

## New FAQs on Loan Forgiveness

The SBA recently issued new frequently asked questions on PPP Loan Forgiveness. Although most of the FAQs repeated information that was already published, a few points were clarified. [Click here](#).

What we learned:

- FTE Reduction Exceptions: The forgiveness application includes a spot to add back FTE Reduction Exceptions on Table 1 (\$100k and under employees), but has no add back spot on Table 2 (over \$100k employees.) The FAQs indicate that FTE Reduction Exceptions apply to ALL employees, not just those who would be listed in Table 1 of the Loan Forgiveness Application. Borrowers should therefore include employees who made more than \$100k in the FTE Reduction Exception line in Table 1 of the PPP Schedule A Worksheet. If you are using a forgiveness template that was published before this guidance was published, you should update the template for this change. An updated GMS Surgent forgiveness template is available for our clients.
- Health benefits: Forgiveness is not allowed on expenses from group health benefits accelerated from periods outside the Covered Period (or Alternative Covered Period); in other words, no prepayments.
- Retirement benefits: Forgiveness is also not allowed on employer contributions for retirement benefits accelerated from periods outside the Covered Period (or Alternative Covered Period); in other words, no prepayments.
- Payroll for owners of multiple businesses: We knew that the amount of loan forgiveness requested for compensation/earnings of owners was limited to \$20,833 per individual owner with a 24 week period (\$100k/12 x 2.5 months, to match the borrowing base) or \$15,385 with an 8 week period (\$100k/52 x 8 weeks), in total across all businesses in which he or she has an ownership stake. But we didn't know how that should be allocated. The new guidance lets owners choose how to allocate the capped amount across different businesses.
- New limit on S Corp/ C Corp employee-owner retirement: Retirement contributions eligible for forgiveness to corporate owner-employees is limited to 2.5/12 of their 2019 retirement contribution.
- New S Corp owner health insurance rules for under 2% owners: The new guidance indicates that S Corp health insurance for 2%+ owners should be included in cash compensation (not benefits), consistent with payroll rules. See below, re compensation forgiveness rules by entity type.
- Interest on unsecured credit: Interest on unsecured credit is not eligible for loan forgiveness because the loan is not secured by real or personal property. Although interest on unsecured credit incurred before February 15, 2020 is a permissible use of PPP loan proceeds, this expense is not eligible for

forgiveness. Payments of interest on business mortgages on real or personal property (such as an auto loan) are eligible for loan forgiveness.

- Lease renewal/ mortgage refi: Payments made on recently renewed leases or interest payments on refinanced mortgage loans are eligible for loan forgiveness if the original lease or mortgage existed prior to February 15, 2020.
- Definition of payments for the “distribution of”...”transportation”: A service for the distribution of transportation refers to transportation utility fees assessed by state and local governments. For more information on transportation utility fees, [click here](#) for more details.
- Electricity supply charges: The entire electricity bill payment is eligible for loan forgiveness (even if charges are invoiced separately), including supply charges, distribution charges, and other charges such as gross receipts taxes.

What was clarified/ confirmed our thinking:

- Payroll costs incurred BEFORE the covered period but paid during: The guidance explicitly states that these costs are eligible for loan forgiveness. Although the guidance doesn't specify this, by including this period before, the result would be more than 24 (or 8) weeks of payroll eligible for forgiveness for certain borrowers.
- Partial pay periods: If a borrower does not choose to or is not permitted to use the Alternative Payroll Covered Period (e.g. if the borrower pays payroll twice a month or less frequently, such as semi-monthly or monthly), it will need to calculate payroll costs for partial pay periods, as the Alternative Payroll Covered Period which lines up to pay cycles will not be available.
- Loan payments: As long as a borrower submits its loan forgiveness application within ten months of the completion of the Covered Period, no payments are required until the forgiveness amount is remitted to the lender by SBA. If the loan is fully forgiven, the borrower is not responsible for any payments. If only a portion of the loan is forgiven, or if the forgiveness application is denied, any remaining balance due on the loan must be repaid by the borrower on or before the maturity date of the loan.
- Incentive pay: A borrower can pay lost tips, lost commissions, bonuses, or other forms of incentive pay and have such costs qualify for loan forgiveness. Note that forgivable cash compensation per employee is limited to \$100k on an annualized basis.
- Reduction in salary or hourly wage: The guidance provides examples on how borrowers should calculate the reduction in their loan forgiveness amount arising from reductions in employee salary or hourly wage (no changes to rules.)
- More detail given on owner compensation forgiveness rules, by entity type:
  - *C Corp*: The employee cash compensation of a C-corporation owner-employee, defined as an owner who is also an employee (including where the owner is the only employee), is eligible for loan forgiveness up to the amount of 2.5/12 of his or her 2019 employee cash compensation, with cash compensation defined as it is for all other employees. Payments other than for cash compensation (e.g. employer unemployment, employer health insurance, and employer retirement contributions limited to 2.5/12 of the 2019 amount for the employee) should be included on

lines 6-8 of PPP Schedule A of the loan forgiveness application, and do not count toward the \$20,833 cap per individual.

- *S Corp*: Employer contributions for health insurance owner-employees with at least a 2% stake in the business are considered part of “cash compensation”, which is subject to an overall cap of 2.5/12 of his or her 2019 employee cash compensation. Owners also include employees who are family members of an at least 2% owner under the family attribution rules. Payments other than for “cash compensation” (e.g. employer unemployment and employer retirement contributions limited to 2.5/12 of the 2019 amount for the employee) should be included on lines 7-8 of PPP Schedule A of the loan forgiveness application, and do not count toward the \$20,833 cap per individual.
- *Self-employed schedule C*: Compensation eligible for loan forgiveness is limited to 2.5/12 of 2019 net profit as reported on IRS Form 1040 Schedule C line 31 (or for new businesses, the estimated 2020 Schedule C.) Separate payments for health insurance, retirement, or state or local taxes are not eligible for additional loan forgiveness, as health insurance and retirement expenses are paid out of net self-employment income.
- *General partners*: Compensation eligible for loan forgiveness is limited to 2.5/12 of their 2019 net earnings from self-employment that is subject to self-employment tax, which is computed from 2019 IRS Form 1065 Schedule K-1 box 14a (reduced by box 12 section 179 expense deduction, unreimbursed partnership expenses deducted on their IRS Form 1040 Schedule SE, and depletion claimed on oil and gas properties) multiplied by 0.9235. Compensation is only eligible for loan forgiveness if the payments to partners are made during the Covered Period or Alternative Payroll Covered Period. Separate payments for health insurance, retirement, or state or local taxes are not eligible for additional loan forgiveness.
- *LLC owners*: LLC owners must follow the instructions that apply to how their business was organized for tax filing purposes for tax year 2019, or if a new business, the expected tax filing situation for 2020.

One additional FAQ #51 was also posted to the previous FAQ list, which specifically states that the “provision of group health care benefits” includes vision and dental benefits. [Click here.](#)

Please contact us if you have any questions on loan forgiveness or on the loan forgiveness template.

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“Personal Attention – Valuable Results”, is the principal component of our mission statement. It highlights the GMS Surgent commitment to forging strong relationships and ensuring constructive communication while earning consistently effective results for our clients. It plays an essential role throughout every aspect of our firm, guides our actions and acts as a benchmark for the services we provide.

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