K·COE ISOM

Payroll Protection Program – Use of Funds and Debt Forgiveness

Frequently Asked Questions

There are still significant unresolved areas of the Payroll Protection Program, including debt forgiveness. Below is a listing of frequently asked questions on the program and the current understanding of requirements.

1. **What is certified on the application?**
    a. The funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments, as specified under the Paycheck Protection Program Rule; I understand that if the funds are knowingly used for unauthorized purposes, the federal government may hold me legally liable, such as for charges of fraud.

2. **What are the allowed uses of funds?**
    a. Utility Payment:
        i. Payment for a service for the distribution of electricity, gas, water, transportation, telephone, or internet access where service was in place before February 15, 2020.
    b. Rent Obligation
        i. Rent obligated under a leasing agreement in force before February 15, 2020.
    c. Mortgage Interest
        i. Any payment of interest on any mortgage obligation in place by February 15, 2020. This does not include any prepayment of or payment of principal on a covered mortgage obligation.
    d. Payroll Costs
        i. Payroll for this purpose is based on what is paid not accrued. As a result, depending on the timing of normal payrolls, there may be a need to initiate another payroll to ensure payroll is accurately included in the forgiveness calculation.
    e. Term debt interest payments
        i. Interest payments on any other debt obligations that were incurred before February 15, 2020. (although, these payments are **NOT** eligible for forgiveness)

3. **What is included in payroll costs?**
    a. Gross wages including salary, commissions or similar compensation, vacation, parental, family, medical, sick leave allowance for separation or dismissal (amount should be "gross" comp prior to any employee withholdings for items such as employee portion of health insurance, retirement plan contributions, sec 125 plan, other deductions, etc.)
    b. Cash tips or the equivalent (if not already included)
    c. State or local tax assessed on employees' compensation, not income taxes withheld from a paycheck and remitted to state or local government
    d. Employer contributions to retirement plan
    e. Group health care benefits, such as the **employer portion** of group health insurance premiums. Note that the payment submitted to the insurance company generally includes the employee and employer portion. Ensure this number only includes the employer portion.
        i. This includes:
            1. Payments made for claims against a self-insured health insurance plan;
            2. Payments made to a third-party administrator for administrative fees or stopgap insurance;
            3. Reimbursements of health insurance premiums under a health reimbursement arrangement (including a QSEHRA or ICHRA).

ii. We do not have guidance on:
   1. AD&D insurance
   2. Disability insurance
   3. Life insurance
   4. Owner-only or single-employee health insurance reimbursements that are not part of a qualified health reimbursement arrangement

4. What is excluded from Payroll Costs?

a. Any compensation of an employee whose principal place of residence is outside of the United States;
b. The compensation of an individual employee in excess of an annual salary of $100,000, prorated as necessary;
c. Qualified sick and family leave wages for which a credit is allowed under sections 7001 and 7003 of the Families First Coronavirus Response Act (Public Law 116–127);
d. Employer share of Social Security and Medicare taxes; and
e. HSA contributions

5. When does the time period for the amount of loan forgiveness for the PPP loan start?

a. The eight-week period begins on the date the lender makes the first disbursement of the PPP loan to the borrower.

6. What are the 3 key areas for forgiveness limitations?

a. Reduction in employee headcount – Generally, if a company's employee headcount (working at least 30 hours per week) is lower during the 8-week forgiveness period than an earlier measurement period, there is a pro rata reduction in the loan forgiveness amount.
   i. The 'earlier measurement period' above is at the company's option – but the larger number is best. First option is the period February 15 to June 30, 2019. The second option is the period January 1 to February 29, 2020. For example, if a company had 50 FTEs during February 15 to June 30, 2019 and 40 FTEs during the 8-week forgiveness period, the loan forgiveness maximum would be 80 percent (40/50).
b. Reduction in employee pay level – Generally, if an employee's pay level goes down by over 25 percent during the 8-week forgiveness period compared to the first quarter of 2020, the loan forgiveness amount is reduced. This is calculated on an employee by employee level. The amounts in excess of 25 percent reductions (excluding those no longer employed) are added together and reduce the loan forgiveness amount.
c. Qualified non-payroll costs – Non-payroll costs are limited to 25 percent of the loan forgiveness. Qualified non-payroll cost includes payments of interest on mortgage obligations incurred before February 15, 2020, rent payments on leases dated before February 15, 2020, and utility payments under service agreements dated before February 15, 2020 over the eight-week period following the initial disbursement of funding. However, not more than 25 percent of the loan forgiveness amount may be attributable to non-payroll costs.
   i. Regardless, not more than 25 percent of the loan forgiveness amount may be attributable to non-payroll costs.

7. What should companies do with their bookkeeping?

From a U.S. GAAP perspective, the loan proceeds should be recorded as a long-term liability such as "PPP Loan Payable" when the cash is received. This balance remains as a long-term liability until the lender has released the debtor from the obligation which would occur when the lender determines the debtor has used the PPP proceeds for wages, mortgage interest, rents, and/or utilities.

Additionally, interest on the loan should be accrued monthly at 1 percent per annum.

Assuming all of the PPP loan proceeds are used as required by the CARES Act, at the time the PPP Loan is forgiven, the loan and any accrued interest would be removed from long-term liability and recorded as debt forgiveness in the other income/expense section of the income statement. If it is a **material** event or transaction that is considered to be of an unusual nature or of a type that indicates infrequency of occurrence or both, it should be reported as a separate component of income from continuing operations. The nature and financial effects of each event or transaction should be presented as a separate component of income from continuing operations or, alternatively, disclosed in the notes to financial statements.

If a portion of the loan proceeds were determined to be ineligible for forgiveness, that portion would be accounted for under the terms of the note. The loan would accrue interest at 1 percent annual and be due and payable in 2 years.

8. **Sole proprietors - expenses during forgiveness period**
    a. You must have claimed, or be entitled to claim, a deduction for such expenses on your 2019 Form 1040 Schedule C or F for them to be permissible for use during the eight-week period following the first disbursement of the loan in 2020. For example, if no rent expense claimed in 2019, then no rent may be claimed for forgiveness.

9. **Documentation needed for forgiveness – this is the current guidance from the SBA, we anticipate more guidance in the future and expect each bank may have specific requests outside of what is listed below.**
    a. An eligible recipient seeking loan forgiveness shall submit to the lender that is servicing the covered loan an application which shall include:
        i. Documentation verifying the number of full-time equivalent employees on payroll and pay rates for the period including:
            1. Payroll tax filings reported to the IRS
            2. State income, payroll, and unemployment filings
            3. Documentation verifying payments on mortgage obligation, rent obligations, and utility payments to include:
                a. Cancelled checks
                b. Payment receipts
                c. Transcripts of accounts or
                d. Other documents verifying payments
            4. A certification from a representative of the eligible recipient authorized to make such certifications that:
                a. The documentation presented is true and correct;
                b. The amount for which forgiveness is requested was used to retain employees or other eligible expenses;
                c. Any other documentation deemed necessary by the Administrator.