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PPP Fact Sheet for Employers:
Calculating Loan Amounts, Using PPP Funds, and Loan Forgiveness
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The Payroll Protection Program ("PPP"), administered by the Small Business Administration, is designed to provide forgivable loans to small businesses to temporarily help maintain payroll and pay fixed expenses during the COVID-19 pandemic. Generally, businesses in operation on February 15, 2020 with 500 or less employees are eligible for PPP loans. This document is designed to be a high level guide to the method of calculating both the loan amount and the amount of the loan that might be eligible for forgiveness. The summary is not a substitute for legal or accounting advice, and many issues remain unclear and in need of clarification from the federal government.

Calculating loan amount

The maximum loan amount is 2.5 times the borrowers' monthly payroll costs during the one-year period preceding the loan, which has been interpreted as Calendar Year 2019. PPP loans cannot exceed $10 million. The statute specifies the following method to calculate maximum loan amount:

- To compute payroll costs, add annual:
    - Salary, wage, commission, or similar compensation made to employees who reside in the U.S.
    - Payment of cash tips or equivalent
    - Payment for vacation, parental, family, medical, or sick leave
    - Allowance for dismissal or separation
    - Health care contributions
    - Retirement contributions
    - State and local taxes assessed on employee compensation
- Divide payroll amount by 12
- Multiply by 2.5
- Add any outstanding Economic Injury Disaster Loan balances from loans made between January 31, 2020 and April 3, 2020 that you wish to refinance.

Payroll costs do <u>not</u> include:

- Any compensation of an employee whose principal place of residence is outside of the U.S.;
- <u>Cash compensation of an individual employee in excess of $100,000 annual salary</u> (this does not include *non-cash benefits* such as group health care coverage or contributions to retirement plans), prorated as necessary;

- Federal employment taxes imposed or withheld between February 15, 2020 and June 30, 2020, including FICA and Railroad Retirement Act taxes, and income taxes withheld from employees;
- Qualified sick and family leave wages eligible for tax credits under the FFCRA.

For businesses not in operation in 2019: payroll costs should be computed based on the average total monthly payroll costs incurred for January and February 2020, and then multiplied by 2.5.

Seasonal employers: payroll costs should be computed based on the average monthly payroll costs for an 8-week period between either February 15, 2019 and June 30, 2019, or March 1, 2019 and June 30, 2019.

Documentation to substantiate loan amount: Documentation requirements may vary from lender to lender, but businesses should be prepared to produce their 2019 Form 1040 Schedule C, Form 941 (or other tax forms or equivalent payroll processor records containing similar information), state quarterly wage unemployment insurance tax reporting forms (or equivalent documentation), and records showing retirement and health insurance contributions. Additionally, to demonstrate your business was in operation on February 15, 2020, provide a payroll statement or other documentation to show the February 15, 2020 pay period.

Using your PPP loan

From the day that the lender funds the loan, the borrower has 8 weeks to incur expenses that are eligible for forgiveness. During the 8 week period, at least 75% of funds must go towards payroll costs, which includes 1) salary, wages, and tips, up to $100,000 of annualized pay per employee (maximum of $15,385 per employee over the covered period), and 2) covered benefits for employees (but not owners), such as health care expenses, retirement contributions, and state taxes imposed on employee payroll paid by the employer (i.e. unemployment insurance premiums).

All remaining funds (up to 25% of the loan) *not* spent on payroll costs may be used to pay 1) rent, so long as the lease agreement was in place before February 15, 20202) utilities, so long as the service agreement was in place prior to February 15, 2020, 3) mortgage interest on real or personal property incurred prior to February 15, 2020 or 4) interest payments on any other debt obligations that were incurred before February 15, 2020.

Loan forgiveness

Loan forgiveness is based on costs incurred and payments made during the 8 week covered period after the loan is funded. The following expenses are eligible for forgiveness:

- Payroll costs, *not including* costs related to the continuation of group health care benefits during periods of sick, medical, or family leave
- Interest on a mortgage in place prior to February 15, 2020
- Rent on a lease in place prior to February 15, 2020
- Utilities with a service agreement in place prior to February 15, 2020

It remains to be seen if bonuses and other increases in compensation during the 8 week period count as payroll costs.
PPP loan forgiveness will be reduced if a borrower reduces the average number of full-time equivalents ("FTEs") during the covered period:

- First, determine the average number of FTEs during the 8 week covered period.[1]
- Next, compare this average to your FTE average prior to the loan, using either February 15, 2019 to June 30, 2019, *or* January 1, 2020 to February 29, 2020 as your frame of reference. Seasonal businesses should use February 15, 2019 to June 30, 2019 as their frame of reference.
- Forgiveness will be reduced proportionally based on the difference between your average full-time headcount during the covered period and your average full-time headcount prior to the loan.

At this time, there is no exception for employees who separate from their employer for reasons unrelated to COVID-19. Theoretically, if a business terminates an employee for cause, this may impact PPP loan forgiveness.

PPP loan forgiveness will also be proportionally reduced if a borrower reduces an employee's total salary or wages by more than 25% percent, as compared to the employee's earnings during their most recent full quarter before the PPP loan was made. For purposes of this calculation, only consider employees who make $100,000 or less per year.

IMPORTANT CAVEAT: A borrower has a chance to cure any reduction in headcount or compensation that occurred between February 15 and April 26, 2020 by restoring headcount or compensation on or before June 30, 2020.

Documentation to substantiate loan forgiveness: businesses must produce the borrower certification, Form 941, state quarterly wage unemployment insurance tax reporting forms from the covered 8 week period (or equivalent documentation), evidence of business rent, evidence of business mortgage interest payments on real or personal property, and/or evidence of utility payments made during the covered period, as applicable.

PPP Loans and the Employee Retention Credit

Businesses who receive PPP loans are *not* eligible for the employee retention credit under the CARES Act, which provides a 50% refundable credit against payroll tax (i.e., employers Social Security and Medicare contributions) for the first $10,000 of wages per employee (including salary and the cost of health care benefits).

[1] The SBA has not yet issued guidance on calculating FTEs for the purposes of PPP loan forgiveness.