:
 - a) Fired for cause
 - b) Voluntarily resigned
 - c) Voluntarily request and received a reduction in hours

What proof do I need?

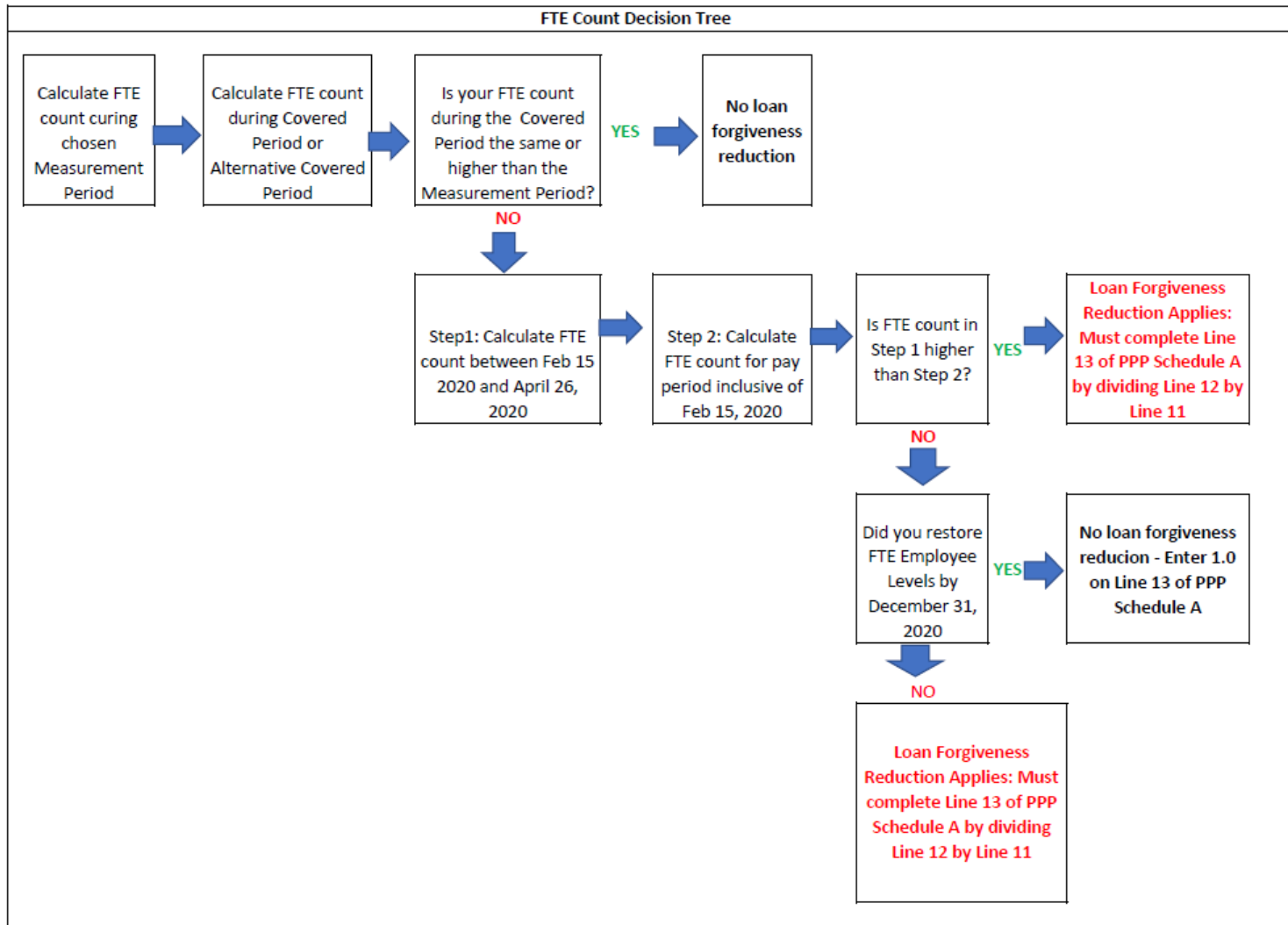
SBA guidance just says it must be written. We would assume this would be emails, texts, or letters. We recommend you have employee sign a written agreement.

FTE Safe Harbor

Exempt from deduction in loan forgiveness if both of the following conditions are met:

1. Reduced FTE employee levels during February 15, 2020 and ending April 26, 2020
2. Restored FTE employee levels by no later than December 31, 2020 to its FTE employee levels in the pay period that included February 15, 2020.

FTE Reduction Calc Steps



FTE Safe Harbor – Updated with Payroll Protection Flexibility Act of 2020 (June 5, 2020)

- No forgiveness reduction for reducing FTE's if documented:
 - Inability to rehire individuals who were employees at February 15, 2020.
AND
 - Inability to hire similarly qualified employees for unfilled positions before December 31, 2020.
OR
 - Inability to return to the same level of business activity as before February 15, 2020 due to compliance requirements or guidance issued by the HHS, CDC, or OSHA related to COVID-19.

Loan Application

Table 1: List employees who:

- Were employed by the Borrower at any point during the Covered Period or the Alternative Payroll Covered Period whose principal place of residence is in the United States; and
- Received compensation from the Borrower at an annualized rate of less than or equal to \$100,000 for all pay periods in 2019 or were not employed by the Borrower at any point in 2019.

Employee's Name	Employee Identifier	Cash Compensation	Average FTE	Salary / Hourly Wage Reduction
FTE Reduction Exceptions:				
Totals:		Box 1	Box 2	Box 3



Table 2: List employees who:

- Were employed by the Borrower at any point during the Covered Period or the Alternative Payroll Covered Period whose principal place of residence is in the United States; and
- Received compensation from the Borrower at an annualized rate of more than \$100,000 for any pay period in 2019.

Employee's Name	Employee Identifier	Cash Compensation	Average FTE
Totals:		Box 4	Box 5



PPP Schedule A Worksheet, Table 1 Totals

- Line 1. Enter Cash Compensation (Box 1) from PPP Schedule A Worksheet, Table 1: _____
- Line 2. Enter Average FTE (Box 2) from PPP Schedule A Worksheet, Table 1: _____
- Line 3. Enter Salary/Hourly Wage Reduction (Box 3) from PPP Schedule A Worksheet, Table 1: _____
If the average annual salary or hourly wage for each employee listed on the PPP Schedule A Worksheet, Table 1 during the Covered Period or the Alternative Payroll Covered Period was at least 75% of such employee's average annual salary or hourly wage between January 1, 2020 and March 31, 2020, check here and enter 0 on line 3.

PPP Schedule A Worksheet, Table 2 Totals

- Line 4. Enter Cash Compensation (Box 4) from PPP Schedule A Worksheet, Table 2: _____
- Line 5. Enter Average FTE (Box 5) from PPP Schedule A Worksheet, Table 2: _____

Full-Time Equivalency (FTE) Reduction Calculation

If you have not reduced the number of employees or the average paid hours of your employees between January 1, 2020 and the end of the Covered Period, check here , skip lines 11 and 12 and enter 1.0 on line 13.

- Line 11. Average FTE during the Borrower's chosen reference period: _____
- Line 12. Total Average FTE (add lines 2 and 5): _____
- Line 13. FTE Reduction Quotient (divide line 12 by line 11) or enter 1.0 if FTE Safe Harbor is met: _____



FTE Example

- What happens if you have an employee who moved out of state on March 15, 2020?
 - Will be included in measurement period for Jan 1, 2020 – Feb 29, 2020
 - Would not be included in FTE count for covered period
 - Does not meet one of the exception as they did not resign DURING the covered period

Ashley Salter, CPA

SALARY AND WAGE REDUCTIONS

Salary and Wage Reductions

Break out the payroll reports, you may need several.

The covered period

- ✓ 24 week period (paid after loan received or alternative period)

The measurement period

- ✓ Quarter 1 2020 (January 1, 2020 – March 31, 2020)

Safe harbors

- ✓ Salary or hourly wage as of February 15, 2020
- ✓ Salary or hourly wage February 15, 2020 - April 26, 2020
- ✓ Salary or hourly wage as of Dec 31, 2020? (from June 30)

Salary and Wage Reductions – Worksheets 1 of 3

Worksheet to complete for each employee paid less than 100,000

Step 1: Compare average paid to employee during

Covered Period  1st Quarter 2020

* If you get 0.75 or more = no reduction for that employee

Step 1. Determine if pay was reduced more than 25%.

If 0.75 or more
= NO reduction
and Stop here

Under 0.75 proceed
to Step 2

a. Enter average annual salary or hourly wage during Covered Period or Alternative Payroll Covered Period:

b. Enter average annual salary or hourly wage between January 1, 2020 and March 31, 2020: _____

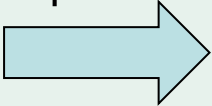
c. Divide the value entered in 1.a. by 1.b.: _____

If 1.c. is 0.75 or more, enter zero in the column above box 3 for that employee; otherwise proceed to Step 2.

Salary and Wage Reductions – Worksheets 2 of 3

If you didn't meet the first test, proceed to Step 2.

Step 2: Two more safe harbors to compare

Annual salary/wage Feb 15, 2020  Average Feb 15 - April 26, 2020

If that still not met, try again with final safe harbor test

Annual salary/wage Feb 15, 2020  Annual salary/wage Dec 31, 2020

Step 2. Determine if the Salary/Hourly Wage Reduction Safe Harbor is met.

Compare Feb 15 **A**
to Feb 15 - Apr 26 **B**

If Feb-Apr same/up,
= NO reduction and
Stop Here

- a. Enter the annual salary or hourly wage as of February 15, 2020: **A** _____.
- b. Enter the average annual salary or hourly wage between February 15, 2020 and April 26, 2020:
_____ **B**.
- c. Enter the average annual salary or hourly wage as of June 30, 2020: _____ **C**.
If 2.c. is equal to or greater than 2.a., the Salary/Hourly Wage Reduction Safe Harbor has
zero in the column above box 3 for that employee. Otherwise proceed to Step 3.

C If Feb-Apr down,
compare to Dec 31

Salary and Wage Reductions – Worksheets 3 of 3

If you didn't meet the thresholds, proceed to Step 3.

Step 3: Calculate dollar amount of reduction - This means you paid less than 75% of the average measurement and safe harbors periods

Step 3. Determine the Salary/Hourly Wage Reduction.

- a. Multiply the amount entered in 1.b. by 0.75: _____.
- b. Subtract the amount entered in 1.a. from 3.a.: _____.

Multiply: 1st Qtr 2020 average pay x 0.75
Subtract 3.a. amount by average pay during covered period

SBA Form 3508 (05/20)

Caution:
Multiply by 8 should be increased to up to 24 under new rules PPP Flexibility Act of 2020

If the employee is an hourly worker, compute the total dollar amount of the reduction that exceeds 25% as follows:

- c. Enter the average number of hours worked per week between January 1, 2020 and March 31, 2020:
_____.
- d. Multiply the amount entered in 3.b. by the amount entered in 3.c. _____ . Multiply this amount by 8: _____ . Enter this value in the column above box 3 for that employee.

If the employee is a salaried worker, compute the total dollar amount of the reduction that exceeds 25% as follows:

- e. Multiply the amount entered in 3.b. by 8: _____ . Divide this amount by 52: _____ . Enter this value in the column above box 3 for that employee.

Salary and Wage Reductions - Exclusions

- What if I reduced all employees pay to 75% of their average pay during January 1, 2020 – March 31, 2020?
YES can exclude, as rules start when reduced below 75%
- What if I reduced one employee below 75% of pay?
ACTION NEEDED to restore them to at least 75% by Dec 31, 2020
OKAY if they were paid over 100,000
Note over 100k annualized rate for any pay period in 2019
- What if I laid off employee and they refused to be rehired?
YES can exclude if you offered to rehire at same pay and hours [same pay/hours prior to separation or reduction in hours]

Salary and Wage Reductions – Exclusions Continued

- Do I get penalized twice if an employee was reduced from full time to part time for the FTE and wage reductions?
 - NO if maintained same rate of pay, they only count once in the FTE reduction and are excluded from wage reduction
- Can I exclude all employees?

YES if you restore salary and wages to February 15, 2020 levels or less than 25% reductions by December 31, 2020 (*changed from June 30th*)
- More safe harbors?

Hopefully so, but pending additional SBA guidance

Deferral of Payroll Taxes? What's the Downside?

- Sec 2302 of Cares allows employers to defer the payment of the employer portion of social security taxes and RR retirement taxes. **Now allowed with PPP.**
- The original period was March 27- December 31, 2020
- No failure to deposit penalties
- Dates deferred deposits must be made:
 - December 31, 2021 50%
 - December 31, 2022, remaining amount

This applies to self employed; estimated tax penalties do not apply

WRAP UP



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**If you have any questions, please
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**Please visit our COVID 19 page at
kbgrp.com/resources/covid-19-updates**

Thank You!