

COVID-19: Resources, Regulations and the Road Ahead Q&A



By Todd McCracken | APR 15, 2020

COVID-19: Resources, Regulations and the Road Ahead Questions & Answers:

<p>Does Bonus payout from 2019 get added into the \$100,000 cap?</p>	<p>Yes, all employee payroll (up to \$100,000) is used to calculate the average monthly pay.</p>
<p>Are PPP forgiven funds based on expenses paid during the 8-week period or costs incurred? Ex: I haven't paid Jan and Feb utility bills can I use funds for that and be forgiven?</p>	<p>It is designed to be used for the eight-week period after funding is approved.</p>
<p>People on unemployment will get an extra \$600 weekly, this will allow some of our current unemployed to make more than their regular 40-hour weekly payroll. We would like to put everyone we can back on payroll with their normal gross wages and health benefits? As we have been approved for a PPP loan on Monday and will be funded within 10 days. If we do not pay over \$100k annually can we increase wages in the next 8 weeks and have it forgiven. Also, if we are back to full employment as of 06262020 and later in July can our employees reopen their unemployment claim?</p>	<p>You can certainly increase wages--though the total amount forgiven obviously cannot exceed the total amount of the loan. If in July the funds are depleted and you need to lay people off, they are still eligible for unemployment.</p>
<p>Are any union fringe benefits allowed to be counted as payroll costs?</p>	<p>Yes, all employee payroll (up to \$100,000) is used to calculate the average monthly pay</p>

<p>If you have been approved for a PPP loan, can you pay your employees over the next 8 weeks under this plan for forgiveness option? And then if necessary, use the FMLA option?</p>	<p>The FMLA option is targeted to those employees who must care for children because of school closures.</p>
<p>What if the employees refuse to come back when we offer them their jobs back?</p>	<p>This is no different than if an employee refuses to return after a standard lay-off. You can replace them if they have no legal basis for refusing.</p>
<p>Does the employee need to provide proof of doctor's order or COVID-19 in order to be eligible for the sick pay</p>	<p>A doctor's order is not required.</p>
<p>On the PPP program what period of time do the forgivable expenses have to be contained in?</p>	<p>The eight-week period following loan approval.</p>
<p>I have a question about bring employees back. What should an employer do if we had done layoffs on March 20th, now we asked employees to return to work and they are refusing because of childcare issues and being afraid of the virus. We are exempt from the FMLA. Will we be discussing these issues as well?</p>	<p>For purpose of this law I question if this company is exempt. A company can apply for exemption but there is not a blanket exemption.</p>
<p>Is it retroactive or does it only start from the date of the loan?</p>	<p>It starts from the date of the loan.</p>
<p>First question was not answered FICA included, benefits? What is defined as utilities?</p>	<p>State and local taxes assessed on employee taxes are included, federal taxes are not. Benefits included are group health insurance and employee retirement expenses.</p>
<p>Regarding the PPP, can you use expenses for healthcare for forgiveness? Employer & Employee portions? Also does the 8 weeks begin at funding?</p>	<p>Insurance premiums are included, only employer share.</p>
<p>Is the extended 10 weeks of FMLA only available for item #5? Which is Child Care?</p>	<p>Yes, just childcare.</p>

What information will need to be provided to prove PPP monies are forgivable?	"Documentation" will need to be provided to the bank for forgiveness.
We are in the charter bus company, which is group travel... both things that are not likely to return by the end of the 8-wk forgiveness period. We are getting funding tomorrow for the PPP. Why would we bring employees off of unemployment where they make more with the federal unemployment \$600/week extra than they would with us, only to likely be laid off for a couple of months after that 8 weeks, when they would no longer have the \$600 federal benefit?	Because your PPP is only forgivable if you use at least 75% for payroll costs, and you must rehire staff by June 26.
Also, if we are able to bring back 10% of our employees, would that full amount of payroll expenses in that 8-week period be fully forgiven?	No, there is a reduction in forgiveness if employees are not rehired.
If you haven't reduced and are still operating as normal are you still eligible for forgiveness?	Borrowers are asked to assert that the loan is necessary because of economic uncertainty to sustain the business.
Do the PR expenses include state and federal unemployment and other employer taxes local and state, health, pension and training paid under CBAs, health insurance payments?	Not training, but yes otherwise.
What agency to we look to for guidance on the PPP?	The SBA has issued most of the relevant guidance.
A similar question to the last one -- will utility and other payments be forgivable on the cash or accrual basis?	This is not clear from the guidance, but the wording appears to presume cash.
We have some staff that are not fully able to work full-time by teleworking. Are we able as an employer to still pay them full hours by using an employer provided sick time leave (similar to administrative leave)?	This is your choice according to your policies, but monies not disbursed cannot be forgiven.

Are small businesses receiving PPP loan proceeds? We applied on April 6 and have not heard anything from our bank.	Yes, but stories are widely variable.
You mentioned PPP is almost out of money as of April 13. Do you know how much of the \$349 billion has been distributed?	As of April 15, it is gone.
for PPP forgiveness, does rent include equipment or just facilities?	Just facilities.
Can a business take advantage of the Emergency Paid Leave tax credits and take out the SBA loan of up to 250% of payroll? i.e. would that be double dipping?	250% of previous payroll is used to determine loan size, so the leave credits do not impact this calculation. However, loan forgiveness is reduced by the amount of any credits received.
Are the advances a \$1,000 / employee up to \$10,000?	Yes, but that is for the EIDL program, not PPP.
Will the PPP be funded again?	I think so, but that is speculative.
Do employees get paid for the FMLA?	Yes, you pay them and then seek a tax credit through the payroll deposit system.
PPP Wages do NOT include Employer federal taxes, only state taxes?	That is correct.
So, if we hire some of our employee's back and we are not able to keep them after the 8 week period, will their payroll cost during the period still be forgiven if we don't maintain them?	No, only monies paid will be forgiven.
The extra 10 sick days. Do you have to add them if no one has been sick yet or missed work yet? Or do you have to add 10 regardless for the year?	No, they can be used only for the prescribed purposes and only this year.
Our small mfg. (essential) business has received its PPP loan funds through our local bank. We have a few people not able to come in to work due to qualifying COVID reasons (school closure, care for fam. member, etc.). Are we able to claim the tax credits for payroll paid	You can claim the tax credit, however those amounts will be deducted from the forgiveness portion of the loan if you had them during the eight weeks following the loan.

to the employees NOT at work, since we received the PPP funds? If so, almost seems as if we are double-dipping.	
Are there other loans than the PPP?	Economic Injury Disaster Loans from the SBA directly.
For the business owner loan, is that calculated only off profits? What if your business didn't make a profit?	There are special rules for the self-employed, using net profits from 2019. If there were no net profits, you are not eligible.
Once you accept the loan from the PPP, is there a time frame to bring back your employees?	by June 26.
My company is owned by me (33%) a US citizen, and a Canadian company (67%). Will we be eligible for EIDL or PPP?	No. The program is using definitions for domestic company, and normally foreign companies are not eligible.
Will the first quarter SUI tax payment be forgiven if paid during the 8-week forgiveness period, even though the tax was incurred in Jan, Feb, & Mar.?	I don't believe so.
We've had an employee leave to take a position elsewhere. We replaced him through an employment agency, so the new person is not our actual employee. How will that affect our PPP loan?	It won't impact the loan amount or your eligibility, but it will reduce the amount of loan forgiveness.
Is the loan be forgiven entirely or just 8 weeks of payroll, rent, utilities...? Is the FMLA related to COVID is it mandatory to pay them 10 weeks of leave...not clear.	1. Just 8 weeks. 2. Yes two weeks of broad sick leave and an additional 10 weeks for childcare.
Please explain how the government is reimbursing companies for the Family 1st act.	The reimbursement is through reduction (or refund) through the payroll tax deposit system.
How will the loan forgiveness be treated for tax purposes?	It is not taxable.

<p>We have applied and have been approved for the PPP Loan via the SBA. Like everyone, we were very worried that our sales would decline drastically. What if it turns out that our sales did not suffer and therefore did not really need the loan? Do we have to pay it all back or is the payback portion the same as it is for everyone else?</p>	<p>You will be asked to assert that the loan was necessary to meet your expenses. And then it will be treated the same. There is no prepayment penalty.</p>
<p>By June 30th, do we have to hire back the same employees, or can we hire new employees if the previous employees refuse to come back to work.</p>	<p>The provisions are not tied to particular workers.</p>
<p>Can companies get a tax credit and a loan thru PPP?</p>	<p>Yes, but not both the tax credit and loan forgiveness for the same payments.</p>
<p>How much of the 350B in PPP has been used up?</p>	<p>All of it.</p>
<p>Would a 501 c 13 be included in the PPP loan?</p>	<p>No, only 501c3.</p>
<p>I was told we qualify for the loan-- does that mean we will automatically qualify for the forgiveness if we meet the payroll and utility requirements?</p>	<p>Yes.</p>
<p>Should the self-employers apply for the PPP?</p>	<p>Yes.</p>
<p>Question for later: The PPP program requires a company to attest that they have not *and will not* apply for any other loans under the program.. but what happens if the program is extended and further stimulus is awarded... since the PPP only really helps for 8-10 weeks.</p>	<p>There will be new rules for an extension.</p>
<p>On PPP: if a company applied through their bank but it hasn't made its way to the SBA for approval yet, is the PPP likely to run out of money before the SBA approves it?</p>	<p>Yes.</p>

<p>We applied for the EIDL 3 weeks ago and no word except a confirmation number. I can't find anywhere to verify what is happening. Where can I go to find out what's going on?</p>	<p>That is a flaw--there is nowhere to go.</p>
<p>The Forgiven is only for 8 weeks. What do we do when the state does open up? Do we re-layoff the staff?</p>	<p>If that is the correct business decision. There may be additional funding.</p>
<p>We have applied for the PPP program. Received email that we got accepted however we have not gotten any other emails regarding uploading information to the Intralinks website. I am concerned that we will not get any of the money, does this money run out?</p>	<p>We have heard about company's receiving money in their account out of the blue so I would not worry about money running out if you were accepted.</p>
<p>If an employee is quarantined and you pay them the 2 weeks of paid sick leave under the paid sick leave act and they become sick during that time and are unable to return to work are you required to continue to pay them sick leave?</p>	<p>You are only required an additional 2 weeks of sick leave. After that, whatever your normal policies are kick in.</p>
<p>If my company is going to lay me off, can I opt to take my 10 weeks to take care of kids who school has closed instead?</p>	<p>If you assert your right to leave before the layoff, you are entitled to the leave.</p>
<p>Can the loan be used for bonuses for employees?</p>	<p>Yes.</p>
<p>Our office space that we were renting in February was destroyed in a tornado on March 2, the lease for our new location was signed on March 11, so are you saying our rent expense would not be eligible?</p>	<p>Unfortunately, it is not eligible.</p>
<p>Do "payroll expenses" include payments to hiring agencies for temporary employees? Would these temp employees be included in the employee headcount for loan forgiveness calculations?</p>	<p>No.</p>

<p>What happens if at a daily temperature check, an employee has a fever, is sent home and both the employee and employer are unsure if the fever is COVID-19 related? Does this fall under the FFCRA? How would the employer handle this?</p>	<p>I believe it would fall under FFCRA but is a bit gray.</p>
<p>It was my understanding that if there is a job offer to come back to work made to an employee that was laid off due to the COVID-19, that it is not their choice to continue on because there is work available to them. Is that not true?</p>	<p>That is true.</p>
<p>What is the average ETA on the EIDL loan application completion to hearing from a SBA loan specialist?</p>	<p>2-3 weeks.</p>
<p>Do you anticipate the June 30, 2020 date (for the full return of the workforce as it relates to PPP) to move to later in the year as more information is available on the actual date for people to return to work (i.e. Governor's re-openings)?</p>	<p>Potentially, yes</p>
<p>If an employee has used FMLA in 2019 can they take this additional 10 weeks for emergency FMLA for childcare?</p>	<p>Yes.</p>