

PPP Guidance on Partners and Self-Employed, Forgiveness

This afternoon, Treasury issued guidance on how partners and self-employed individuals fit in on the Paycheck Protection Program (PPP) loans, and provided additional guidance on how forgiveness will be calculated.

<https://home.treasury.gov/system/files/136/Interim-Final-Rule-Additional-Eligibility-Criteria-and-Requirements-for-Certain-Pledges-of-Loans.pdf>

- **Schedule C self-employed individuals are eligible even if they have no employees.**
 - PPP loan amount if no employees = 2019 IRS Form 1040 Schedule C line 31 net profit (or the calculated value, if 2019 return not filed yet); if > \$100,000, limit to \$100k. Divide by 12 and multiply by 2.5.
 - Health insurance and retirement contributions for the sole proprietor/ independent contractor are not added to this amount.
 - PPP loan amount if have employees = same as above for owner, plus employee compensation (limited to \$100,000 annualized) plus 2019 employer health insurance for employees and retirement contributions for employees as reported on the Schedule C, and employer state unemployment tax paid for those employees
 - Substantiation to be provided: 2019 Form 1040 Schedule C; support to establish that you are self-employed (e.g. 2019 Form 1099-MISC reflecting compensation received, invoice, bank statement, or book of record); support to establish that you were in operation on or around February 15, 2020 (e.g. 2020 invoice, bank statement, or book of record). If you have employees, must also provide Forms 941 and evidence of retirement and health insurance contributions for employees.
- **Partners are included at the partnership level, not partner level.**
 - The self-employment income of general active partners may be reported as a payroll cost, up to \$100,000 annualized, on a PPP loan application filed by the partnership.
 - The guidance correctly notes that rent, mortgage interest, utilities, and other debt service are generally incurred at the partnership level, not partner level, so it is most natural to provide funds for these expenses to the partnership, not individual partners.
 - A partner may not apply for his/her own individual PPP loan.
- **Forgiveness calculation for the self-employed individual is based on 2019 income.**
 - Payroll costs:

- Owner compensation replacement is calculated based on 2019 net profit as described above (the Schedule C that was provided at the time of the PPP loan application), X 8/52 (to represent 8 weeks of net profit), less qualified sick leave or qualified family leave equivalent amounts claimed under the Families First Coronavirus Response Act (FFCRA.)
 - Payroll costs of \$100,000 of annualized pay per employee during the covered period (for eight weeks, a maximum of \$15,385 per individual), plus covered benefits for employees (but not owners), including health care expenses, retirement contributions, and employer state unemployment tax paid
 - 75% of the amount forgiven must be attributable to payroll costs
 - Payments of interest on mortgage obligations on real or personal property incurred before 2/15/20, to the extent they are deductible on Form 1040 Schedule C
 - Rent payment on lease agreements in force before 2/15/20, to the extent they are deductible on Form 1040 Schedule C
 - Utility payments under service agreements dated before 2/15/20 to the extent they are deductible on schedule C
 - It appears that home office costs may not be allowed – the discussion notes that “many such individuals operated out of either their homes, vehicles, or sheds and thus do not incur qualifying mortgage interest, rent, or utility payments.” However, net profit is determined based on line 31, which is net profit after deducting home office costs.
- **Forgiveness calculation caps per employee salary, wages, and tips to a maximum of \$15,385 per individual.**
 - Although the guidance was related to employees of self-employed individuals, it quantified how the annualized pay limit of \$100k would be determined.
 - $\$100,000 / 52 \text{ weeks} \times 8 \text{ weeks} = \$15,385.$

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