

# The Small Business Administration Paycheck Protection Program

(including Round 2 - 2021 revisions)

Frequently Asked Questions as of January 11, 2021



Empire State  
Development

## PAYCHECK PROTECTION PROGRAM (PPP)

As part of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), **the Paycheck Protection Program (PPP)** provided \$649 billion of loan funds to support small businesses and other eligible entities impacted by COVID-19 to pay workers, interest on mortgage obligations, rent, insurance, paid sick or medical leave, utilities, and payroll related costs incurred from February 15, 2020 – December 31, 2020. As part of the Consolidated Appropriations Act, 2021, the Paycheck Protection Program (PPP) has been provided with an additional \$284 billion of loan funds and allows for a “second draw” for firms that previously received PPP loans.

- Eligible applicants can apply for a PPP loan, up to a maximum of \$10 million for first draw loans and \$2 million for second draw loans, from participating lenders. Loan amounts are based 2.5 times monthly average payroll costs in most cases.
- Up to twenty-four weeks of eligible expenses during the covered period can be forgiven from the loan principal provided at least 60% of the proceeds are used for payroll expenses..
- PPP loan repayments will be deferred until the forgiveness amount has been remitted to the lender by the SBA.
- Interest rates associated with PPP loans will be at a maximum 1% per annum.
- There will be no fees for borrowers to apply.
- There are not collateral requirements or personal guarantees for the loan.
- SBA credit elsewhere test does not apply to this loan.
- All PPP loans are federally guaranteed by the SBA 100%.
- Lenders will resume taking applications starting on January 11, 2021 for first time borrowers and January 13, 2021 for second draw borrowers.
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## When can I apply for PPP?

- Lenders are accepting applications and loans can be made until March 31, 2021 or until program funds are exhausted.

## Who is eligible and can apply for PPP?

- A small business with less than 500 employees (or a business in an industry that has an employee-based size standard through SBA that is higher than 500 employees); or
  - The SBA size standards show by NAICS code for each type of business:  
<https://www.sba.gov/size-standards>.
- 501(c)(3) nonprofits with less than 500 employees; or
- 501(c)(6) nonprofits with less than 300 employees; or
- Faith based organizations with fewer than 150 employees; or
- Housing cooperatives with fewer than 300 employees; or
- 501(c)(19) veteran's organization with less than 500 employees; or
- Tribal business concern described in section 31(b)(2)(C) of the Small Business Act with less than 500 employees; or
- A restaurant, hotel, or a business that falls within the North American Industry Classification System (NAICS) code 72, “Accommodation and Food Services,” and each of the locations has less than 500 employees; or
- Businesses in the hospitality and restaurant industries, franchises that are approved on the SBA’s Franchise Directory; or
- Businesses with financial assistance from Small Business Investment Company (SBIC) program; or
- Sole-proprietors, independent contractors, and other self-employed individuals.
- The maximum number of employees allowed for a business seeking a second draw loan of any type is 300.

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### Who is eligible for a second draw loan?

- You must have used or can demonstrate you will use the entire amount of your first loan.
- Your business must have 300 or fewer employees.
- You must be able to demonstrate that your business suffered a 25% or greater reduction of "gross receipts" when comparing any quarter in 2020 to the same quarter in 2019.

### How long will this program last?

- Although the program is open until March 31, 2021, we encourage you to apply as quickly as you can because there is a funding limit on the program.

### What are eligible expenses under PPP?

- Payroll costs (see question below for more details), including benefits; and
- Interest on mortgage obligations (not principal) incurred before February 15, 2020; and
- Rent, under lease agreements in force before February 15, 2020; and
- Utilities, for which service began before February 15, 2020.

### What is included in Payroll Costs?

- Salary;
- Wages;
- Commissions or tips (capped at \$100,000 on an annualized basis for each employee);
- Employee benefits including: costs for vacation, parental, family, medical, or sick leave;
- Allowance for separation or dismissal;
- Payments required for the provisions of group health care benefits including insurance premiums;
- Life Insurance and disability benefits;
- Payment of any retirement benefit;
- State and local taxes assessed on compensation; and
- For a sole proprietor or independent contractor, wages, commissions, income, or net earnings from self-employment, capped at \$100,000 on an annualized basis for each employee

### What costs are not eligible for payroll?

- Employee/owner compensation over \$100,000.

- Taxes imposed or withheld under chapters 21, 22, and 24 of the IRS code.
- Compensation of employees whose principal place of residence is outside of the U.S.
- Qualified sick and family leave for which a credit is allowed under sections 7001 and 7003 of the Families First Coronavirus Response Act.

### Do I have to be operational to apply?

- Yes, entities must have been operational by February 15, 2020 and had payroll and paid taxes.

### Where can I apply for PPP loan?

- All current SBA 7(a) are eligible lenders for PPP.
- You should consult with your local lender as to whether it is participating.
- The list of lenders can be found on <https://www.sba.gov/paycheckprotection/find>
- Additional lenders with sufficient qualifications are will be added by SBA and the U.S. Department of the Treasury.
- You do not have to visit any government institution to apply for the program.

### How do I apply for PPP Loan?

- You will need to fill out the Paycheck Protection Borrower Application Form (SBA Form 2483).
- Provide documentation with required documentation of payroll to an approved lender.

### What is the required documentation that I need to provide?

- You will need to provide your lender with payroll documentation.

### Who approves my PPP loan?

- The lender will approve your loan application.

### What is the time period covered under the PPP?

- The covered loan period for loans originated in 2020 is from February 15, 2020 to December 31<sup>st</sup>, 2020.
- The covered period for loans originated in 2021 is 8 to 24 weeks from date of loan closing.

## What is the maximum loan amount under the PPP?

- The maximum loan amount is up to \$10 million for first time borrowers and \$2 million for second draw borrowers.
- There is a formula to determine the loan amount that is related to payroll costs incurred by the business.

## How is the loan size determined?

- Depending on your business's situation, the loan size will be calculated in different ways (see below). The maximum loan amount is \$10 million (\$2 million for second borrowers).
  - For most business, the formula is based on 2.5 times your average monthly costs minus exclusion based on the previous 12 months.
  - 3.5 times the average monthly payroll costs and healthcare costs in the year prior to when the loan was received or within the calendar year for any business that is [classified under Code 72 by the North American Industry Classification System \(NAICS\)](#) that is drawing money a second time.
  - If your business employs seasonal workers, you can opt to choose March 1, 2019 as your time period start date.
  - If you were not in business between February 15, 2019 – June 30, 2019: Your max loan is equal to 2.5 times your average monthly payroll costs between January 1, 2020 and February 29, 2020.
  - If you took out an Economic Injury Disaster Loan (EIDL) between February 15, 2020 and April 3, 2020 and can refinance that EIDL loan amount into a PPP loan. You would add the outstanding loan amount to the payroll sum minus EIDL grant.

## What fees will I need to pay in order to apply for PPP?

- PPP waives borrower and lender fees payable to SBA.

## Can I still apply for PPP if I can obtain credit elsewhere?

- Yes. Credit elsewhere requirements are waived for this PPP.

## What certifications will I need to provide in order to apply for PPP?

- Borrower must certify in good faith that funds are needed for COVID-19 related purposes, that the funds will be used to retain workers, and that their request is not duplicative with other SBA funds for the same purpose.
- Other certifications are included in the borrower application.

## Is there a collateral or personal guarantee requirement for PPP?

- No. Both collateral and personal guarantees are waived.

## What is the interest on PPP loans?

- Interest rate will be 1% per annum.

## What is the maturity of PPP loans?

- PPP loans issued prior to June 5, 2020 will mature in 2 years. Loans issued after June 5, 2020 will mature in a 5 years.

## Is there a prepayment penalty or fee on PPP?

- No. There are no prepayment fees or penalty.

## Are there deferred payments allowed under PPP?

- Loan payments will be deferred from the beginning date of the loan until the SBA remits the forgiveness amount to the lender. Interest will still accrue during the deferment on the unforgiven portion of the loan.

## Can I get more than one PPP loan?

- Yes, an entity is allowed to complete a second draw PPP loan provided they have used or will use the original loan completely and meets the proper size and revenue criteria. Each loan will be registered under a Taxpayer Identification

Number at SBA to prevent multiple first draw loans to the same entity.

### Is any portion of the PPP loan forgivable?

- Yes. Amount spent by borrower in the first 8 to 24 weeks for allowable expenses from loan date will be forgiven with appropriate documentation provided to the lender.
- Amount maybe reduced proportionately by the reductions in workforce as compared to the previous year (see FTE Reduction Exemptions).
- There is 40% limitation for forgiveness on non-payroll costs. At least 60% of the loan MUST be for used for payroll costs to receive ANY forgiveness.

### How much is the loan guarantee provided by SBA to lenders under the Program?

- 100% loan guarantee.

### What happens to my PPP loan after the covered period?

- Borrowers have up to ten months after the end of their deferral period to apply for forgiveness.
- Anything not forgiven or repaid will convert to a 1% per annum loan for 2-year term for loans closed before June 5, 2020. Loans closed after June 5, 2020 will continue for a minimum of 5 years from closing date.

### How does the PPP loan coordinate with SBA's existing loans?

- Borrowers may apply for PPP loans and other SBA financial assistance, including Economic Injury Disaster Loans (EIDLs), 7(a) loans, 504 loans, and microloans, and also receive investment capital from Small Business Investment Corporations (SBICs).
- However, you cannot use your PPP loan for the same purpose as your other SBA loan(s). For example, if you use your PPP to cover payroll for the 24-week covered period, you cannot use a different SBA loan product for payroll for those same costs in that period, although you could use it for payroll not during that period or for different workers.

### Are eligible businesses owned by directors or shareholders of a PPP Lender permitted to apply for a PPP Loan through the Lender with which they are associated?

- Yes, an outside director or holder of a less than 30 percent equity interest in a PPP Lender can obtain a PPP loan from the PPP Lender on whose board the director serves or in which the equity owner holds an interest, provided that the eligible business owned by the director or equity holder follows the same process as any similarly situated customer or account holder of the Lender.

### Are businesses that receive revenue from legal gaming eligible for a PPP Loan?

- Yes, if its receipt of business legal gaming revenues (net of payouts but not other expenses) did not exceed \$1 million in 2019; and
- Legal gaming revenue (net of payouts but not other expenses) comprised less than 50 percent of the business's total revenue in 2019.
- Businesses that received illegal gaming revenue are categorically ineligible.

### My small business is a seasonal business whose activity increases from April to June. However, my small business was not fully ramped up on February 15, 2020. Am I still eligible?

- Yes, a lender may consider whether a seasonal borrower was in operation on February 15, 2020 or for an 8-week period between February 15, 2019 and June 30, 2019 when deciding eligibility of the borrower.

### I pleaded guilty to a felony crime a very long time ago. Am I still eligible for the PPP?

- Yes. Businesses are only ineligible if an owner of 20 percent or more of the equity of the applicant is presently incarcerated, on

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probation, on parole; subject to an indictment, criminal information, arraignment, or other means by which formal criminal charges are brought in any jurisdiction; or, within the last five years, for any felony, has been convicted; pleaded guilty; pleaded nolo contendere; been placed on pretrial diversion; or been placed on any form of parole or probation (including probation before judgment).

### **Should payments made to an independent contractor or sole proprietor be included in calculations of payroll costs?**

- No. Any amounts that has paid to an independent contractor or sole proprietor should be excluded from the eligible business's payroll costs.
- An independent contractor or sole proprietor will itself be eligible for a loan under the PPP, if it satisfies the applicable requirements.

### **Am I eligible for a PPP Loan if I am self-employed and file a Form 1040, Schedule C?**

- You are eligible for a PPP loan if:
  - You were in operation on February 15, 2020;
  - You are an individual with self-employment income (such as an independent contractor or a sole proprietor);
  - Your principal place of residence is in the United States; and
  - You filed or will file a Form 1040 Schedule C for 2019.

### **Are partnerships eligible for PPP loans?**

- Yes, partnerships are eligible for PPP loans.

### **Can I submit for a PPP loan as a self-employed individual if I am a partner in a partnership?**

- No, you may not submit a separate PPP loan application for yourself as a self-employed individual.

- Instead, the self-employment income of general active partners may be reported as a payroll cost, up to \$100,000 annualized, on a PPP loan application filed by or on behalf of the partnership.

### **Will participating in PPP affect my eligibility for state administered unemployment compensation or unemployment assistance programs?**

- Yes, it may affect your eligibility for these programs, including programs authorized by Title II, Subtitle A of the CARES Act, or CARES Act Employee Retention Credits.

### **How do I calculate the maximum amount I can borrow for PPP if I have no employees but file Form 1040, Schedule C? \***

- If you have no employees, the following methodology should be used to calculate your maximum loan amount:
  - Step 1: Find your 2019 IRS Form 1040 Schedule C line 31 net profit amount (if you have not yet filed a 2019 return, fill it out and compute the value).
    - If this amount is over \$100,000, reduce it to \$100,000. If this amount is zero or less, you are not eligible for a PPP loan.
  - Step 2: Calculate the average monthly net profit amount:
    - Divide the amount from Step 1 by 12.
  - Step 3: Multiply the average monthly net profit amount from Step 2 by 2.5.
  - Step 4: Add the outstanding amount of any Economic Injury Disaster Loan (EIDL) made between January 31, 2020 and April 3, 2020 that you seek to refinance, less the amount of any advance under an EIDL COVID-19 loan (because it does not have to be repaid).

## What documentation is required for PPP, if I have no employees, file Form 1040, Schedule C?

- Regardless of whether you have filed a 2019 tax return with the IRS, you must provide:
  - 2019 Form 1040 Schedule C with your PPP loan application to substantiate the applied-for PPP loan amount and
  - 2019 IRS Form 1099-MISC detailing nonemployee compensation received (box 7),
  - Invoice, bank statement, or book of record that establishes you are self-employed.
  - You must provide a 2020 invoice, bank statement, or book of record to establish you were in operation on or around February 15, 2020.

## How do I calculate the maximum amount I can borrow for PPP if I have employees, file Form 1040, Schedule C? \*\*

- If you have employees, the following methodology should be used to calculate your maximum loan amount:
  - Step 1: Compute 2019 payroll by adding the following:
    - Your 2019 Form 1040 Schedule C line 31 net profit amount (if you have not yet filed a 2019 return, fill it out and compute the value), up to \$100,000 annualized.
      - If this amount is over \$100,000, reduce it to \$100,000,
      - If this amount is less than zero, set this amount at zero;
    - Your 2019 gross wages and tips paid to your employees whose principal place of residence is in the United States computed using 2019 IRS Form 941 Taxable Medicare wages & tips (line 5c-column 1) from each quarter plus any pre-tax employee contributions for health insurance or other fringe benefits excluded from Taxable Medicare wages & tips;

- Subtract any amounts paid to any individual employee in excess of \$100,000 annualized and
- Subtract any amounts paid to any employee whose principal place of residence is outside the United States.
- 2019 employer health insurance contributions (health insurance component of Form 1040 Schedule C line 14);
- Retirement contributions (Form 1040 Schedule C line 19);
- State and local taxes assessed on employee compensation (primarily under state laws commonly referred to as the State Unemployment Tax Act or SUTA from state quarterly wage reporting forms).
- Step 2: Calculate the average monthly amount:
  - divide the amount from Step 1 by 12.
- Step 3: Multiply the average monthly amount from Step 2 by 2.5.
- Step 4: Add the outstanding amount of any EIDL made between January 31, 2020 and April 3, 2020 that you seek to refinance, less the amount of any advance under an EIDL COVID-19 loan (because it does not have to be repaid).

## What documentation is required for PPP loan, if I have employees, file Form 1040, Schedule C?

- You must supply:
  - Your 2019 Form 1040 Schedule C, Form 941 (or other tax forms or equivalent payroll processor records containing similar information);
  - Your state quarterly wage unemployment insurance tax reporting forms from each quarter in 2019 or equivalent payroll processor records;

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- Evidence of any retirement and health insurance contributions, if applicable;
- A payroll statement or similar documentation from the pay period that covered February 15, 2020 must be provided to establish you were in operation on February 15, 2020.

- If your EIDL loan was not used for payroll costs, it does not affect your eligibility for a PPP loan.
- If your EIDL loan was used for payroll costs, your PPP loan must be used to refinance your EIDL loan.
  - Proceeds from any advance up to \$10,000 on the EIDL loan will be deducted from the loan forgiveness amount on the PPP loan.

### How can PPP loans be used by individuals with income from self-employment who file a 2019 Form 1040, Schedule C?

- The proceeds of a PPP loan are to be used for the following:
  - Owner compensation replacement calculated based on 2019 net profit as described in “Question\*” and “Question\*\*” above.
  - Employee payroll costs for employees whose principal place of residence is in the United States, if you have employees.
  - Mortgage interest payments (but not mortgage prepayments or principal payments) on any business mortgage obligation on real or personal property,
  - Business rent payments
  - Business utility payments
    - You must have claimed or be entitled to claim a deduction for such expenses on your 2019 Form 1040 Schedule C for them to be a permissible use during the eight-week period following the first disbursement of the loan
  - Interest payments on any other debt obligations that were incurred before February 15, 2020 (such amounts are not eligible for PPP loan forgiveness).
  - Refinancing an SBA EIDL loan made between January 31, 2020 and April 3, 2020 (maturity will be reset to PPP’s maturity of two years).
    - If you received an SBA EIDL loan from January 31, 2020 through April 3, 2020, you can apply for a PPP loan.

- Self-employed individuals will need to rely on their 2019 Form 1040 Schedule C, which provides verifiable documentation on expenses between January 1, 2019 and December 31, 2019.
- For individuals with income from self-employment from 2019 for which they have filed or will file a 2019 Form 1040 Schedule C, expenses incurred between January 1, 2020 and February 14, 2020 may not be considered because of the lack of verifiable documentation on expenses in this period.

### Are there any other restrictions on how I can use PPP loan proceeds?

- Yes. At least 60 percent of the PPP loan proceeds MUST be used for payroll costs. For purposes of determining the percentage of use of proceeds for payroll costs (but not for forgiveness purposes), the amount of any refinanced EIDL will be included.

## LOAN FORGIVENESS FOR PAYCHECK PROTECTION PROGRAM (PPP)

The Act establishes that PPP borrowers are eligible for loan forgiveness equal to the amount spent by the borrower for allowable expenses during a 24-week period after the loan date of the PPP loan (or until December 31, 2020 whichever comes first). The receive any forgiveness, at least 60% of the loan proceeds must be used for payroll expenses.

### What can be included in the PPP loan forgiveness amount?

- Payroll costs (see question below for more details), including benefits;
- Interest on mortgage obligations (not principal) incurred before February 15, 2020;
- Rent, under lease agreements in force before February 15, 2020;
- Utilities, for which service began before February 15, 2020;
- Federal income and FICA taxes;
- State unemployment insurance;
- Business software or cloud services that facilitate business operations;
- Supplier costs that are essential to the operation of the business;
- PPE and measures that help businesses comply with Federal and State COVID-19 safety guidelines; and
- Costs related to property damage, vandalism or looting due to unrest that occurred in 2020.

### What is included in Payroll Costs?

- Salary;
- Wages;
- Commissions or tips (capped at \$100,000 on an annualized basis for each employee);
- Employee benefits including: costs for vacation, parental, family, medical, or sick leave;
- Allowance for separation or dismissal;
- Payments required for the provisions of group health care benefits including insurance premiums;
- Payment of any retirement benefit;
- State and local taxes assessed on compensation; and
- For a sole proprietor or independent contractor, wages, commissions, income, or net earnings

from self-employment, capped at \$100,000 on an annualized basis for each employee

### What is the maximum amount of PPP loan that can be forgiven?

- The maximum amount that can be forgiven is the principal amount of the loan and any accrued interest.

### How is PPP loan forgiveness calculated?

- PPP Loan forgiveness equals the sum of payroll costs incurred during the covered 8 to 24-week period compared to the previous year or time period, proportionate to maintaining employees and wages:
  - Payroll costs plus any payment of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a covered mortgage obligation) plus any payment on any rent obligation and any utility payment.
  - The amount forgiven will be reduced proportionally by any reduction in employees retained compared to the prior year and reduced by the reduction in pay of any employee beyond 25 percent of their prior year compensation (subject to any FTE reduction exemptions – see FTE Reduction Exceptions.
  - To encourage employers to rehire any employees who have already been laid off due to the COVID-19 crisis, borrowers that re-hire workers previously laid off will not be penalized for having a reduced payroll at the beginning of the period. Further, forgiveness is allowed for additional wages paid to tipped workers.
- Additional guidance will be provided by the SBA and U.S Department of the Treasury.

### What percentage of my forgiven PPP loan amount can be used for non-payroll expenses?

- No more than 40% of the forgiven amount may be for non-payroll costs. At least 60% of the loan

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amount MUST be used for payroll costs to be eligible for forgiveness.

### What proof do I need to submit to my lender to qualify for PPP loan forgiveness?

- Borrowers will provide documentation to lenders of their payments during the period such as payroll records, proof of lease payments, proof of mortgage interest payments, and proof of utility payments.
- Proof of payment can be a bank statement or canceled checks.
- You must certify that the documents are true and that you used the forgiveness amount to keep employees and make eligible mortgage interest, rent, and utility payments.

### What are the FTE Reduction Exemptions?

- There is an exemption to the FTE Reduction calculation, if for the period beginning February 15, 2020 and ending December 31, 2020, provided the Borrower can document:
  - An inability to rehire employees who were employed as of February 15, 2020, **and**
  - An inability to hire similarly qualified employees for unfilled positions on or before December 31, 2020, **or**
  - An inability to return to the same level of business activity as such business was operating at before February 15, 2020, due to compliance with requirements and guidelines issued by Health and Human Services, CDC or OSHA during March 1, 2020 to December 31, 2020 related to certain protocols for responding to COVID-19.

### When will my PPP loan be approved for forgiveness?

- The borrower must make a request to the lender for forgiveness by providing documentation of payments made under the covered period within

10 months after the last day of the covered period.

- The lender has 60 days to review and approve the request for forgiveness.

### What happens to the portion of my PPP loan that is not forgiven?

- Any loan amounts not forgiven are carried forward as an ongoing loan with terms of 2 year at 1% interest per annum for loans closed prior to June 5, 2020 and for a term not less than 5 years with 1% interest per annum for loans closed after June 5, 2020
- 100% loan guarantee remains intact from the SBA.

### What amounts shall be eligible for forgiveness if I file Form 1040, Schedule C?

- The amount of loan forgiveness can be up to the full principal amount of the loan plus accrued interest.
- The actual amount of loan forgiveness will depend, in part, on the total amount spent over the covered period on:
  - Payroll costs including salary, wages, and tips, up to \$100,000 of annualized pay per employee (for eight weeks, a maximum of \$15,385 per individual);
  - Covered benefits for employees (but not owners), including health care expenses, retirement contributions, and state taxes imposed on employee payroll paid by the employer (such as unemployment insurance premiums);
  - Owner compensation replacement, calculated based on 2019 net profit, with forgiveness of such amounts limited to eight weeks' worth (8/52) of 2019 net profit, but excluding any qualified sick leave equivalent amount for which a credit is claimed under section 7002 of the Families First Coronavirus Response Act (FFCRA) (Public Law 116-127) or qualified family leave equivalent amount for which a credit is claimed under section 7004 of FFCRA;

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- Payments of interest on mortgage obligations on real or personal property incurred before February 15, 2020, to the extent they are deductible on Form 1040 Schedule C (business mortgage payments);
- Rent payments on lease agreements in force before February 15, 2020, to the extent they are deductible on Form 1040 Schedule C (business rent payments); and
- Utility payments under service agreements dated before February 15, 2020 to the extent they are deductible on Form 1040 Schedule C (business utility payments).

### **What documentation should I submit to my lender with my request for loan forgiveness if I file Form 1040, Schedule C?**

- In addition to the borrower certification required by Section 1106(e)(3) of the Act, to substantiate your request for loan forgiveness, if you have employees:
  - you should submit Form 941 and state quarterly wage unemployment insurance tax reporting forms or equivalent payroll processor records that best correspond to the covered period (with evidence of any retirement and health insurance contributions).
- Whether or not you have employees, you must submit evidence of:
  - Business rent;
  - Business mortgage interest payments on real or personal property, or;
  - Business utility payments during the covered period if you used loan proceeds for those purposes.
- The 2019 Form 1040 Schedule C that was provided at the time of the PPP loan application must be used to determine the amount of net profit allocated to the owner for the eight-week covered period.