

## **Additional Information on the SBA's Paycheck Protection Program**

**Question 1:** If I have obtained an Economic Injury Disaster Loan (EIDL) and elect to refinance that loan as part of my Paycheck Protection Program loan, what loan term would apply?

**Answer 1:** Your loan term would be two years.

**Source 1:** See page 9 of PPP Interim Final Rule - Additional Eligibility Criteria and Requirements for Certain Pledges of Loans, available here: <https://www.sba.gov/sites/default/files/2020-04/Interim-Final-Rule-Additional-Eligibility-Criteria-and-Requirements-for-Certain-Pledges-of-Loans.pdf>

\*\*\*\*\*

**Question 2:** If I am self-employed, should I use my gross income or net profit to determine my PPP loan amount?

**Answer 2:** You should use your net profit (IRS Schedule C, line 31).

**Source 2:** See pages 6-8, 9-12 of PPP Interim Final Rule - Additional Eligibility Criteria and Requirements for Certain Pledges of Loans, available here: <https://www.sba.gov/sites/default/files/2020-04/Interim-Final-Rule-Additional-Eligibility-Criteria-and-Requirements-for-Certain-Pledges-of-Loans.pdf>

\*\*\*\*\*

**Question 3:** If I am self-employed and have no employees, how should I calculate my PPP loan amount?

**Answer 3:** Step 1: Find your 2019 IRS Form 1040 Schedule C line 31 net profit amount (if you have not yet filed a 2019 return, fill it out and compute the value). If this amount is over \$100,000, reduce it to \$100,000. If this amount is zero or less, you are not eligible for a PPP loan.

Step 2: Calculate the average monthly net profit amount (divide the amount from Step 1 by 12).

Step 3: Multiply the average monthly net profit amount from Step 2 by 2.5.

Step 4: Add the outstanding amount of any Economic Injury Disaster Loan (EIDL) made between January 31, 2020 and April 3, 2020 that you seek to refinance, less the amount of any advance under an EIDL COVID-19 loan (because it does not have to be repaid).

**Source 3:** See page 6 of PPP Interim Final Rule - Additional Eligibility Criteria and Requirements for Certain Pledges of Loans, available here: <https://www.sba.gov/sites/default/files/2020-04/Interim-Final-Rule-Additional-Eligibility-Criteria-and-Requirements-for-Certain-Pledges-of-Loans.pdf>

\*\*\*\*\*

**Question 4:** If I am self-employed and have 1 or more employees, how should I calculate my PPP loan amount?

**Answer 4:** Steps 2-4 are the same as above, but Step 1 is to calculate the sum of these three parts:

Part a. Your 2019 Form 1040 Schedule C line 31 net profit amount (if you have not yet filed a 2019 return, fill it out and compute the value), up to \$100,000 annualized, if this amount is over \$100,000, reduce it to \$100,000, if this amount is less than zero, set this amount at zero.

Part b. 2019 gross wages and tips paid to your employees whose principal place of residence is in the United States computed using 2019 IRS Form 941 Taxable Medicare wages & tips (line 5c - column 1) from each quarter plus any pre-tax employee contributions for health insurance or other fringe benefits excluded from Taxable Medicare wages & tips; subtract any amounts paid to any individual employee in excess of \$100,000 annualized and any amounts paid to any employee whose principal place of residence is outside the United States; and

Part c. 2019 employer health insurance contributions (health insurance component of Form 1040 Schedule C line 14), retirement contributions (Form 1040 Schedule C line 19), and state and local taxes assessed on employee compensation (primarily under state laws commonly referred to as the State Unemployment Tax Act or SUTA from state quarterly wage reporting forms).

**Source 4:** See page 7 of PPP Interim Final Rule - Additional Eligibility Criteria and Requirements for Certain Pledges of Loans, available here: <https://www.sba.gov/sites/default/files/2020-04/Interim-Final-Rule-Additional-Eligibility-Criteria-and-Requirements-for-Certain-Pledges-of-Loans.pdf>

\*\*\*\*\*

**Question 5:** What if I do not typically prepare a Schedule C as part of my tax return?

**Answer 5:** I recommend that you do so for the 2019 tax year because the SBA prefers reviewing it to confirm the appropriateness of the loan request. Otherwise, I see two options. You could wait for additional regulations from SBA in hopes that they provide guidance on what to do instead, although that will delay the filing of your application and time is of the essence. Or, you could provide other accounting documentation to

demonstrate your net profit (in other words, your owner compensation replacement) and see if your bank and the SBA will accept it.

\*\*\*\*\*

**Question 6:** If I am self-employed, what expenses paid by the proceeds from my PPP loan will be eligible for forgiveness?

**Answer 6:** The actual amount of loan forgiveness will depend, in part, on the total amount spent over the covered 8-week period on:

a. payroll costs including salary, wages, and tips, up to \$100,000 of annualized pay per employee (for eight weeks, a maximum of \$15,385 per individual), as well as covered benefits for employees (but not owners), including health care expenses, retirement contributions, and state taxes imposed on employee payroll paid by the employer (such as unemployment insurance premiums);

b. owner compensation replacement, calculated based on 2019 net profit as described in Question 3 above, with forgiveness of such amounts limited to eight weeks' worth (8/52) of 2019 net profit, but excluding any qualified sick or family leave for which a credit is claimed under the Families First Coronavirus Response Act

c. payments of interest on mortgage obligations on real or personal property incurred before February 15, 2020, to the extent they are deductible on Form 1040 Schedule C (business mortgage payments);

d. rent payments on lease agreements in force before February 15, 2020, to the extent they are deductible on Form 1040 Schedule C (business rent payments);

e. utility payments under service agreements dated before February 15, 2020 to the extent they are deductible on Form 1040 Schedule C (business utility payments).

**Source 6:** See pages 11-12 of PPP Interim Final Rule - Additional Eligibility Criteria and Requirements for Certain Pledges of Loans, available here: <https://www.sba.gov/sites/default/files/2020-04/Interim-Final-Rule-Additional-Eligibility-Criteria-and-Requirements-for-Certain-Pledges-of-Loans.pdf>

\*\*\*\*\*

**Question 7:** Why has the SBA limited the forgiveness of owner compensation replacement for individuals with self-employment income who file a Schedule C to eight weeks' worth (8/52) of 2019 net profit?

**Answer 7:** The SBA believes that is most consistent with the structure of the Act and its overarching focus on keeping workers paid, and will prevent windfalls that Congress did not intend. Congress determined that the maximum loan amount is based on 2.5

months of the borrower's payroll during the one-year period preceding the loan. Congress also determined that the maximum amount of loan forgiveness is based on the borrower's eligible payments—i.e., the sum of payroll costs and certain overhead expenses—over the eight-week period following the date of loan disbursement. For individuals with self-employment income who file a Schedule C, the SBA has determined that it is appropriate to limit loan forgiveness to a proportionate eight-week share of 2019 net profit, as reflected in the individual's 2019 Form 1040 Schedule C. This is because many self-employed individuals have few of the overhead expenses that qualify for forgiveness under the Act. For example, many such individuals operate out of their homes and thus do not incur qualifying mortgage interest, rent, or utility payments. As a result, most of their receipts will constitute net income. Allowing such a self-employed individual to treat the full amount of a PPP loan as net income would result in a windfall. The entire amount of the PPP loan (a maximum of 2.5 times monthly payroll costs) would be forgiven even though Congress designed this program to limit forgiveness to certain eligible expenses incurred in an eight-week covered period. This limitation will also help to ensure that the finite appropriations are directed toward payroll protection, consistent with the Act's central objective. Finally, 75 percent of the amount forgiven must be attributable to payroll costs for the reasons specified in the First PPP Interim Final Rule.

**Source 7:** See pages 12-13 of PPP Interim Final Rule - Additional Eligibility Criteria and Requirements for Certain Pledges of Loans, available here: <https://www.sba.gov/sites/default/files/2020-04/Interim-Final-Rule-Additional-Eligibility-Criteria-and-Requirements-for-Certain-Pledges-of-Loans.pdf>