

## PPP Loan Forgiveness Webinar Attendee Submitted Questions

### On Qualified Expenses...

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**Are we able to ask forgiveness for expenses such as reimbursed cell phones for EE's, gas cards, auto repairs/insurance? Also, can we ask for forgiveness on leases for IT expenses or loan payments?**

Currently, the eligible non-payroll costs are as follows:

- **Covered Mortgage Obligation** - Interest on any indebtedness or debt instrument incurred in the ordinary course of business that is (1) a liability of the borrower, (2) is a mortgage on real or personal property, and (3) was incurred before 2/15/2020
- **Covered Rent Obligation** - Rent obligated under a leasing agreement in force before 2/15/2020
- **Covered Utility Payment** - Payment for a service for the distribution of electricity, gas, water, transportation, telephone, or internet access for which service began before 2/15/2020

These costs are limited to 40% of your total forgiveness. We are still waiting for more detailed guidance regarding specific expenses that qualify as utility payments.

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**We personally own the building that our company is in. We haven't paid rent to ourselves since March. Can we pay ourselves back rent through the PPP?**

Yes, the amount of rent paid during the covered period is eligible, including past-due expenses. You will not be allowed to pre-pay rent, but any rent incurred during the covered period will be eligible. Keep in mind that currently you will be required to report rental income and the company would not receive a deduction for paying the rent.

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**In the "transportation" category, will businesses have costs for freight associated with stock/inventory or delivery be forgiven?**

Currently, it is unclear what specific costs the lawmakers were referring to with respect to the transportation utilities. We are awaiting additional guidance on this matter.

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**Can I clarify that the forgiveness is not in any way tied to actual losses resulting from COVID? For instance, if payroll for the 8 weeks was \$100K and all employees were working during that time because the company was only marginally impacted by COVID, that payroll would still be eligible for forgiveness?**

That is correct, actual operating performance of the company does not determine forgiveness. Eligible expenses paid or incurred during the covered period determines forgiveness.

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**Does utility include cell phone?**

More guidance needs to be issued on the definition of Utilities. Utilities are defined as "Payment for a service for the distribution of electricity, gas, water, transportation, telephone, or internet access for which service began before 2/15/2020." Whether Cell Phone qualifies as telephone is still to be determined.

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### **If I pay a headhunter to hire a new employee during this period, is that covered?**

Payment to a headhunter would not be a qualified payroll expense under the current PPP guidance, as it is not cash compensation paid to an employee or one of the delineated non-payroll expenses.

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### **Which utilities can be claimed in our Forgiveness report: telephone, internet, electric and gas, water bills... and over what period of time?...8 weeks or 24 weeks?**

Utilities are defined as, "Payment for a service for the distribution of electricity, gas, water, transportation, telephone, or internet access for which service began before 2/15/2020." You can elect for your covered period to be either 8 or 24 weeks. We are waiting for guidance explaining if you can choose a period between those periods or if you must use 8 weeks or all 24 weeks. We are also waiting on more guidance on what "transportation utilities" are.

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### **For loan forgiveness, can we include the employer FICA and Medicare taxes?**

No, only employer paid state payroll taxes for employees are includable for forgiveness. The employer paid state payroll taxes are in addition to "Cash Compensation" and are not limited to the \$15,385 cap per employee. Employer FICA and Medicare taxes are eligible for deferral under the CARES Act.

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### **If we reimburse one employee for her individual Medicare and prescription costs, can we include that in our medical employer's expense total for forgiveness, or only the Employer's portion of medical expense through a group plan?**

If the employer is paying for the health benefits for the employee, then this expense would be considered non-cash compensation and may be eligible for forgiveness.

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## **On Individual Cap...**

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### **Today is the first time I've heard that owners' health insurance and retirement benefits are part of the 15,384 cap. Is that definite?**

This is complicated and is best answered in three parts:

- A. Health/retirement benefits paid for employees by the company is *in addition to* the \$15,385.
  - B. Costs paid for the benefit of owners is not part of the 15K cap, but also not a qualified payroll cost for the PPP funds.
  - C. For owner-employees (S-Corp/C-Corp) - Yes, this is the current guidance. You may include health/retirement benefits paid by the employer for "owner-employees," but the total amount paid to each owner-employee is still limited to 15K.
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### **Do you think the new limit for the 24 week period will remain \$15,385 per person, as opposed to approx. \$46k, which is \$100k / 52 \* 24?**

We are waiting for additional guidance regarding this matter.

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## **On Double Funding...**

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### **If we received PPP in round one, can we apply for additional in round 2?**

An entity/sole proprietor can only receive one round of funding for the PPP Loan.

## On Forgiveness Periods...

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### **Do you have to elect 8 weeks or 24 weeks or can you elect a number in-between?**

We are waiting on additional guidance on this matter. Currently, guidance suggests that the borrower chooses one time period or the other.

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### **If you opt for the 24-week forgiveness period, what is the comparison time period? Is it still the most recently completed calendar quarter?**

The calculations would still be the same. For the FTEs, you are required to compare Average Weekly Hours (AWH) during the covered period to the AWH during the choice of periods given. For the Wage Reduction, you annualize the wages over the covered period and compare to the 2020 first quarter wages, annualized. This is what we currently know, but we are still waiting for additional guidance regarding the 24-week period and the related nuances.

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### **What if you kept employees for the initial 8 weeks but now need to reduce during the new 24-week period**

A borrower can elect to keep the 8-week period. This would be beneficial if the borrower believes they achieved full forgiveness during the shorter period. If not, the funds can be used for 16 more weeks in a manner that may achieve full/more forgiveness. Even if you reduce your employees, you can still obtain full forgiveness through the safe-harbor rules. If the business restores its workforce & regular pay by December 31, 2020, the borrower can still achieve full forgiveness.

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### **Do salaries need to be restored to pre-COVID 19 levels by 6/30 or 12/31?**

The Treasury extended the safe-harbor date to December 31, 2020. It is our understanding that if you choose the 8-week covered period that you can still use the June 30<sup>th</sup> date. We are still awaiting guidance on whether the 6/30 date can still be used.

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### **We have planned our PPP usage to maximize everything over an 8-week period. We brought back all our employees and paid them. We have some money left that we can apply towards rent and utilities. But at the end of the 8-week period we will need to furlough everyone again. Will we still be able to use the extra funds for rent and utilities even after are employees have left and will it be forgiven?**

Qualified expenses paid during the 8-week (covered) period, including payroll costs, rent and utilities are eligible for forgiveness. Since you paid your employees during the covered period and there was no reduction in salary level or head count, the fact that you furloughed the employees after the covered period should not reduce your forgiveness. Any additional funds not used during the covered period can be used for eligible expenses, but will have to be paid back as a loan at 1%.

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### **Previously, the use of the PPP loan money would be evaluated over an eight-week period of 56 days after the loan funding date. Now, the amending act allows an extended period to use the PPP loan. Some companies may be able to fully use the loan money for wages because the period has been extended. Does the extended period to utilize the 250% PPP loan, calculated on base period wages, imply that the PPP loan utilization will be more easily satisfied by operating companies, merely because the usage/evaluation time is longer?**

In general, yes, the Paycheck Protection Program Flexibility Act (PPFPA) was passed to ease the hurdles and extend the time period for companies to pay qualified expenses in order to achieve maximum (100%) forgiveness. We are still waiting on more guidance surrounding the new rules, but overall, more companies will be able to get full forgiveness.

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**The new legislation extends the covered period from 8 weeks to at least 24 weeks: what does this extended period mean for us as a recipient of a PPP Loan? Can we now report/ claim payroll expenses for more than (4) biweekly pay periods for forgiveness? Or, does it just give more flexibility as to which (4) biweekly pays we claim? Also, how does this extension affect our Utilities expenses to be claimed/ forgiven ?**

All qualified expenses, including cash compensation paid to employees during the covered period (8 weeks or 24 weeks), subject to the \$100K annualized cap, are eligible for forgiveness. We are still waiting on additional guidance for the limit on the amount you can pay employees during the covered period, but only in regard to the \$15,385 cap. Any payroll costs incurred or paid during the covered period are eligible (limited to the \$15K cap) – So all payrolls during the expanded covered period can qualify for forgiveness. Payments made during the period for work performed before the covered period are eligible, as well as bonuses. If you choose to extend to the 24-week time period, the amount of utilities that fall within the covered period will increase, but the requested forgiveness is limited to a maximum of 40% usage for non-payroll costs.

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**If we received a loan on 5/06/20, when do we have to send in the loan forgiveness report?**

Per the new Paycheck Protection Program Flexibility Act (PPPFA), the borrower will have 10 months after the end of their covered period to apply for forgiveness. Assuming you use the expanded covered period, it would be 24 weeks (or 168 days) after 5/6/20 and an additional 10 months after that. Alternatively, you can apply for forgiveness immediately following the covered period.

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**Please clarify how we must pick our payroll weeks for forgiveness reporting. Our Loan was received Wednesday, May 06, 2020. We are Biweekly and our payout date is Fridays but that payout Friday covers a two-week work period that ends the Monday before the Friday payout.**

You have two options for the start of your 8-week/24-week covered period. It can begin on May 6<sup>th</sup> (the disbursement date) or on the first day of the next payroll period, which based on the facts above, would be the next Tuesday. As mentioned in the response to question 1, the number of payrolls that fall during the covered period does not matter – it is the amount of payroll expenses paid during the covered period that are used to compute forgiveness.

## **On Ownership...**

**Are employee's that are family member of owners considered owners? One of the owner's wife is an employee and she has the health insurance plan in her name. From the webinar, medical expense are not included in the forgiveness calculation for owners.**

There is no current guidance regarding the attribution rules related to owners/ownership. If the owner's wife receives a W-2 and the health benefits are paid by the employer, then that falls under the current rules of qualified payroll costs and would be eligible for forgiveness

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**Are owners' family members considered owners for these reports?**

In order to track owners' compensation, the Ownership Percent must be indicated in iSolved. You will need to navigate to Employee Management > Employee Maintenance > Employment to make that update.

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**We are a LLC and two employees are also owners and get W2 payment - we pay 100% of the health insurance - can the cost for the employees that are the two partners be used ? (We are not a C/S-corporation)**

Owner-employees can include Non-Cash Payroll Costs (such as Health Benefits / Retirement), but only up to the \$15,385 limit. In other words, if the owner-employee earns an annual salary of greater than \$100K, you will not be able to include any of the non-cash compensation.

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**Group Health Insurance: Our company paid group health care payment includes insurance for S Corp owners. Do we have to exclude the owners portion from the group health care?**

O Owner-employees can include Non-Cash Payroll Costs (such as Health Benefits / Retirement), but only up to the \$15,385 limit. In other words, if the owner-employee earns an annual salary of greater than \$100K, you will not be able to include any of the non-cash compensation.

If the owners receive a W-2, they qualify as owner-employees.

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**As a closely held corporation, our company did not previously pay wages to its owner/officers, and instead paid dividends. We believed that the owner/officers, who are fully working for the company at least 40 hours per week, would be considered "Full Time Equivalent" employees and included them in the FTE count. After reviewing the PPP Loan Forgiveness Application, we see that owner/officers are not included in the base period FTE number of employees, because they did not previously receive wages. How should the bank/SBA react to the needed correction to the FTE employee number of the base year, 2019 to February 15, 2020, period?**

Borrowers are allowed to include owners/owners' compensation on the loan forgiveness application. The forgiveness application excludes owners from the FTE reduction calculation simply because Treasury is not worried if the borrower decreased their own wages, but instead whether wages/hours were decreased for the employees.

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**As above, our company paid dividends rather than wages to its owners/offices. We believed that after the passage of the Cares Act, that the owner/officers could switch compensation from dividends to wages, and easily meet the 75% payroll minimum requirement. Now, reviewing the PPP Loan Forgiveness Application, we see that owner/officers are not included in the wages paid calculation. Is there a way to have the owner/officers wages included in paid wages? Is there a way around this limitation?**

See Line 9 on Schedule A of the Loan Forgiveness application. You can include the amount paid to owners here. Remember it is limited to the lesser of the \$15,385 amount or their 2019 compensation for each owner.

## **On Wage Reduction...**

**If a bonus is given in January, do we have to make a match of the bonus in the covered period to avoid wage reduction?**

We need more guidance to determine if the borrower can exclude compensation other than regular salary/wages, such as commissions or bonuses. Our understanding of the calculation, in general, is to include all cash compensation during Q1 (annualized) and compare it to the cash compensation paid during the covered period (annualized).

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**We have been told wages for wages reduction is based on salary/hourly wage only and does not include commissions or bonuses?**

We need more guidance to determine if the borrower can exclude compensation other than regular salary/wages, such as commissions or bonuses. Our understanding of the calculation, in general, is to include

all cash compensation during Q1 (annualized) and compare it to the cash compensation, including bonuses and commissions paid during the covered period (annualized).

## On Employee Calculations...

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### **What about hourly employees who worked less than normal but got paid for the average amount they worked before the pandemic?**

If the payroll records report that the hourly wage rate and the hours worked are the same, then there should be no reduction of forgiveness. If there is a clear decrease in hours worked, there may be a reduction as part of the FTE calculation. The Safe-Harbor period can still save any calculated reduction if employees' hours are restored by either 6/30, or 12/31 (under the PPPFA).

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### **Any issue with employees getting increased wages?**

No, raises and bonuses are qualified payroll expenses, however, each employee is still limited to <\$100K annualized salary, or \$15,385 over the 8-week covered period. We are waiting on guidance to determine if this limit has increased with the new 24-week covered period.

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### **Does an employee who chooses to retire during the covered period affect the FTE calculation?**

No, this is an exception to the FTE calculation. An employee who voluntarily reduces their hours or resigns/retires will not reduce forgiveness. The borrower will be able to count them as if they are still working their regular hours.

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### **In terms of comparing employee-by-employee calculations - What about employees who left March 1, and were replaced March 15 prior to the covered period?**

For the employee hired on March 15, 2020, the borrower will have to annualize their wages from 3/15-3/31 and compare that to the amount paid during the covered period (annualized). The old employee would not be included in this calculation. For the FTE calculation, if it was a direct replacement, the borrower would compare the replacement employee's hours to the old employee's hours.

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### **In 2019 we had one employee. In 2020, we have one still but it's a different employee in a different role. Is this an issue for forgiveness?**

The first employee would not be included in the reduction calculation since she/he did not work for the company during the covered period. The new employee would be part of the test, but if wages/salary & hours were not reduced then there should be no reduction of forgiveness.

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### **We were unable to find a definition of "Full Time Equivalent" employee in the Cares Act, and assumed that dictionary definitions would apply. Some of our employees work less than 40 hours per week by choice. We planned to include the "less than 40" employees as FTE employees, because their hours did not change from before passage of the Cares Act and the funding of the PPP loan, and after the PPP loan funding date. Now we read that the "less than 40" employees will be proportionately compared to a 40 hour employee. Should we be concerned that we will have a decrease in the FTE employees from the number of FTE employees that we represented as being employed in the qualification period before the Cares Act passage, or February 15, 2020?**

Compare FTE's before the pandemic to FTE's during the Covered Period. If you have all part-time employees, the average amount of weekly hours per employee should not be impacted if they do not regularly work 40 hours, but only if the hours they regularly work have decreased during the covered period.

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**When computing FTEs, do we base it on our weekly full-time staff hours of 37.5? Or, does the government want us to use the standard 40 weekly hours to compute FTEs?**

The Treasury has specifically stated that a full-time employee is classified as 40 hours. For the FTE calculation, a 37.5 hour employee would have to be rounded to the nearest tenth or .9. This should not reduce your forgiveness as long as the employees who normally work 37.5 hours were working these same hours during the covered period, because the forgiveness calculation compares the FTE's in the base period vs. the FTE's during the covered period.

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**If a company has been acquired by another organization before the end of the 8-week period, how will the change of FTE's by the end of the reporting period impact the forgiveness of the loan?**

More guidance from the Treasury is needed for this situation. You may consider consulting with your legal advisor, as this may be a legal issue. There may be legal implications for transferring this Loan to a new company since the original company was deemed eligible and signed certifications regarding the loan.

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**Does the employer have to complete the wage information for each employee on the iSolved page, or does this have to be done by the payroll specialist?**

The report will automatically track the wages during the duration of the loan period based on the Loan Origination date that you provide to your Service Representative.

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## **On Tax-Related Matters...**

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**For sole proprietors with no employees, is forgiveness based on the 2019 tax return?**

Sole Proprietors calculate owner's compensation from their 2019 Schedule C, line 31 divided by 52 multiplied and by 8 (for the eight-week forgiveness period). The maximum amount is limited to \$15,385 (Line 31 would be \$100,000, or more, in this case). This should account for a minimum of 60% of your total forgiveness. The remaining forgiveness would be the eligible non-payroll costs paid and incurred during the covered period.

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**Are you going to recommend clients extend taxes for 2020 if loan is still in the forgiveness process?**

We expect guidance to be issued regarding the timing of filing the 2020 tax return and future deductibility of forgiven expenses. Hopefully, guidance on this matter will be issued before 2020 returns are due.

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**Loan Forgiveness amounts are considered taxable income?**

Any portion of the loan that is deemed forgiven will not be taxable. This forgiveness will be considered a grant and non-taxable.

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## **On Safe Harbor...**

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**What does is mean "alternative payroll method" can not be applied for the Safe Harbor from the flexibility act?**

Even before the Flexibility Act, certain Safe-Harbor calculations required the borrower to use the original covered period instead of the alternative covered period. The alternative covered period may only be used in calculations where the Forgiveness Application specifically allows it.

***This information is for educational purposes only and should NOT be considered legal advice. If you have additional questions, please email [COVID-19@proxushr.com](mailto:COVID-19@proxushr.com).***