

Paycheck Protection Program: Forgiveness

Q&A

What falls under the umbrella of “Utilities”?

We are awaiting guidance to be sure on this topic. We feel confident in water, electric, gas, sewer. The items we expect to be addressed are phone, cell phone, internet, garbage.

Are independent contractors included in the FTE count when applying for an SBA loan?

Can you pay the employees more? I have a small group actually working and the rest will be sitting home getting paid.

For purposes of calculating the maximum loan amount, what is included in the salary calculation?

We have not seen any guidance that you can't pay employees more. This will also help meet the compensation reduction calculation. We have clients that have given increases in example as “hazard” pay.

Do you believe temporary workers can be included in the forgiveness formula?

As long as they are considered employees and paid through payroll.

What is the FTE base number 30 hours or 40 hours?

30 hours

There is discussion on how rent is defined. Typically rent would mean paying for space but can this apply to rent of equipment and other agreements?

Rents have not been defined so we will need to watch for guidance and clarification.

Will it be the banks determining if the requirements for forgiveness have been met or does SBA process the forgiveness paperwork?

It appears that Banks will be charged with reviewing the forgiveness and then submit to SBA for funds. Keep in mind, Banks have had to front the funds and don't get reimbursed from Treasury until forgiveness is finalized.

We have some employees that cannot return to work due to doctor's orders because their medical conditions put them at risk. We only reduced hours, but will be bringing all hours back up to normal operations, but not all employees are able to return. I am confident we will use all of our loan for payroll costs though.

At this time, you will still be subject to the weekly FTE reduction calculation. We are awaiting guidance on whether being back to normal by June 30th will relieve this reduction.

Can temporary 1099 workers be included?

No, 1099 workers are not an allowable payroll costs under the Act.

How should we handle Emergency Paid Sick Leave or Extended paid FMLA during the 8-week period? Can an employee potentially get 8 weeks paid by employer under PPP, then request paid sick leave and FMLA at the end for a potential additional 12 weeks paid leave?

Wages paid under the FFCRA are not eligible as payroll costs under PPP program. You will instead take a payroll credit for these wages.

I paid last month's LG&E bill once we got the loan. Can I include this is the utility costs?

We are awaiting guidance on this. The Act reads "incurred and paid" so we need this better defined.

There has recently been lots of scrutiny of public companies, such as Shake Shake Shack & Ruth Chris, of taking the PPP loan, under the allegations that they have strong market value and access to capital markets and so didn't need the PPP loan to "support their ongoing operations", per the certification on the loan application. Just yesterday, Treasury posted an answer to a question on this, saying that companies who repay the loan in full by May 7 will be deemed to have acted in good faith. To what degree do you think non-public companies will be scrutinized of having made this certification on the loan app? There is gray area with this certification (what defines, "necessary to supporting ongoing operations"?) Thoughts?

We hope further guidance will be provided on this scenario. The certification is very broad and is also based on the word "uncertainty". We feel every small business has uncertainty as to the length of this situation, staffing, delinquent or bad accounts receivable, and possibility of deferral of federal and state contracts. All guidance for now has been aimed at public companies, but we will monitor this closely.

Can labor burden be included in payroll?

Different companies define labor burden many different ways. The only items allowed are group health costs, retirement costs and state unemployment for Kentucky. Employer match of FICA is not an allowed expense.

Employer pays fees for the retirement account. Are those fees also allowed?

We have not seen anything that details this as an allowable cost. We can wait for further guidance to see if this is clarified. It would probably be a good idea to see if you can meet the 75% requirement without this costs to be safe for now.

What if you receive PPP funds while the state mandates that your business closed?

The 8-week period starts regardless at this point. We have seen much discussion around this situation and hope to possibly allow some flexibility if this is the case. If nothing changes with guidance, a decision will have to be made to pay people even if they are not working or possibly pay more of the loan back at the end of the 8-week period as you will not meet the 100% forgiveness rules.

Re the \$100k max... is the math as you showed ($\$100,000 / 52 * 8 = \$15,385$)? I've seen it / heard it as $\$100,000 / 12 \text{ months} * 2.5 = \$20,833$ for the max.

The math we have shown is for the 8-week period calculation on the forgiveness side and is correct in showing the maximum amount of compensation that will be allowed per employee for that time frame. The \$20,833 amount in your question is the calculation for the loan application amount and is correct as the loan is based on 2.5 months of payroll. The .5 extra is the amount the loan is providing for 25 % other costs of rents, utilities, and mortgage interest.

Is the 8 week period flexible?

At this time, the 8-week period is limited to starting as of the date of loan origination. We will need to see if guidance allows any flexibility for those business mandated to be closed.

Funds were received this week, but payroll was ran out of a different account because it wasn't received in time. Can we transfer funds from PPP account to other account and still count towards funds used for payroll?

Yes, keeping the funds in a separate account is not mandatory, just recommended. Businesses will have to substantiate the costs in the forgiveness process regardless of what account payments were made from.

By your example, if we received \$150k and only spent \$120k, is the \$120k still forgivable and we just have to pay the \$30k back over 2 years or is the WHOLE loan non-forgivable then?

We believe only the \$30k would be payable, but we would like to see further clarification in this area.

If we bring someone back that was off now and our loan date was 04-18-20 would that qualify us? Or would it be prorated if we do not bring them back?

The first week your FTE average would be lower by that person and then would increase for rehire date forward. If at the end of the 8-week period your FTE average is lower than your comparison period, you could have a prorated reduction amount.

The state mandated we close. We are a family business and the family has been working to keep the business going. We still have payroll cost on family and we are still paying 100% of all employees health care costs.

The costs you still have should be part of your payroll costs to reach the 75/25 rules, but you will still be subject to reductions for FTE and payroll decreases if other employees are not being paid. Future guidance could provide relief for businesses that are forced to be closed, but as of now that is not the case.

The 8-week period starts on closing date of the loan correct? We have reduced hours for staff and are planning to bring them back up to regular operating levels once we've closed the loan.

Yes, that is correct.

Are temporary raises during this eight week period forgivable? This is based upon the employee going back to standard pay at the conclusion of the eight week window.

Yes, we believe temporary raises can provide a means to meet the wage comparison calculation during the 8-week period.

Can we pick option #1 or #2 at this point or do we need to use the FTE number on the application?

You will be able to pick Option 1 or 2 in the forgiveness process.

What number of hours worked determines Full Time Employment?

30 hours and above is considered an FTE for SBA purposes.

If our option 2 FTE is 9 and we end up with FTE of 10 by end of May, can we use loan dollars to pay all 10 employees?

Yes

If you furlough February through April 2020, is there an alternative FTE provision? I've read you have until June 30 to bring back furloughed employees and will avoid forgiveness reduction.

The Act does mention this June 30th alternative, but it does not address if that alleviates you of the 25% salary reduction calculation and also the spend of 75% of funds for payroll. We need further guidance on this topic and hope such will be provided soon.

If some employees' wages are partly covered by federal grants, is that amount added to the reduction? Before or after the reduction calculation?

We have not seen any guidance to this point on this topic. We will watch for and update accordingly.

How do you handle an employee who replaces an employee who was with you last year?

There is no specific guidance issued on turnover yet. We do not believe you will be penalized for the turnover, but we are unsure how wage comparison by employee will be calculated.

Will you address how to handle the loan in Quick Books?

We recommend you set up a long-term liability to your lending institution for the amount of the loan. Once forgiveness amount is determined and approved, the long-term liability should be reduced by this amount and that should be posted to another income amount earmarked as nontaxable.

Does Workman's Comp Insurance fall under Payroll Expense?

In Kentucky, we do not think this is a qualified payroll costs.

Are there penalties to paying back any unforgiven amount early?

There are no prepayment penalties.

How to handle bi-weekly payrolls where payroll dates don't coincide with eight week spending period?

We are advising clients to possibly accelerate last paydates to ensure costs fall into the 8-week period.

What about property insurance? Can it be used as an expense?

No, we have not seen any guidance that allows property insurance to be an allowable non payroll cost.

Does rent refer to building rent only or does it include equipment rentals (example for construction companies) to perform work on projects?

Currently, we believe rents refers only to building payments. We will monitor guidance and update accordingly if needed.

We may not be allowed to open until Jun 1, and our employees are on unemployment. Do we need to bring them back May 1 on payroll to meet terms of forgiveness of loan?

Under current guidance it appears that bringing them back would be the only option to meet forgiveness requirements. As we mentioned in earlier questions, there is a June 30th caveat for FTE rules that we need clarification on that could affect this answer.

Please review how to compute FTE for part time workers.

For workers under 30 hours, we believe they will be pooled together and divided by 30 to convert into a FTE figure.

If we hire back to FTE average from our lookback period by June 30th, the two reduction calculations don't apply correct? Does this hold true if your 8 week period ends before June 30th?

We need final guidance on this June 30th verbiage. As it reads, it appears it relieves employers of the FTE calculation, but it is not clear about the 75/25 spend rule as well as the 25% compensation reduction rule.

You will need to add the \$10k grant received from EIDL to the forgiveness calculation.

Yes, that is our understanding but expect final guidance to clarify.

Where do 1099 workers fit in your spreadsheet?

1099 costs are not an allowable expense for the calculations.

What happens if workers work more than expected?

This could increase your FTE and payroll costs calculations and should help you more easily meet forgiveness rules.

If loan signed on a Friday (end of payroll week), why wouldn't the 8 week period start on the next weeks payroll?

The Act states your 8-week period begins the date of loan origination not based on payroll dates.

Do we have a problem if an employee quits during the 8 week period even if we replace them with another employee?

We believe a replacement works fine and takes care of calculations given they are paid at same rates.

What happens if my 8 week period ends 6/10 but there is the 6/30 cut off?

This will be case for many businesses. We need further guidance on how the 6/30 FTE caveat in the Act will be applied.

How would independent contractors perform the forgiveness calculation?

We believe you will just have to show the monies as paid to sole proprietor as wage replacement. We anticipate future guidance will clarify this calculation.

Per the Act, banks are required to pay the agents (CPA firms) for the work on the applications, etc...out of the origination fee they are receiving on each loan. Banks are now balking on that. We cannot bill our clients for the work per the Act. How are other firms handling this? There will continue to be an enormous amount of time expended.

We have seen banks handle differently as well. The AICPA has provided guidance that consulting engagements are allowed. Our firm has taken the approach that first and foremost we are trusted advisors and we must help our clients through this difficult time.

We as owners pay ourselves via draw that differs every month but averages to 5000 each. How do we include this in payroll calculation?

The answer depends on your entity structure. If you are a partnership, this will likely count as payroll compensation of the owners. If you are a corporation, only payroll costs are allowed and draws would not count as allowable payroll costs.

Does the Group Health Insurance include Life & Disability paid by employer?

We believe the answer is no in this case, only group health items are allowed.

Can Third party payroll processing costs be rolled in 75% or should it be in 25% portion?

We have not seen any guidance that makes this an allowable cost in either category.

Can a consultant or other short term strategic hire be added to the payroll during the 8 week period?

Yes, but they will only count if they are paid through payroll.

Can we can hire new employees and use that in calculations?

Yes

Do we need to keep same number of employees the whole time or just have the same at end?

FTEs are calculated over the whole 8 week period, but there is verbiage in the Act that appears to provide a relief net if up to full force on June 30th; however, the Act is not clear on if the relief applies to the wage reduction calculation and keep in mind still have to spend the 75/25 rule. We are anxious for further guidance in this area and will update accordingly.