

PPP LOAN Updates

TODAY'S AGENDA

1. Payroll Forgiveness Costs
2. Furloughed Employee Compensation and Bonuses
3. Loan Forgiveness Caps For Owner-Employees and Self-Employed Cash Compensation
4. Forgivable Non-payroll Costs
5. Calculation of Full-time Equivalent Employees
6. A Reduction in FTE Employees
7. Reduction in Employee's Salary or Wages
8. Exemptions and Exceptions to FTE Reduction
9. SBA Review of Loans



PAYROLL FORGIVENESS COSTS

PAYROLL FORGIVENESS COSTS

Borrower's may seek forgiveness for payroll costs for the eight-week period beginning on either:

- i. The date of disbursement of the borrower's PPP loan proceeds from the lender (i.e., the start of the covered period); or
- ii. The first day of the first payroll cycle in the covered period (the "alternative payroll covered period") if the borrower pays employees on a bi-weekly or more frequent basis.

PAYROLL FORGIVENESS COSTS

Payroll costs are considered paid on the day that paychecks are distributed or the borrower originates an ACH credit transaction.



PAYROLL FORGIVENESS COSTS

Payroll costs incurred during the covered period or alternative covered period, are also eligible for forgiveness if paid on or before the next regular payroll date. Payroll costs are generally incurred on the day the employee's pay is earned (i.e., on the day the employee worked). If such employee is not performing work during any portion of the covered period or alternative payroll covered period, payroll costs are incurred based on the schedule established by the borrower (typically, each day that the employee would have performed work).



PAYROLL FORGIVENESS COSTS: EXAMPLE

Example: A borrower has a bi-weekly payroll schedule. The borrower's eight-week covered period begins on June 1 and ends on July 26th. The first day of the borrower's first payroll cycle that starts in the covered period is June 7th. The borrower may elect an alternative payroll covered period for payroll cost purposes that starts on June 7th and ends 55 days later (for a total of 56 days) on August 1st. Payroll costs paid during this alternative payroll covered period are eligible for forgiveness.

- In addition, payroll costs incurred during this alternative payroll covered period are eligible for forgiveness so long as they are paid on or before the first regular payroll date occurring after August 1st.



FURLOUGHED EMPLOYEES

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Salary, Wages, or Commission Payments to Furloughed Employees and Bonuses

- If a borrower pays furloughed employees their salary, wages, or commissions during the covered period, those payments are eligible for forgiveness up to \$15,385.00.
- Bonuses are also eligible for loan forgiveness so long as this bonus is not conditioned upon the offset or reduction of future pay to the employee, which would be considered a prepayment of payroll.



LOAN FORGIVENESS CAPS

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The amount of loan forgiveness requested for payroll compensation of an owner-employee (shareholder and partner employees issued a W-2 in 2019) or self-employed individual (partner, sole proprietor and independent contractor) is capped at the lesser of (i) 8/52 of 2019 compensation (i.e., approximately 15.38 percent of 2019 compensation) or (ii) \$15,385.00.

OWNER-EMPLOYEES

Owner-employees (shareholder and partner employees issued a W-2 in 2019) are capped by the amount of their 2019 employee cash compensation **and** employer retirement and health care contributions made on their behalf.



LOAN FORGIVENESS CAPS: SCHEDULE C

Schedule C filers are capped by the amount of their owner compensation replacement, calculated based on 2019 net profit (2019 Schedule C, Line 31).

No forgiveness extends to Schedule C filers for retirement or health insurance contributions made on behalf of the self-employed individual.



LOAN FORGIVENESS CAPS: GENERAL PARTNERS

General partners are capped by the amount of their 2019 net earnings from self-employment (reduced by claimed section 179 expense deduction, unreimbursed partnership expenses, and depletion from oil and gas properties) multiplied by 0.9235.

No forgiveness extends to partners for retirement or health insurance contributions made on behalf of the self-employed individual partners.



FORGIVABLE NON-PAYROLL COSTS

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Forgivable non-payroll costs (mortgage interest, rent, utilities all subject to agreements dated prior to February 15, 2020) are eligible for forgiveness if such costs are:

- I. Paid during the covered period; or
- II. Incurred during the covered period and paid on or before the next regular billing date, even if the billing date is after the covered period.



FORGIVABLE NON-PAYROLL COSTS: EXAMPLE

- Example: A borrower's covered period begins on June 1 and ends on July 26. The borrower pays its May and June electricity bill during the covered period and pays its July electricity bill on August 10, which is the next regular billing date. The borrower may seek loan forgiveness for its May and June electricity bills, because they were paid during the covered period. In addition, the borrower may seek loan forgiveness for the portion of its July electricity bill through July 26 (the end of the covered period), because it was incurred during the covered period and paid on the next regular billing date.

*Keep in mind that these forgivable non-payroll costs may not exceed 25% of the total forgiveness received by a borrower (or 1/3 of the total forgivable payroll costs).

*The alternative payroll covered period is limited to calculation of payroll costs.



CALCULATION OF FULL-TIME EQUIVALENT EMPLOYEES

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- An employee who works 40 hours or more, on average, each week is considered a full-time employee.
- The hours of employees who work less than 40 hours are calculated as proportions of a single full-time equivalent employee and aggregated.
- Borrowers should divide the average number of hours paid for each employee per week by 40, capping this quotient at 1.0 (e.g., an employee who averages 80 hours per week will be capped at 1.0).



CALCULATION OF FULL-TIME EQUIVALENT EMPLOYEES *cont.*

For employees who were paid for less than 40 hours per week (part-time employees), the borrower may choose to calculate the full-time equivalency in one of the following manners:

- The average number of hours a part-time employee was paid per week during the covered period. For example, if an employee was paid for 10 hours per week on average during the covered period, the employee could be considered to be an FTE employee of 0.25; or
- May elect to use a full-time equivalency of 0.5 for each part-time employee.

A REDUCTION IN FULL-TIME EQUIVALENT EMPLOYEES

Reduction of FTE Employee Head Count and Covered Period

A reduction in the full-time equivalent (FTE) employee head count during the covered period or alternative payroll covered period reduces the loan forgiveness amount by a percentage equal to the percentage reduction in FTE employees.

Borrower must select a reference period for confirmation of any reduction occurring during the covered period or alternative payroll covered period:

(i) February 15, 2019 through June 30, 2019; (ii) January 1, 2020 through February 29, 2020; or (iii) in the case of a seasonal employer, either of the two preceding methods or a consecutive 12-week period between May 1, 2019 and September 15, 2019.

Reduction of FTE Employee Head Count and Covered Period *cont.*

If the average FTE employee head count during the covered period or alternative payroll covered period is lower than the average FTE employee head count during the reference period, the total eligible forgivable expense (payroll and nonpayroll) is reduced proportionally by the percentage reduction in FTE employees.

Example: If a borrower had 10.0 FTE employees during the reference period and this declined to 8.0 FTE employees during the covered period, the percentage of reduction is 20% and only 80% of otherwise eligible expenses are available for forgiveness.

**A REDUCTION
IN EMPLOYEE'S
SALARY OR
WAGES IN
EXCESS OF 25%**

REDUCTION IN SALARIES OR WAGES

A reduction in any employee's salary or wages in excess of 25% of such employee's base salary or wages between January 1, 2020 and March 31, 2020 (the reference period) will generally result in a reduction in the loan forgiveness amount by the total dollar amount of the salary or wage reduction which exceeds 25% of the employee's base salary during the reference period, unless an exception applies.

LIMITATION

The salary/wage reduction applies only to the portion of the decline in employee salary and wages that is not attributable to the FTE reduction.



SAFE HARBOR, EXEMPTIONS & EXCEPTIONS TO REDUCTIONS

SAFE HARBOR FOR REDUCTIONS

- If by June 30, 2020, a borrower eliminates any reductions in FTE employees which occurred during the safe harbor (February 15, 2020 and April 26, 2020), the borrower is exempt from any reduction in loan forgiveness that would otherwise be required due to the reductions in FTE employees.
- If by June 30, 2020, a borrower eliminates any reductions in employee salary or wages which occurred during the safe harbor (February 15, 2020 and April 26, 2020), the borrower is exempt from any reduction in loan forgiveness amount that would otherwise be required due to the reductions in salaries and wages.

EXEMPTIONS & EXCEPTIONS TO REDUCTIONS

If an employee of the borrower is fired for cause, voluntarily resigns, or voluntarily requests a reduced schedule during the covered period or alternative payroll covered period (FTE reduction event), the borrower may count such employee at the same full-time equivalency level before the FTE reduction event occurred when calculating FTE employer reduction penalty.

The borrower shall maintain records demonstrating that such employee was fired for cause, voluntarily resigned, or voluntarily requested a schedule reduction.

EXEMPTIONS & EXCEPTIONS TO REDUCTIONS *cont.*

In calculating the loan forgiveness amount, a borrower may exclude any reduction in FTE employee headcount, or reduction in hours of an employee, that is attributable to an individual employee if:

- The borrower made a good faith, written offer to rehire such employee (or, if applicable, restore the reduced hours of such employee) during the covered period or the alternative payroll covered period;
- The offer was for the same salary or wages and same number of hours as earned by such employee in the last pay period prior to the separation or reduction in hours;
- the offer was rejected by such employee;
- The borrower has maintained records documenting the offer and its rejection; and
- **The borrower informed the applicable state unemployment insurance office of such employee's rejected offer of reemployment within 30 days of the employee's rejection of the offer.**

SBA REVIEW OF ELIGIBILITY, USE OF PROCEEDS & FORGIVENESS

SBA REVIEW OF LOAN

The SBA may review a borrower's eligibility, loan amount and use of proceeds, and loan forgiveness amounts for any size loan at any time. All documents must be saved for six years after the loan is forgiven or repaid in full.

The SBA may request additional documentation at any time.

SBA REVIEW OF LOAN *cont.*

IFR dated April 15, 2020 (13 CFR Part 120, volume 85, No.73)

Confirms that borrowers must certify in good faith, among other certifications, that:

“Current economic uncertainty makes this loan request necessary to support the ongoing operations of the applicant.”

“The funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments; I understand that if the funds are knowingly used for unauthorized purposes, the Federal Government may hold me legally liable such as for charges of fraud.”

THANK YOU FOR JOINING US!



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*The recording from today's session will be
emailed to you within 24 hours*