

There are many questions regarding the Small Business Administration's CARES Act/Paycheck Protection Program (PPP) loan forgiveness criteria. We have put together this list of Frequently Asked Questions to help answer as many questions as possible. These FAQ's are based on the most recent SBA guidelines that PCSB Bank has received and are subject to change. We are here to help all our customers in any way we can, but please note that these FAQ's are not intended as legal or financial advice and you should not rely on them as such. We encourage our customers to consult with their professional accounting and/or law firm with additional questions that are specific to their unique situation.

### *Will loan forgiveness be granted?*

As of April 2, 2020, in an [Interim Final Rule \(IFR\)](#) the SBA has stated that loan amounts will be forgiven as long as:

- The loan proceeds are used to cover payroll costs, most mortgage interest, rent and utility costs from agreements dated before February 15, 2020 over the 8-week period after the loan is made and/or refinancing an SBA EIDL loan made between January 31, 2020 and April 3, 2020.
- Employee and compensation levels are maintained or restored before June 30, 2020
- Payroll costs are capped at \$100,000 on an annualized basis for each employee
- Not more than 25% of the forgiven amount may be for non-payroll costs

You will be responsible for repaying any amounts not forgiven by the SBA.

### *How can I request loan forgiveness?*

You will need to submit a request for forgiveness from the SBA through PCSB Bank. Additional instructions will be provided in the coming weeks. Please note that PPP customers who were approved through Pursuit, should submit their loan forgiveness request to Pursuit.

### *Will the loan forgiveness amount be reduced if I do not maintain my staff and payroll?*

Yes. Under the CARES Act, your loan forgiveness may be reduced if you:

- Decrease your full-time employee headcount
- Decrease salaries and wages by more than 25% for any employee that made less than \$100,000 annualized in 2019

You have until June 30, 2020 to restore your full-time employment and salary levels for any changes made between February 15, 2020 and April 26, 2020.

### *When does the 8-week period begin to determine the amount of forgiveness for the loan?*

The 8-week period begins on the date that PCSB Bank or Pursuit deposits the loan funds into your account.

*Should the PPP funds be kept in a separate bank account?*

You will be required to provide a detailed account on how you use the loan funds to the SBA. A separate PPP bank account may assist in tracking how you use the funds.

*Are payments to employees when they are not currently able to work (due to business being closed or for any other reason) to be made?*

The PPP was intended to keep businesses' employees employed and paid. In order for the PPP loan to be forgiven, a minimum of 75% of the loan proceeds must be spent on payroll. Based on guidance provided currently, the covered 8-week period starts when the loan is funded. If a business is not open and the business' PPP has been funded, employees will need to be paid even if they are not able to work to ensure maximum forgiveness of the loan.

*What is included in utilities?*

The CARES Act defines utilities in Sec.1106(a)(5) as electricity, gas, water, transportation, telephone or internet access for service which began prior to February 15, 2020. Further guidance released added gas used when driving a business vehicle. Other common utilities such as garbage collection or security monitoring may also be classified as a utility.

*When determining the potential reduction of loan forgiveness due to workforce reductions, what method is used to determine employees?*

The CARES Act uses the standard of "full-time equivalent employees" to determine whether loan forgiveness must be reduced in the measurement period.

*What are the acceptable uses of the PPP funds for self-employed individuals?*

- Owner compensation replacement (calculated based on 8/52 of 2019 net profit from Form 1040 Schedule C)
- Employee payroll costs (as defined by the interim rule)
- Business mortgage interest payments on real/personal property
- Business rent payments
- Business utility payments
- Interest payments on debt obligations incurred before February 15, 2020
- Refinancing an SBA EIDL loan made between January 31, 2020 and April 3, 2020

Note that the individual must have claimed, or be entitled to claim, a deduction for the included expenses on 2019 Form 1040 Schedule C.

### *What amounts will be eligible for forgiveness for self-employed individuals?*

The amount of the loan forgiveness will depend on the amount spent during the 8-week period on:

- Payroll costs as defined by the interim rule (does not include benefits for owners)
- Owner compensation replacement (limited to 8/52 of 2019 net profit and excluding any qualified sick or family leave equivalent amount for which a credit was claimed under FFCRA)
- Interest payments on mortgage obligations for real/personal property incurred before February 15, 2020
- Rent payments on lease agreements in force before February 15, 2020
- Utility payments under service agreements dated before February 15, 2020

\*Note that for interest, rent and utility payments, the amounts must be deductible on Form 1040 Schedule C.

### *What documentation is required to be submitted to PCSB Bank for self-employed individuals to support loan forgiveness?*

The following documentation is required:

- Certification that the documentation provided is true and correct and the amount for which forgiveness is required was used to retain employees, and make interest, rent and utility payments
- If the self-employed individual has employees, Form 941 and state quarterly tax reporting forms or equivalent payroll processor records that correspond to the covered period
- Evidence of business rent, mortgage interest payments or utility payments for loan proceeds used for these purposes
- 2019 Form 1040 Schedule C

### *What about if the business had employees who left for their own reasons? Or, need to be fired due to performance issues? Is the loan forgiveness still reduced for those employees?*

More guidance is needed on this issue. As the statute is written in the CARES Act, the forgiveness is tied to employee count comparisons and also specific employees and whether their pay was substantially reduced. SBA and Treasury intend to issue an interim final rule that excludes laid-off employees that the business offers to rehire from the forgiveness calculation. The business must make a good faith, written offer to rehire and the rejection of the offer must be documented. It was also noted that employees who reject offers of re-employment may forfeit eligibility for continued unemployment compensation.

### *Can you increase pay for employees during the forgiveness period (for example, hazard pay, bonuses or other salary increases)?*

A decrease in wages of more than 25% will decrease forgiveness and wages is capped at an annualized rate of \$100,000 per employee. The current guidance does not prevent an increase in pay in the form of a short term pay increase, hazard pay or bonus.

### *Can rent or other obligations be prepaid?*

To be forgiven, the CARES Act states costs must be incurred and paid during the covered period. Further guidance specifically addresses that prepayments of mortgage payments is not allowed.

### *Are these expenses tax deductible if the loan is ultimately forgiven?*

[IRS Notice 2020-32](#) was issued on April 30, 2020 to state that no deduction is allowed for an expense that is otherwise deductible if the payment of the expense results in forgiveness of a PPP loan. See your Accountant.

### *Is the forgiveness of the loan taxable income?*

No, the forgiveness of the loan does not constitute federal taxable income. States are providing guidance on state taxability that will be available in the future. See your Accountant.

### *How will SBA review borrowers' required good-faith certification concerning the necessity of their loan request?*

When submitting a PPP application, all borrowers must certify in good faith that “current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.” SBA, in consultation with the Department of the Treasury, has determined that the following safe harbor will apply to SBA’s review of PPP loans with respect to this issue: Any borrower that, together with its affiliates, received PPP loans with an original principal amount of less than \$2 million will be deemed to have made the required certification concerning the necessity of the loan request in good faith. SBA has determined that this safe harbor is appropriate because borrowers with loans below this threshold are generally less likely to have had access to adequate sources of liquidity in the current economic environment than borrowers that obtained larger loans. This safe harbor will also promote economic certainty as PPP borrowers with more limited resources endeavor to retain and rehire employees. In addition, given the large volume of PPP loans, this approach will enable SBA to conserve its finite audit resources and focus its reviews on larger loans, where the compliance effort may yield higher returns. Importantly, borrowers with loans greater than \$2 million that do not satisfy this safe harbor may still have an adequate basis for making the required good-faith certification, based on their individual circumstances in light of the language of the certification and SBA guidance. SBA has previously stated that all PPP loans in excess of \$2 million, and other PPP loans as appropriate, will be subject to review by SBA for compliance with program requirements set forth in the PPP Interim Final Rules and in the Borrower Application Form. If SBA determines in the course of its review that a borrower lacked an adequate basis for the required certification concerning the necessity of the loan request, SBA will seek repayment of the outstanding PPP loan balance and will inform the lender that the borrower is not eligible for loan forgiveness. If the borrower repays the loan after receiving notification from SBA, SBA will not pursue administrative enforcement or referrals to other agencies based on its determination with respect to the certification concerning necessity of the loan request. SBA’s determination concerning the certification regarding the necessity of the loan request will not affect SBA’s loan.

## **Relationship between PPP and other SBA loans**

### *Can a qualified entity apply for both the PPP and other SBA disaster loans?*

Yes, borrowers may apply for the PPP and other SBA financial assistance, including disaster loans and Section 7(a) loans. However, you cannot use the proceeds from the PPP for the same purpose as your other SBA loan(s). Loan proceeds would need to cover payroll for a different period or other qualifying costs. This includes the up to \$10,000 grant available with the Section 7(b)(2) loans - Economic Injury Disaster Loans (EIDL).

### *What happens if a business applies for PPP and also receives the up to \$10,000 grant from an EIDL?*

The amount of grant received (up to \$10,000) will reduce the forgiveness amount of the PPP.

## **For more information on PPP, please use these links:**

[U.S. Small Business Administration](#)

[American Institute of Certified Public Accountants](#)