

Paycheck Protection Program: Forgiveness

Q&A

What do they define as utilities? There are many interpretations to this depending on the company structure. Insurance, transportation, hiring fees, software programs, etc.

The CARES Act does not specifically define utilities. That being said as of now we believe the utilities to include electric, water, sewer and natural gas.

Are ESOP contributions included as retirement plans?

At this point the CARES Act does not give detail as to what can count as retirement expenses. We believe it to be only the employer match of any retirement contributions at this point.

Can you include workers comp costs?

We do not believe this is included in an employer's group health care costs.

Are payroll costs based on paid or incurred?

Additional guidance is needed due to CARES Act wording stating "costs incurred and payments made". We believe for planning purposes to use a cash basis and then can adjust if guidance clarifies.

What if you are self-funded for medical & dental? Claims paid or accrued expense?

We believe in lieu of health insurance premiums that claims paid would count as group health care costs.

Will the forgiveness piece be based on PAID payroll or payroll that has ACCRUED during the 8 week period?

As mentioned above additional guidance is needed on the wording within the CARES Act. That being said we would recommend starting with a cash basis prospective.

We laid off about 75% of our staff in late March. I understand that if we are back to full capacity with everyone rehired that we would not be hit with the headcount reduction factor. Is that true and do you know what date we need to be back to full capacity? June 1st, June 30th??

This is true and the date is June 30, 2020. Remember this provision is for employees who were laid off during March 1 through 30 days of the enactment of the CARES Act (April 27, 2020). This does not however alleviate the reduction in wages requirement.

100% can be used on payroll if need be correct?

Yes.

If you have an employee leave voluntarily (retirement or leaving for another job) does this count against your FTE calculation?

Depends on when the employee left voluntarily. If during the period mentioned in a question above then we would have the ability to replace by June 30, 2020. If not in the time period then it would be average out through our 2 options of time periods to compare our covered period FTEs with.

In example 2 does that mean that NONE of the loan will be forgiven or only 66% will be forgiven?

If we do not meet the 75/25 rule on the forgiveness amount which is accumulation of allowable costs, then we believe the amount on only payroll, in this case the 66%, would be forgiven.

Is option 1 supposed to be 2020?

No option one is looking back to 2019 and calculating FTE's per pay period from 2/15/19 through 6/30/19.

What if we had the same FTE for option 1 and option 2 and we will be bringing back all of our positions by June 30, except for we eliminated 3 positions. What would happen to us then because of those 3 positions being eliminated?

Then there would be a reduction based off of the calculation 1 minus (8 week avg. FTE/Option 1 or Option 2) multiplied by your forgiveness amount.

What advice would you give to a high turnover/low wage type of industry during this time?

To go ahead and attempt to bring employees back or replace as needed. Complete FTE assessment as well as reduction in wages assessment and plan on trying to maximize your loan forgiveness amount. That being said, you have to be comfortable with knowing that a portion of the loan will need to be paid back unless the SBA decides to help manipulate the 8 week covered period.

We had been waiting on paying out 2019 Profit Sharing in to employee's 401k. These payments were made DURING the coverage period. Can this payout (which is a valid covered cost, but was actually for 2019 benefits) be included in the calculations?

Once again depends on how they finally define cost Incurred. That being said, we would state that this is a paid cost during your covered period and would be allowed to be Included In your forgiveness amount.

What if compensation is INCREASED (scheduled/planned bonuses, etc.)?

Nothing in the CARES Act states that increases in compensation over the 8 week period are not allowed. Upon reading the CARES Act it looks like it was the intent of the Act to put as much as possible into the hands of the employees.

Can money paid weekly to a subcontractor be used in the total for payroll?

Subcontractors are not included within your allowed payroll costs.

If you have put employees on unemployment in the designated time, why are you saying it's advantageous to bring them back ASAP? What calculations do I need to do if I'm in this position?

If you are trying to meet the requirements for forgiveness, you have to pay payroll costs and meet FTE requirements. If you leave them on unemployment, you are reducing the amount that can be forgiven from the start as you run out of time to pay the costs out.

If the 75% payroll threshold is not met, are you saying none of the 25% on rent, utilities etc. is forgiven?

At this point, yes, that is what we believe to hold true. We hope the final guidance will confirm what happens to the other expenses if the 75% is not met.

Can we front load bonuses that are usually paid in December?

Yes, we think bonus amounts could be paid during 8 week period to help meet cost requirements. Keep in mind that you are limited to compensation equal to \$100k annually per employee prorated for the time frame.

In reference to Jeff's question regarding the pay out of profit sharing for the previous year (2019); if payment is made during the coverage period, will the profit sharing payment amount applied to employees for this purpose be made during the coverage period & qualify for forgiveness?

We think the cost could qualify but retirement costs have not been defined by the CARES Act to this point. We need final regulations to confirm.

Are insurances GL, WC, car, included in any of the forgivable? Is there guidance on this yet?

We have seen nothing that makes insurance an allowable non payroll cost.

We typically pay out a bonus to or executives in April each year. Will that pay be forgiven (all else being equal)?

Yes, we think bonus amounts could be paid during 8 week period to help meet cost requirements. Keep in mind that you are limited to compensation equal to \$100k annually per employee prorated for the time frame.

With utilities paid what if we paid the bill for say April before our loan originated date started? Is it when it is paid or does it have to show being paid within the period like payroll?

We believe it would need to be paid after the loan origination date. We will monitor the final guidance on "paid and incurred" to see if anything else is allowed.

You mention state unemployment taxes as payroll expenses, but didn't include social security and Medicare match. This would be considered payroll costs as well, wouldn't it?

All guidance to this point has been consistent that the social security and Medicare match is not an allowable cost. The unemployment has been an allowed expense under the terminology it's a state tax based on compensation paid by employer.