

Loan Forgiveness Information

Section 1106 of the CARES Act provides for forgiveness of up to the full principal amount of qualifying loans guaranteed under the Paycheck Protection Program. While we are still awaiting further guidance from the SBA on loan forgiveness, the following information is what is known thus far.

Can my PPP loan be forgiven in whole or in part?

Yes. The amount of loan forgiveness can be up to the full principal amount of the loan and any accrued interest. That is, the borrower will not be responsible for any loan payment if the borrower uses all of the loan proceeds for forgivable purposes described below and employee and compensation levels are maintained. The actual amount of loan forgiveness will depend, in part, on the total amount of payroll costs, 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 date of the loan.** However, not more than 25 percent of the loan forgiveness amount may be attributable to nonpayroll costs.

Do independent contractors count as employees for purposes of PPP loan forgiveness?

No, independent contractors have the ability to apply for a PPP loan on their own, so they do not count for purposes of a borrower's PPP loan forgiveness.

How can PPP loans be used?

The proceeds of a PPP loan are to be used for:

- Payroll
 - a. What qualifies as "payroll costs?"

Payroll costs consist of compensation to employees (whose principal place of residence is the United States) in the form of salary, wages, commissions, or similar compensation; cash tips or the equivalent (based on employer records of past tips or, in the absence of such records, a reasonable, good-faith employer estimate of such tips); payment for vacation, parental, family, medical, or sick leave; allowance for separation or dismissal; payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums, and retirement; payment of state and local taxes assessed on compensation of employees; and for an independent contractor or sole proprietor, wage, commissions, income, or net earnings from self-employment or similar compensation.
 - b. Is there anything that is expressly excluded from the definition of payroll costs?

Yes. The Act expressly excludes the following: i. Any compensation of an employee whose principal place of residence is outside of the United States; ii. The

compensation of an individual employee in excess of an annual salary of \$100,000, prorated as necessary; iii. Federal employment taxes imposed or withheld between February 15, 2020 and June 30, 2020, including the employee's and employer's share of FICA (Federal Insurance Contributions Act) and Railroad Retirement Act taxes, and income taxes required to be withheld from employees; and iv. 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).

- Costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums;
- Mortgage interest payments (but not mortgage prepayments or principal payments);
- Rent payments;
- Utility payments;
- Interest payments on any other debt obligations that were incurred before February 15, 2020; and/or
- Refinancing an SBA EIDL loan made between January 31, 2020 and April 3, 2020.