PPP Webinar FAQs (revised May 21, 2020)

Payroll Cost | Salary Calculation | Headcount & FTE | Other Costs

Sole Proprietor | Certification | EIDL | Accounting & Tax | Other Questions

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CPAs & Business Advisors

Thank you for your interest in our Paycheck Protection Program webinars. During the past few webinars, we received a tremendous amount of questions that we couldn't get to during the presentations. Included in this document are many of the questions that we received along with our answers **(click on the links on the top of each page to proceed directly to that topic)**. If you have further questions, contact us at covid19@macpas.com and visit our COVID-19 Resource Center at www.macpas.com/covid-19.

PAYROLL COST

Q: Are salary increases acceptable?

A: It is our understanding that salary increases are acceptable if they are within the normal course of business and within normal salary adjustments.

Q: If an employee has qualified and is receiving pay through the Federal Leave Act, do we pay them the difference between the pay they are receiving and their full wage, through the PPP Loan?

A: Further guidance from the SBA is needed on this matter.

Q: Did I understand that you said that it was recommended to either take the credits or not take the credits and used towards loan forgiveness?

A: As part of the calculation of payroll cost as outlined in the CARES Act, excluded payroll costs are qualified sick and family leave **wages** for which a credit is allowed under sections 7001 and 7003 of the Families First Coronavirus Response Act (FFCRA). This gives a business the option to either take the wages credits related to the FFCRA or include the wages as part of the forgivable cost of the loan. Businesses can not take advantage of both.

Q: Are hazard pay and overtime for staffing an essential service in order to carry out operations forgivable?

A: It is our understanding that hazard pay and overtime staffing for essential services are accepted forms of payroll cost.

Q: How do we determine the allowable amount of loan forgiveness for employees who earn greater than $100,000 annually?

A: (Revised) For each individual employee, the total amount of cash compensation eligible for forgiveness may not exceed an annual salary of $100,000, as prorated for the covered period.

Q: Since I used 2019 calculations on payroll and multiplied it by 2.5 (10 weeks) to get loan, how will I ever meet 75% of my payroll on the inflated loan amount when I'm now paying it out for 8 weeks of current employees?

A: Unfortunately this is a problem for many businesses that are heavy payroll versus the other eligible cost that are allowed under the PPP loan. United States Treasury used the 2.5 multiplier to assist business with other eligible costs as outlined in the Act. Unfortunately this is the mechanics of the calculation.

Q: State and local tax assessed on employee compensation - exactly which taxes are we talking about here? PA and Local withholding? LST? PAUC ER and EE?

A: State and Local tax assessed does **not** include any form of employee withholdings such as LST or earned income taxes. The most common state or local tax assessment would be related to State Unemployment taxes which are paid by the business related to the employee.

Q: I would like to know how the PPP Loan affects the tax deferral that they are also offering? I believe they said that we could defer Employer portion of SS tax until the date of the loan forgiveness? What happens if we don't receive the loan or the loan is not forgiven?

A: The PPP loan language within the CARES Act provides for employers to defer the employer portion of FICA during the term of the loan and until forgiveness is determined by your lender. After that, the employer must pay FICA from the forgiveness determination period forward. If an employer chooses not to take a PPP loan, the employer can defer FICA for the remainder of 2020 and pay the deferred portion 50% in 2021 and the remaining 50% in 2022. If the loan is not forgiven, because the employer took a PPP loan, you would only be able to defer the portion of employer FICA taxes for the period of the loan through the determination of loan forgiveness with the deferred portion of FICA taxes paid in accordance with that outlined above.

PAYROLL COST, CONT'D.

Q: What about life insurance premiums or long term disability? Would they be deductible as well (like health care premiums).

A: The CARES Act outlines any group health care coverage, including insurance premiums. This would include health, dental and vision insurance. Cost of insurance for short term or long term disability and life insurance is not outlined as an eligible payroll cost for forgiveness.

Q: Are premiums for Workers Compensation Insurance covered?

A: No.

Q: Are HSA fund contributions by the employer included in payroll costs?

A: Payroll cost as defined in the CARES Act are "payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums, and retirement. It would be our understanding that HSA contributions made by the employer would be included in payroll cost.

Q: Is the "payroll costs" for compensation referring to gross payroll?

A: SBA's FAQ Question #16 addresses this matter and outlines that payroll cost is the "gross" compensation paid to an employee.

Q: How about increased guaranteed payments to partners to get there?

A: CARES Act Interim Final Rule guidance from April 14, 2020 outlines the following "self-employment income of general active partners may be reported as a payroll cost, up to $100,000 annualized, on a PPP loan application filed by or on behalf of a partnership." There is no specific guidance that outlines ineligibility of increased guaranteed payments during the 8-week covered period. However, caution should be used in this approach and increased payments should be discussed with your lending institution to ensure forgiveness of payments.

Q: Are guaranteed payments permitted as payroll costs?

A: Yes. CARES Act Interim Final Rule guidance from April 14, 2020 outlines the following "self-employment income of general active partners may be reported as a payroll cost, up to $100,000 annualized, on a PPP loan application filed by or on behalf of a partnership."

Q: Are any bonuses included in gross wages for the loan forgiveness calculation?

A: Yes. All compensation paid during the covered 8-week period is included in the eligible cost forgiveness calculation. Caution should be used in paying bonuses to ensure they reflect normal and consistent business operations.

Q: Instead of bonuses, could we make a one time additional employer contribution to their 403b or 401k?

A: Payroll cost as defined in the CARES Act are "payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums, and retirement. It would be our understanding that a contribution to a 403b or 401K plan would qualify as an eligible payroll cost. It would be advised to discuss this with your lender if this is not a consistent or normal distribution as the lender is ultimately responsible for loan forgiveness.

Q: LTD Insurance isn't included? We were able to include it in the loan amount without issue. Also, if we pay our insurance bills for the following month, rather than in arrears, would that count as "prepaying" them?

A: Further guidance on this matter from the SBA is needed. The CARES Act discusses payment for services within the 8-week covered period. Prepaying for services would not be considered an eligible cost. However, paying for outlined services within the current covered 8-week period would seem to meet the intent of the CARES Act. It would be recommended that this be discussed with your lender in advance of payment as they are the ultimately responsible for loan forgiveness.

Q: Can I transfer money into the PPP to cover payroll costs that exceed the PPP amount or should I try to clear it out ahead of time?

A: Loan forgiveness is based upon meeting the minimum 75% of loan proceeds for payroll cost and not more than 25% for other eligible cost as outlined. As long as an employer can represent that the funds received were used for payroll, if additional money from a business is needed to cover additional payroll cost that should not be a problem.

Q: Are payroll processing fees allowed as part of payroll expenses - my provider was not aware.

A: No.

PAYROLL COST, CONT'D.

Q: How do you back out/cover someone who makes over $100,000 annually? Do you cover the portion that is up to $100,000?

A: (Revised) For each individual employee, the total amount of cash compensation eligible for forgiveness may not exceed an annual salary of $100,000, as prorated for the covered period.

Q: Or rather, CAN you cover the portion of their bi-weekly payroll that is up to $100,000

A: Yes, you can cover the portion of their bi-weekly payroll up to $100,000. If payroll is bi-weekly the portion covered would be $100,000 divided by 26 weeks or $3,846.

Q: Is vacation time considered in payroll expense?

A: Yes. Payment for vacation is specifically outlined within the CARES Act as an eligible forgiveable payroll cost.

Q: Is severence pay considered in payroll expense?

A: Yes. Payroll cost as defined include "allowance for separation or dismissal."

Q: Is there guidance on allowance of bonus payments?

A: It is our understanding of the CARES Act relating to the PPP Loans is to provide paycheck protection for normal compensation in order to protect the payroll of the employee. While there is nothing noted within the CARES Act that would restrict bonus payments, we recommend caution regarding bonus payments outside of the normal course of business or compensation paid and to discuss this with your lender to ensure loan forgiveness.

Q: Is retirement contributions made from prevailing wage fringes included as payroll costs?

A: Yes. As defined under "Payroll Cost" employee benefits including retirement programs are considered eligible payroll cost.

Q: What about tips?

A: Yes. Payroll cost as defined include "cash tips or the equivalent."

Q: Can the payroll requirement be for 100%? You say 75% minimum so it can exceed 75%, correct?

A: Yes. The 75% rule for payroll is a minimum threshold. Amounts greater then 75% of the loan can be used for payroll.

Q: Should health insurance amount claimed for forgiveness be less any employee contributions?

A: Yes. Health insurance cost are to be netted against any employee contribution for employer healthcare programs.

Q: Can Dental/Vision LTD STD Life Insurance amounts also be claimed?

A: The CARES Act outlines any group health care coverage, including insurance premiums. This would include health, dental and vision insurance. Cost of insurance for short term or long term disability and life insurance is not outlined as an eligible payroll cost for forgiveness.

Q: We received our loan on April 20th. On our April 30 payroll covering April 16-30 do we back out the April 16-19? or since the money went to payroll are we OK.

A: (Revised) We believe you are ok and you do not need to back out April 16-19 based on current guidance.

Borrowers are generally eligible for forgiveness for the payroll costs paid AND payroll costs incurred during the eight-week (56-day) covered period (or alternative payroll covered period). Payroll costs are considered paid on the day that paychecks are distributed or the borrower originates an ACH credit transaction. Payroll costs are considered incurred on the day that the employee's pay is earned. Payroll costs incurred but not paid during the borrowers last pay period of the covered period are eligible for forgiveness if paid on or before the next regular payroll date. Otherwise, payroll costs must be paid during the covered period.

Borrowers with a biweekly (or more frequent) payroll schedule may elect to calculate eligible payroll costs using the eight-week (56 day) period that begins on the first day of their first pay period following their PPP loan disbursement date.

PAYROLL COST, CONT'D.

Q: What specific health care benefit costs are eligible for forgiveness?

A: Any group health care coverage, including insurance premiums. This would include health, dental and vision insurance.

Q: Does allowance for dismissal or separation include severence paid to former employee during the weeks covered by PPP?

A: Yes. Payroll cost as defined include "allowance for separation or dismissal".

Q: Do 401(k) employer provided benefits have to actually be "paid" within the 8-week period, or is the accrued amount satisfactory to create the expense write-off? Our fiscal year ends on June 30, payments usually made in September all at once.

A: The CARES Act discusses payments for services within the 8-week period. It is believed the intent is to provide employers with funds to make payments for payroll and other eligible cost to be paid within the 8-week covered period.

Q: What about dental and vision? Some medical policies cover it "all" under one bill, one invoice while others have separate coverage through different providers.

A: The CARES Act outlines any group health care coverage, including insurance premiums. This includes health, dental and vision insurance. Cost of insurance for short term or long term disability and life insurance is not outlined as an eligible payroll cost for forgiveness.

Q: Health Insurance premium for month of March paid in April after we received disbursement. Is that allowed to be included?

A: The CARES Act discusses payments for services within the 8-week period. It is believed the intent is to provide employers with funds to make payments for payroll and other eligible cost to be paid within the 8-week covered period. It is also believed that the intent is to cover 8 weeks of cost within the covered period to account for expenses incurred in one month and paid in a following month. Further guidance on this matter may be needed from the SBA. Employers should discuss this with their lenders to ensure loan forgiveness.

Q: Can we charge accounting fees for payroll production in the loan forgiveness?

A: No. Payroll processing cost are not an included cost.

Q: Payroll taxes that should be included and excluded in Payroll cost simplified? Just to be sure we are calculating correctly.

A: Payroll taxes, both employer and employee, should be excluded from the calculation of payroll cost. To simplify, payroll cost are the "gross" employee wages. No payroll taxes.

Q: What if employees are voluntarily leaving, we are not letting them go?

A: (Revised) There are FTE reduction exceptions for: (1) Any positions for which the borrower made a good-faith, written offer to rehire an employee during the covered period or alternative covered period which was rejected by the employee; and (2) any employees who during the covered period or the alternative covered period (a) were fired for cause, (b) voluntarily resigned, or (c) voluntarily requested and received a reduction of their hours. Any reductions in these cases do not reduce the borrower's loan forgiveness.

Q: Can we pay bonuses or overtime as part of the loan that can be converted to a grant or loan forgiveness portion?

A: It is our understanding of the CARES Act relating to the PPP Loans is to provide paycheck protection for normal compensation in order to protect the payroll of the employee. While there is nothing noted within the CARES Act that would restrict overtime and bonus payments, we recommend caution regarding bonus payments outside of the normal course of business or compensation paid. Overtime would be deemed to be a acceptable payroll if it is happening in the normal course of operations.

Q: We did not yet fund our 401(k) Plan DISCRETIONARY contribution related to prior year's performance. If we fund that during the covered period, can we count it as payroll costs?

A: The intent of the CARES Act and the PPP loan is to provide coverage for payroll and other direct cost of the business for operations occurring during the 8-week covered period of the loan forgiveness period. This would include incurred and paid cost. 2019 cost incurred but not paid until 2020 would not seem to meet the intent of the CARES Act. Further discussion of this payment would be warranted with your lender to ensure approval of eligible cost for forgiveness.

Q: Is a SIMPLE IRA employer match a payroll cost eligible for loan forgiveness?

A: Yes. As defined under "Payroll Cost" employee benefits including retirement programs are considered eligible payroll cost.

PAYROLL COST, CONT'D.

Q: Health care benefits - does this include employer portion of HRA costs?

A: Payroll cost as defined in the CARES Act are "payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums, and retirement. It would be our understanding that HSA contributions made by the employer would be included in payroll cost.

Q: Are Temp Employees (i.e. AeroTek, etc.) considered payroll cost for determination of loan forgiveness?

A: No. Temporary employees would not be included under covered compensation.

Q: Question on the calculation of the annualized $100,000. Will the cap be applied bi-weekly or in total? In other words - could one pay be OVER a $100,000 / 26 amount and then the next week under number so just long as it averages $100,000/26 over the 8 weeks?

A: The focus is on annualized salary greater than $100,000. The cap would be viewed on a total annual basis and not by payroll period.

Q: So you are recommending we pay our employees even if we have no work for them to perform. Until we open our economy it makes no sense.

A: The intent of the CARES Act and the PPP Loan is to provide payroll support to small business during this time of business interruption. The rules of the program are that the proceeds are to be used at least 75% for payroll and no more then 25% for other eligible cost. Whether the employee is actually working is irrelevant to the program. The intent of the program is to have employees off unemployment and on payroll's of small business in order to quickly ramp up for when restrictions to work are lifted.

Q: Can a payroll period that is split between the 8-week covered period and outside the covered period be parsed between the two to be eligible?

A: It is our understanding from the intent of the CARES Act that the 8-week period of payroll coverage is to cover 8 weeks of payroll paid within that period.

Q: Are you allowed to use the money for back pay?

A: (Revised) No, we do not believe proceeds can be used for back pay.

Borrowers are generally eligible for forgiveness for the payroll costs paid AND payroll costs incurred during the eight-week (56-day) covered period (or alternative payroll covered period). Payroll costs are considered paid on the day that paychecks are distributed or the borrower originates an ACH credit transaction. Payroll costs are considered incurred on the day that the employee's pay is earned. Payroll costs incurred but not paid during the borrowers last pay period of the covered period are eligible for forgiveness if paid on or before the next regular payroll date. Otherwise, payroll costs must be paid during the covered period.

Borrowers with a biweekly (or more frequent) payroll schedule may elect to calculate eligible payroll costs using the eight-week (56 day) period that begins on the first day of their first pay period following their PPP loan disbursement date.

Q: Can a loan recipient increase compensation levels during the 8-week period with no change in FTEs, to qualify for loan forgiveness?

A: No where within the Interim Final Rules does it outline that pay increases are not allowed. It is believed that as long as the pay increases are normal increases and in accordance with salary increase policies that they would be acceptable payroll cost.

Q: Does payment of 2019 retirement plan contribution count towards loan forgiveness if the remittance occurs during the 8-week period?

A: The intent of the CARES Act and the PPP loan is to provide coverage for payroll and other direct cost of the business for operations occurring during the 8-week covered period of the loan forgiveness period. This would include incurred and paid cost. 2019 cost incurred but not paid until 2020 would not seem to meet the intent of the CARES Act. Further discussion of this payment would be warranted with your lender to ensure approval of eligible cost for forgiveness.

Q: How about temporary services, would that be covered under compensation?

A: No. Temporary services would not be included under covered compensation.

PAYROLL COST, CONT'D.

Q: For the PPP, we are suppose to be paying all staff their "normal" pay, correct? What about someone who just began a planned maternity leave?

A: Payment of normal payroll would be correct. There is no detailed guidance from the SBA regarding the maternity leave question. Further guidance is needed from the SBA. Consultation on maternity leave payments should occur with your Human Resources or Legal counsel on this matter.

Q: What if your organization is self insured for health insurance. Can you include the claim costs as well as the monthly administrative costs.

A: The cost of self insured health insurance would be considered an eligible forgiveable cost as defined under the payroll cost which includes employee group health care coverage. The administrative cost of the program would not be included.

Q: If your organization receives grant funding for payroll, how should these payroll costs be included in the calculation for forgiveness?

A: There is no guidance currently provided by the SBA regarding grant funding used for payroll and whether these are eligible cost for forgiveness. It would be recommended to follow the rules for forgiveable cost eligibility as outlined within the CARES Act.

Q: Can you use 100% for payroll and still get 100% of the loan forgiven?

A: Yes. The 75% rule for payroll is a minimum threshold. Full proceeds of the loan can be used for payroll.

Q: How about hazard pay to first line providers. Can you include this hazard pay in the payroll and thus forgiven?

A: It is our understanding of the Interim Final Rules that hazard pay for first line providers would be an eligible forgivable cost.

Q: How about hazard pay to shelter workers that are required to work. Can you include this hazard pay in the payroll and thus forgiven?

A: It is our understanding of the Interim Final Rules that hazard pay for shelter workers would be an eligible forgivable cost.

Q: Has guidance come out as how to cap salaries and wages for those paid annually more than $100,000?

A: Yes. Current guidance outlines that all compensation paid to an employee in excess of an annual salary of $100,000 will be excluded from the calculation of the loan amount as well as the forgiveness calculation of payroll cost.

Q: Does it count if the payroll was run within the 8-week window-at the first week but the weeks worked were the 2 weeks prior to the loan?

A: (Revised) Yes, based on the most recent guidance.

Borrowers are generally eligible for forgiveness for the payroll costs paid AND payroll costs incurred during the eight-week (56-day) covered period (or alternative payroll covered period). Payroll costs are considered paid on the day that paychecks are distributed or the borrower originates an ACH credit transaction. Payroll costs are considered incurred on the day that the employee's pay is earned. Payroll costs incurred but not paid during the borrowers last pay period of the covered period are eligible for forgiveness if paid on or before the next regular payroll date. Otherwise, payroll costs must be paid during the covered period.

Borrowers with a biweekly (or more frequent) payroll schedule may elect to calculate eligible payroll costs using the eight-week (56 day) period that begins on the first day of their first pay period following their PPP loan disbursement date.

Q: Our malpractice insurance is part of a benefit included in physician contracts. May I use that as forgivable insurance amount?

A: The CARES Act is specific in regards to employee benefits outlining employee benefits for group health care coverage, including insurance premiums. Malpractice insurance would not seem to be a payroll related insurance cost as outlined and it would be our assessment that this cost would not be an eligible cost for forgiveness. The only exception to this rule would be if the benefit is paid to the physician through W2 wages/payroll then the cost of the benefit would be included in the payroll compensation up to the $100,000 limit.

Q: Payroll taxes are forgivable?

A: No. The Interim Final Rules expressly exclude "Federal employment taxes imposed or withheld between February 15, 2020 and June 30, 2020, including the employee's and employer's share of FICA and Railroad Retirement Act Taxes, and income taxes required to be withheld from employees.

PAYROLL COST, CONT'D.

Q: Is doing a big payroll bonus of the balance of the PPP acceptable in order to spend all the money?

A: It is our understanding of the CARES Act relating to the PPP Loans is to provide paycheck protection for normal compensation in order to protect the payroll of the employee. While there is nothing noted within the CARES Act that would restrict bonus payments, we recommend caution regarding bonus payments outside of the normal course of business or compensation paid. Before any bonus payments are made they should be discussed with your lender to ensure loan forgiveness.

Q: We are self-insured. Would 8-week period have to be for health claims actually paid for that period (vs. what we accrue each month since claims go up and down each month)... if can only include paid claims and have lower claim months, that would affect forgiveness.

A: Qualified payroll costs as outlined within the CARES Act states only that employee benefits consisting of group health care coverage, including insurance premiums are eligible forgiveable costs. It is believed that self-insured health care cost for employee coverage would be an eligible cost for forgiveness. It would also be reasonable to consider the accrued monthly cost as the cost of insurance as that would be a similar approach to paying for conventional coverage through a third-party provider which premiums are adjusted after an experience period.

Q: Would a planned cash contribution for ESOP paid in 8-week period be able to be included? (under GAAP is considered a employer compensation cost)

A: Qualified payroll cost as outlined in the CARES Act are eligible payroll cost payments for retirement programs for employees. A planned ESOP contribution would be considered eligible forgiveable payroll cost.

Q: You stated employer paid life insurance benefit is not allowable cost?

A: Correct. Life insurance is not considered a qualified payroll cost under the definition.

Q: So the 75% payroll requirement is not an all-or-nothing scenario? i.e. if you only spend 70% of your PPP on payroll, you'll still get some forgiveness, but it will be reduced?

A: Correct. The forgiveness will be reduced by the percentage of the loan proceeds not used at the minimum 75% payroll threshold.

Q: Are payroll costs over 75% forgiveable or is the payroll forgiveness capped at 75%?

A: Yes. The 75% rule for payroll is a minimum threshold. Amounts greater then 75% of the loan can be used for payroll.

Q: Is the 75% payroll requirement based on the entire loan amount or the amount of the loan used?

A: Full loan amount.

Q: Are paychecks that are dated outside the 8 week window but cover work done inside the 8-week window?

A: (Revised) Borrowers are generally eligible for forgiveness for the payroll costs paid AND payroll costs incurred during the eight-week (56-day) covered period (or alternative payroll covered period). Payroll costs are considered paid on the day that paychecks are distributed or the borrower originates an ACH credit transaction. Payroll costs are considered incurred on the day that the employee's pay is earned. Payroll costs incurred but not paid during the borrowers last pay period of the covered period are eligible for forgiveness if paid on or before the next regular payroll date. Otherwise, payroll costs must be paid during the covered period.

Borrowers with a biweekly (or more frequent) payroll schedule may elect to calculate eligible payroll costs using the eight-week (56 day) period that begins on the first day of their first pay period following their PPP loan disbursement date.

Q: Are payments for Life Insurance policies in the forgiveness list?

A: No. The Interim Final Rules do not outline Life Insurance policy premiums as eligible cost of forgiveness.

Q: If employees have hours for the FFCRA and you need to subtract out those hours and this is an FTE employee, I assume you could not count them that week if it made their hours below 30 for that week?

A: This would seem to be a reasonable approach.

SALARY CALCULATION

Q: Why are we comparing 1st quarter wages to an 8-week PPP period?

A: (Revised) Treasury wants to be sure that salary and hourly wages are not reduced during the covered period when compared to pre-COVID levels. Treasury has clarified that the actual amount of loan forgiveness the borrower will receive may be less, depending on whether the salary or hourly wages of certain employees during the covered period or the alternative payroll covered period was less than during the period from January 1, 2020 to March 31, 2020. Rather than compare total wages during the covered period to the first quarter of 2020, Treasury has revised the guidance to compare the average annual salary or hourly wage during the covered period or the alternative covered period to the average annual salary or hourly wage between January 1, 2020 and March 31, 2020.

Q: If seasonal employees were NOT used in determining the amount of payroll applied, would they still need to be considered in the forgiveness calculation?

A: Yes. There is no guidance provided from the SBA that states that payroll cost applied for, if not all headcount was used in the calculation, changes the requirements of the wage reduction analysis and FTE loan forgiveness analysis.

Q: Reduction in wages calculation example: What if an employee terminates within the 8-week period; thus significantly reducing their wage? Does that count against your forgiveness?

A: (Revised) There are FTE reduction exceptions for: (1) Any positions for which the borrower made a good-faith, written offer to rehire an employee during the covered period or alternative covered period which was rejected by the employee; and (2) any employees who during the covered period or the alternative covered period (a) were fired for cause, (b) voluntarily resigned, or (c) voluntarily requested and received a reduction of their hours. Any reductions in these cases do not reduce the borrower's loan forgiveness.

Q: Can I use a hiring bonus to hire a new employee and have that count towards loan forgiveness?

A: There is no specific guidance regarding the use of hiring bonuses within the CARES Act. The intent of the CARES Act is to ensure that FTE counts are maintained and wages of employees are maintained. Hiring new employees would appear to meet the intent of the CARES Act. Hiring bonuses used to increase headcount would appear to be a reasonable payroll related expense. It would be appropriate to discuss this with your lender to ensure loan forgiveness.

Q: If an employee retired, deceased or left company during 2020, how does that impact the 1st qtr earnings vs covered period calculation, since there is no covered period earnings for that employee? Same thing in reverse, is a new hire all forgiven if no 1st qtr earnings?

A: (Revised) There are FTE reduction exceptions for: (1) Any positions for which the borrower made a good-faith, written offer to rehire an employee during the covered period or alternative covered period which was rejected by the employee; and (2) any employees who during the covered period or the alternative covered period (a) were fired for cause, (b) voluntarily resigned, or (c) voluntarily requested and received a reduction of their hours. Any reductions in these cases do not reduce the borrower's loan forgiveness.

Q: Is payroll forgiveness based on the pay period (when the cost was incurred) or the date the payroll is actually paid? And are we permitted to move up a pay date to fall within the 8-week time period?

A: (Revised) Both, we do not see a need to move pay dates based on the most recent guidance. Borrowers are generally eligible for forgiveness for the payroll costs paid AND payroll costs incurred during the eight-week (56-day) covered period (or alternative payroll covered period). Payroll costs are considered paid on the day that paychecks are distributed or the borrower originates an ACH credit transaction. Payroll costs are considered incurred on the day that the employee's pay is earned. Payroll costs incurred but not paid during the borrowers last pay period of the covered period are eligible for forgiveness if paid on or before the next regular payroll date. Otherwise, payroll costs must be paid during the covered period.

Borrowers with a biweekly (or more frequent) payroll schedule may elect to calculate eligible payroll costs using the eight-week (56 day) period that begins on the first day of their first pay period following their PPP loan disbursement date.

Q: Can a person collect unemployment and be paid the remaining balance of what their pay would be using this loan instead of being brought back to full pay before June 30?

A: The intent of the CARES Act and more specifically the PPP loan is to provide paycheck protection for employees in order to keep them off of unemployment. It is not believed that an employee can collect unemployment and pay from a business under the PPP loan at the same time.

SALARY CALCULATION, CONT'D.

Q: When considering payroll costs within the 8-week period - on a biweekly payroll where some of the hours worked fell BEFORE the 8-week period, but were paid out within the 8 weeks, do I have to break out that first week in my calculations?

A: (Revised) No, based on recent guidance. Borrowers are generally eligible for forgiveness for the payroll costs paid AND payroll costs incurred during the eight-week (56-day) covered period (or alternative payroll covered period). Payroll costs are considered paid on the day that paychecks are distributed or the borrower originates an ACH credit transaction. Payroll costs are considered incurred on the day that the employee's pay is earned. Payroll costs incurred but not paid during the borrowers last pay period of the covered period are eligible for forgiveness if paid on or before the next regular payroll date. Otherwise, payroll costs must be paid during the covered period.

Borrowers with a biweekly (or more frequent) payroll schedule may elect to calculate eligible payroll costs using the eight-week (56 day) period that begins on the first day of their first pay period following their PPP loan disbursement date.

Q: Can you make a special payroll to move forward the pay at the end to include 8 weeks of payroll?

A: (Revised) We do not see a need for a special pay. Borrowers are generally eligible for forgiveness for the payroll costs paid AND payroll costs incurred during the eight-week (56-day) covered period (or alternative payroll covered period). Payroll costs are considered paid on the day that paychecks are distributed or the borrower originates an ACH credit transaction. Payroll costs are considered incurred on the day that the employee's pay is earned. Payroll costs incurred but not paid during the borrowers last pay period of the covered period are eligible for forgiveness if paid on or before the next regular payroll date. Otherwise, payroll costs must be paid during the covered period.

Borrowers with a biweekly (or more frequent) payroll schedule may elect to calculate eligible payroll costs using the eight-week (56 day) period that begins on the first day of their first pay period following their PPP loan disbursement date.

Q: Are you able to increase your full time salary employees payroll during the 8-week period? Like some type of 8-week raise to deal with the virus impact?

A: The CARES Act does appear to prohibit increases in full time salary payroll during the 8-week period for matters of employee retention, hazard pay or other increases in compensation. It would be suggested that you discuss these payroll changes with your lender, as they are ultimately responsible for loan forgiveness.

Q: For the reduction in wages calculation, does it look at hourly and salary? Does it look at part-time hourly employees or only full-time hourly employees? A part-time employee may have chosen to work less hours than previously. Does it just look at base wages for full-time employees or does it look at overtime; for salary does it factor in bonuses that may have been earned in one period and not in another period?

A: (Revised) Treasury wants to be sure that salary and hourly wages are not reduced during the covered period when compared to pre-COVID levels. Treasury has clarified that the actual amount of loan forgiveness the borrower will receive may be less, depending on whether the salary or hourly wages of certain employees during the covered period or the alternative payroll covered period was less than during the period from January 1, 2020 to March 31, 2020. Rather than compare total wages during the covered period to the first quarter of 2020, Treasury has revised the guidance to compare the average annual salary or hourly wage during the covered period or the alternative covered period to the average annual salary or hourly wage between January 1, 2020 and March 31, 2020.

Q: Does the 25% threshold for reduction in wages include hourly employees whose earnings may appear reduced due to lack of OT during 8-week period?

A: (Revised) Treasury wants to be sure that salary and hourly wages are not reduced during the covered period when compared to pre-COVID levels. Treasury has clarified that the actual amount of loan forgiveness the borrower will receive may be less, depending on whether the salary or hourly wages of certain employees during the covered period or the alternative payroll covered period was less than during the period from January 1, 2020 to March 31, 2020. Rather than compare total wages during the covered period to the first quarter of 2020, Treasury has revised the guidance to compare the average annual salary or hourly wage during the covered period or the alternative covered period to the average annual salary or hourly wage between January 1, 2020 and March 31, 2020.

Q: My client asked me if he can increase his pay during the 8-week period. Do you know?

A: There is no guidance from the SBA that states that increasing pay would not be allowed. The guidance does cap total forgiveable compensation at an annualized amount of $100,000 which, for the 8-week covered period would be no more than $15,384 per employee. Any increases in compensation levels should be discussed with your lender to ensure loan forgiveness.

SALARY CALCULATION, CONT'D.

Q: Are wages and salary during the covered period based on paycheck dates?

A: (Revised) Borrowers are generally eligible for forgiveness for the payroll costs paid AND payroll costs incurred during the eight-week (56-day) covered period (or alternative payroll covered period). Payroll costs are considered paid on the day that paychecks are distributed or the borrower originates an ACH credit transaction. Payroll costs are considered incurred on the day that the employee's pay is earned. Payroll costs incurred but not paid during the borrowers last pay period of the covered period are eligible for forgiveness if paid on or before the next regular payroll date. Otherwise, payroll costs must be paid during the covered period.

Borrowers with a biweekly (or more frequent) payroll schedule may elect to calculate eligible payroll costs using the eight-week (56 day) period that begins on the first day of their first pay period following their PPP loan disbursement date.

Q: When calculating payroll expenses during the 8-week period after funding, how do we adjust for employees who will not exceed $100K during the 8-week period, but will do so after the 8-week period is over?

A: The $100,000 salary or wages is based on an "annualized" analysis of compensation. When reviewing compensation paid during the covered period, it should be based on what annualized compensation would be. Therefore, if a covered employee's annualized compensation is more then $100,000, the cost to be eligible for forgiveness in the 8-week covered period is calculated as follows ($100,000/52 weeks * 8 weeks) or $15,384.

Q: What if you replace headcount but the person hired is making less money than the previous?

A: Replacing headcount would meet the intent of the CARES Act, which is to ensure payroll and jobs. (Revised) The salary comparison should be employee by employee. If an employee is hired during the covered period, there is no prior salary/wage to compare to resulting in no reduction in forgiveness.

Q: How is the decreased wages part of the loan forgiveness calculation impacted by employees on FFCRA leave? Those employee's wages were decreased by 33% under FFCRA but PPP loan forgiveness says their wages can't be reduced by more than 25%.

A: Wages of employees in which a payroll tax credit was taken under the FFCRA will not be included in the PPP loan forgiveness calculation. The CARES Act specifically outlines that wages related to credits taken for FFCRA or Employee Retention Credits are ineligible payroll cost for calculation of the PPP loan forgiveness.

Q: What if you have not reduced the hourly wage but can no longer offer overtime? Is that part of the reduction in wages, since overtime is not guaranteed.

A: (Revised) Treasury wants to be sure that salary and hourly wages are not reduced during the covered period when compared to pre-COVID levels. Treasury has clarified that the actual amount of loan forgiveness the borrower will receive may be less, depending on whether the salary or hourly wages of certain employees during the covered period or the alternative payroll covered period was less than during the period from January 1, 2020 to March 31, 2020. Rather than compare total wages during the covered period to the first quarter of 2020, Treasury has revised the guidance to compare the average annual salary or hourly wage during the covered period or the alternative covered period to the average annual salary or hourly wage between January 1, 2020 and March 31, 2020.

Q: In your example for calculating payroll reduction you were comparing a full quarter costs to the "covered" period. Isn't the covered period 8 weeks; so you are comparing apples to oranges? You would have to bump everyones pay by 33% during the covered period to equal what they got in a full quarter.

A: (Revised) Treasury wants to be sure that salary and hourly wages are not reduced during the covered period when compared to pre-COVID levels. Treasury has clarified that the actual amount of loan forgiveness the borrower will receive may be less, depending on whether the salary or hourly wages of certain employees during the covered period or the alternative payroll covered period was less than during the period from January 1, 2020 to March 31, 2020. Rather than compare total wages during the covered period to the first quarter of 2020, Treasury has revised the guidance to compare the average annual salary or hourly wage during the covered period or the alternative covered period to the average annual salary or hourly wage between January 1, 2020 and March 31, 2020.

SALARY CALCULATION, CONT'D.

Q: What about salesmen that are salary plus commission. If you keep the salary where it needs to be but you have no control over sales commissions when their sales are so far down, their total wages were used in the calculation. How is that going to be handled?

A: For the loan calculation, the full compensation for sales employees was most likely used (up to the $100,000 cap) from 2019 payroll cost. Because the loan was based upon these compensation levels and the intent of the CARES Act is to provide paycheck protection for normalized salary and wages, an employer will need to determine if additional compensation on top of the base salary is warranted to be paid with the loan proceeds. Otherwise, meeting the 75% payroll requirement, as well as not reducing salary and compensation during the covered period versus the first quarter of 2020, will be difficult to meet.

Q: You stated the measure period is Q1 2020. I thought it was Jan 1 2020 to Feb 29 2020?

A: No, for wage reduction review it is a comparison of payroll cost for the first quarter of 2020 versus the 8-week covered period. For review of FTE counts, the period of January 1, 2020 through February 29, 2020, is used in that analysis. See slide 17 for further clarification for FTE counts.

Q: Do the same employees referenced in the loan calculation need to be on payroll during the 8-week justification period?

A: It does not need to be the exact same employees that were referenced in the loan calculation. The loan calculation reviewed headcount. Forgiveness calculations are based upon FTE counts looking are different periods as outlined on slide 17 of the presentation.

Q: Is the 25% reduction in wages include bonuses that may have been paid in the first quarter 2020?

A: The current guidance from the SBA does not discuss bonuses paid in the first quarter of 2020 and how that factors into review of the salary and wages within the covered 8-week period versus the first quarter of 2020. The intent of the CARES Act is to provide paycheck protection of normalized payroll during the covered 8-week period. There is an argument to exclude bonuses paid from compensation in the first quarter of 2020. Further guidance is needed on this matter from the SBA.

Q: We closed a department Feb 21, which had nothing to do with COVID-19. We laid off 10 employees, which cannot be rehired because we no longer have that department. Is there anything we can do?

A: Clearly meeting the wage and FTE count requirements will be difficult with the reduction in force. However, the intent of the CARES Act is to maintain headcount and payroll levels consistent with business pre-COVID 19. Also, your loan was most likely approved based upon payroll cost from 2019 which most likely included the payroll cost of this department. Most likely in this scenario you'll have a unforgivable amount of loan balance that will either need to be termed for the 2-year period of the loan or paid back upon the calculation of loan forgiveness.

Q: Does it have to be the same employees or can we replace them with new employees?

A: It does not appear to need to be the same employees. The intent of the CARES Act is to provide employers funding to cover payroll to ensure stability of FTE counts at levels that existed pre-COVID 19. The replacement of headcount with new headcount would appear to meet that intent.

Q: In the wage calculation, are we using the W-2 to compare or by positions. Meaning you may have 2 or 3 employees holding the same position in one year. This is especially true for part-time employees where there is high turnover.

A: The wage calculation is reviewed by employee comparing wages paid to an employee in the first quarter of 2020 versus the 8-week covered period for the same employee. (Revised) The position of the employee should not be a factor in the forgiveness calculation.

Q: We pay bonuses for 2019 in 1st Qtr 2020; can we exclude those amounts in the calculations?

A: The current guidance from the SBA does not discuss bonuses paid in 2020 for 2019 profits and how that factors into review of the salary and wages within the covered 8-week period versus the first quarter of 2020. The intent of the CARES Act is to provide paycheck protection of normalized payroll during the covered 8-week period. There is an argument to exclude bonuses paid from compensation in the first quarter of 2020. Further guidance is needed on this matter from the SBA.

SALARY CALCULATION, CONT'D.

Q: Do you need to do the test of reduced wages if you did not reduce any employee's salary and wages during this period?

A: Technically no. However, your lender will require the analysis so completion of the analysis for calculation of loan forgiveness by your lender will be required. This matter should be discussed with your lender as to what documentation they will require or be looking for.

Q: What if like you said, you paid a lesser payroll (less then 100% of pay and reduced head count) due to decreased head count for weeks of work outside the 8-week window, do I now have to beef up their next 3 pays to ensure they did not drop below 25% of their regular pay?

A: The calculation of wages is based upon wages and salary levels, per covered employee, does not drop below 75% of the wages and salary paid to that same employee during the first quarter of 2020. A reduction of more then 25% in wages will result in a reduction in loan forgiveness. Also, your question mentions a reduction in FTE count, you will need to review the reduction in FTE count slides to determine if further loan forgiveness is not met.

Q: A quarter is 3 months, the payroll period for the loan is 8 weeks. How can these two be compared?

A: (Revised) Treasury wants to be sure that salary and hourly wages are not reduced during the covered period when compared to pre-COVID levels. Treasury has clarified that the actual amount of loan forgiveness the borrower will receive may be less, depending on whether the salary or hourly wages of certain employees during the covered period or the alternative payroll covered period was less than during the period from January 1, 2020 to March 31, 2020. Rather than compare total wages during the covered period to the first quarter of 2020, Treasury has revised the guidance to compare the average annual salary or hourly wage during the covered period or the alternative covered period to the average annual salary or hourly wage between January 1, 2020 and March 31, 2020.

Q: If annual salary exceeds $100k, do I have to reduce calculation for covered period for forgiveness?

A: The focus is on annualized salary greater than $100,000. The cap would be viewed on a total annual basis. The forgiveness calculation would be reduced to reflect a calculation of $100,000 divided by 52 weeks or pay of $1,923 per week.

Q: The covered period is 8 weeks versus the quarter, which has 12 weeks. Am I misunderstanding this?

A: Your understanding is correct.

(Revised) Treasury wants to be sure that salary and hourly wages are not reduced during the covered period when compared to pre-COVID levels. Treasury has clarified that the actual amount of loan forgiveness the borrower will receive may be less, depending on whether the salary or hourly wages of certain employees during the covered period or the alternative payroll covered period was less than during the period from January 1, 2020 to March 31, 2020. Rather than compare total wages during the covered period to the first quarter of 2020, Treasury has revised the guidance to compare the average annual salary or hourly wage during the covered period or the alternative covered period to the average annual salary or hourly wage between January 1, 2020 and March 31, 2020.

Q: Covered employee headcount - what if employee is in the hospital, unable to work for commissions? Do you still pay?

A: Further guidance on this matter is needed from the SBA. Various factors regarding short term and long term disability, as well as various other federal and state law matters, may dictate how compensation, if any, are paid for hospitalized employees.

Q: Q1 2020 is 12 weeks times 75% would be 9 weeks. And we're then comparing 8 weeks in the covered period to 9 weeks from Q1 2020?

A: (Revised) Treasury wants to be sure that salary and hourly wages are not reduced during the covered period when compared to pre-COVID levels. Treasury has clarified that the actual amount of loan forgiveness the borrower will receive may be less, depending on whether the salary or hourly wages of certain employees during the covered period or the alternative payroll covered period was less than during the period from January 1, 2020 to March 31, 2020. Rather than compare total wages during the covered period to the first quarter of 2020, Treasury has revised the guidance to compare the average annual salary or hourly wage during the covered period or the alternative covered period to the average annual salary or hourly wage between January 1, 2020 and March 31, 2020.

Q: Our payroll is a combination of full-time and part-time, and all have been brought back to their original positions, is that acceptable?

A: Yes.

SALARY CALCULATION, CONT'D.

Q: Does the 75% rule apply for an employee that is terminated during the 8-week period?

A: Yes. (Revised) There are FTE reduction exceptions for: (1) Any positions for which the borrower made a good-faith, written offer to rehire an employee during the covered period or alternative covered period which was rejected by the employee; and (2) any employees who during the covered period or the alternative covered period (a) were fired for cause, (b) voluntarily resigned, or (c) voluntarily requested and received a reduction of their hours. Any reductions in these cases do not reduce the borrower's loan forgiveness.

Q: Covered period is 8 weeks. 1st qtr is 12 weeks. Reduction in wages issue. What am I comparing?

A: Your understanding is correct. (Revised) Treasury wants to be sure that salary and hourly wages are not reduced during the covered period when compared to pre-COVID levels. Treasury has clarified that the actual amount of loan forgiveness the borrower will receive may be less, depending on whether the salary or hourly wages of certain employees during the covered period or the alternative payroll covered period was less than during the period from January 1, 2020 to March 31, 2020. Rather than compare total wages during the covered period to the first quarter of 2020, Treasury has revised the guidance to compare the average annual salary or hourly wage during the covered period or the alternative covered period to the average annual salary or hourly wage between January 1, 2020 and March 31, 2020.

Q: Should we increase hourly rate of pay during the 8-week period instead of waiting until the end and do a lump sum "bonus."

A: That would need to be a decision that is made at the business or entity level. There is no specific guidance from the SBA regarding bonuses or increases in hourly rates. The intent of the CARES Act is to ensure that both FTE counts and wages are maintained for employees under your employment before the impacts of COVID-19.

HEADCOUNT & FTE

Q: What if I have a reduction in headcount but need to pay each FTE more money in order to bring them back (and off unemployment)?

A: These are two separate tests. It is possible to pass one and not the other. Keep in mind that the FTE test is potentially more damaging to forgiveness amounts, but you have until June 30th to restore headcount.

Q: If I don't hit the requirement of FTEs until June 30th, yet my split of expenses is 75%/25% and I am paying 100% of salary for the people I did bring back, would I have some loan forgiveness?

A: In this scenario, it sounds like you would fail the FTE test during the 8-week covered period, but that you would be able to restore your FTE headcount by June 30th. This means you would be eligible for full forgiveness assuming the salary test and expense eligibility requirements are met.

Q: If you're paying an hourly employee to do nothing, how many hours did they work (for the forgiveness calculation)?

A: While further guidance is needed, it is recommended that the hours should be measured by the amount paid based on the hourly rate that you have them set at - which for the salary test should be whatever rate they were making during Q1 of 2020. So if an employee was making $15/hour in Q1 2020 and you paid them $2,400 during the 8-week covered period, you would say that you paid them for 160 hours.

Q: Do part time employees factor into this? The forgiveness part of it? So if I had 15 part time employees last year and in Jan-March, do they have to factor in? I thought the FTE proponent of this was taken out?

A: Yes. (Revised) You have two options to calculate FTE's. Option 1: For each employee, enter the average number of hours paid per week, divide by 40, and round to the nearest tenth. The maximum for each employee is capped at 1.0. Option 2: A simplified method that assigns a 1.0 for employees who work 40 hours or more per week and 0.5 for employees who work fewer hours may be used at the election of the borrower.

Q: Do I have to be at the FTE count as an average over the 8 weeks or can I just get there by 6/30/20?

A: You are still eligible for full loan forgiveness if your FTE count is restored prior to June 30, 2020, regardless of FTE count during the 8-week covered period.

Q: What if we have seasonal employees that always end their employment with us every May? We counted them on Feb 15 as FT.

A: The denominator in the FTE calculation can be measured using either average FTEs from February 15, 2019 - June 30, 2019 or January 1, 2020 - February 29, 2020, whichever is lower. Current guidance does not allow for any other average FTE calculation for the denominator. In this example, at least a portion of these employees would factor into both the numerator and denominator if loan origination began prior to May.

Q: Since my business cannot be open due to governor mandated closing, can I hire my parents/spouse/older kids and put them on payroll to match FTE requirements?

A: While there is nothing in the CARES Act that we are aware of that would prohibit this, the intent of the Act is to keep otherwise employed individuals off of unemployment regardless of whether or not they are actually working. As a result, one could expect an increased level of scrutiny in an example such as this.

Q: We had an employee out on maternity leave that we knew probably would not come back. So we hired to replace that person in December. Technically she was on our payroll drawing short term disability until mid-March. Do we have to replace her with another person?

A: We've seen nothing in the Act or in subsequent guidance that would suggest that an employee on short-term disability would not factor into your FTE calculation. A strict reading of the Act suggests that you would have to restore that FTE prior to June 30, 2020, for full forgiveness, but we are awaiting guidance.

Q: What happens if you have full employment during the 8-week measurement period, but you have a furlough in between that and June 30th? Will your forgiveness be impacted?

A: We are aware of nothing in the Act that would suggest that any decrease in salary or FTEs after the end of the 8-week covered period would decrease forgiveness.

Q: What about employees paid by a piece rate and the FTE calculation?

A: No specific guidance has been provided in this area. Absent any guidance subsequent to the issuance of these FAQs, we would recommend using a reasonable and consistent calculation based on historic compensation levels and presenting it to your lender for approval.

HEADCOUNT & FTE, CONT'D.

Q: We pay on the Thurs. following the previous Sun. - Sat. working times. Do you count the pay date payroll closest to 2/15/19 - 6/30/19 and 1/1/20 - 2/29/20 or the payroll that is paid closest to those dates to figure FTE?

A: The CARES Act states that the average number of full-time equivalent employees shall be determined by calculating the average number of full-time equivalent employees for each pay period falling within a month. In consultation with your lender, you should employ a reasonable and consistent method to determine how many FTEs were employed for each pay period that falls within the prescribed timeframes. Consistently applied to both the numerator and denominator, a similar result should be achieved regardless of which is chosen.

Q: How many part-time people equal one FTE?

A: (Revised) You have two options to calculate FTE's. Option 1: For each employee, enter the average number of hours paid per week, divide by 40, and round to the nearest tenth. The maximum for each employee is capped at 1.0. Option 2: A simplified method that assigns a 1.0 for employees who work 40 hours or more per week and 0.5 for employees who work fewer hours may be used at the election of the borrower.

Q: Is there a minimum amount of time into the future that an FTE who is counted for the loan forgiveness calculation must remain employed with the company?

A: The CARES Act and subsequent guidance do not state anything about a length of time that an FTE must be employed after the 8-week covered period ends, or after June 30, 2020, if the FTE is hired after the end of the 8-week covered period.

Q: What if they quit?

A: (Revised) There are FTE reduction exceptions for: (1) Any positions for which the borrower made a good-faith, written offer to rehire an employee during the covered period or alternative covered period which was rejected by the employee; and (2) any employees who during the covered period or the alternative covered period (a) were fired for cause, (b) voluntarily resigned, or (c) voluntarily requested and received a reduction of their hours. Any reductions in these cases do not reduce the borrower's loan forgiveness.

Q: Is this actual FTE or is it full time equivalent?

A: FTE stands for full-time equivalent.

Q: Will there be tracking or followup with businesses after the 8-week period to verify if the staffing levels have been maintained beyond the 8 weeks? Is there a recall period after the 8 weeks if a company's staffing levels dip below the average maintained levels to achieve forgiveness of the loan?

A: The CARES Act and subsequent guidance do not state anything about a length of time that an FTE must be employed after the 8-week covered period ends, or after June 30, 2020, if the FTE is hired after the end of the 8-week covered period.

Q: Is it full-time equivalent or a headcount? Is a person working 20 hours half a person?

A: (Revised) You have two options to calculate FTE's. Option 1: For each employee, enter the average number of hours paid per week, divide by 40, and round to the nearest tenth. The maximum for each employee is capped at 1.0. Option 2: A simplified method that assigns a 1.0 for employees who work 40 hours or more per week and 0.5 for employees who work fewer hours may be used at the election of the borrower.

Q: If we gave the headcount instead of FTE to get the loan would we be able to restate the FTE count?

A: For loan eligibility, the 500 employee rule used total headcount. For loan forgiveness FTE is used instead of total headcount. These are two different measures used for different purposes.

Q: Will we get penalized on the FTE count or wage reduction calculation if an employee is terminated during the 8-week period, since the EE may not receive 75% of compensations earned in the first quarter of 2020?

A: (Revised) There are FTE reduction exceptions for: (1) Any positions for which the borrower made a good-faith, written offer to rehire an employee during the covered period or alternative covered period which was rejected by the employee; and (2) any employees who during the covered period or the alternative covered period (a) were fired for cause, (b) voluntarily resigned, or (c) voluntarily requested and received a reduction of their hours. Any reductions in these cases do not reduce the borrower's loan forgiveness.

HEADCOUNT & FTE, CONT'D.

Q: What happens if your FTE decreases because of planned retirements or an employee leaving where both were planned prior to the COVID-19 crisis? When we did our calculation we planned for this and requested less than what our 2.5 times of payroll costs should have been.

A: (Revised) There are FTE reduction exceptions for: (1) Any positions for which the borrower made a good-faith, written offer to rehire an employee during the covered period or alternative covered period which was rejected by the employee; and (2) any employees who during the covered period or the alternative covered period (a) were fired for cause, (b) voluntarily resigned, or (c) voluntarily requested and received a reduction of their hours. Any reductions in these cases do not reduce the borrower's loan forgiveness.

Q: What if all I have are part-time employees (10-15 hours per week)?

A: (Revised) You have two options to calculate FTE's. Option 1: For each employee, enter the average number of hours paid per week, divide by 40, and round to the nearest tenth. The maximum for each employee is capped at 1.0. Option 2: A simplified method that assigns a 1.0 for employees who work 40 hours or more per week and 0.5 for employees who work fewer hours may be used at the election of the borrower.

Q: How many hours per week are considered 1 FTE? 30 or some other number?

A: (Revised) 40 hours per week.

Q: What if your PPP ends before June 30th, and you can't keep your headcount, can you lay them off before 6/30 and not have this held against you?

A: The FTE test looks at average FTE during the 8-week covered period, and offers a restoration option between the end of the 8-week covered period and June 30, 2020. If the average FTE test is met, the CARES Act and subsequent guidance give no indication that anything could happen after the 8-week covered period that could decrease loan forgiveness.

Q: What determines a 'Full Time' employee and what is the baseline cutoff?

A: (Revised) 40 hours per week.

Q: Do two 20 hour per week employees equal one FTE?

A: (Revised) You have two options to calculate FTE's. Option 1: For each employee, enter the average number of hours paid per week, divide by 40, and round to the nearest tenth. The maximum for each employee is capped at 1.0. Option 2: A simplified method that assigns a 1.0 for employees who work 40 hours or more per week and 0.5 for employees who work fewer hours may be used at the election of the borrower.

Q: For FTEs during the 8-week period, do you take an average for each of the 8 weeks to arrive at overall average? Or can you just take the beginning and end (of 8 week period) to calculate the average?

A: (Revised) You have two options to calculate FTE's. Option 1: For each employee, enter the average number of hours paid per week, divide by 40, and round to the nearest tenth. The maximum for each employee is capped at 1.0. Option 2: A simplified method that assigns a 1.0 for employees who work 40 hours or more per week and 0.5 for employees who work fewer hours may be used at the election of the borrower.

Q: If someone has an employee who refuses to return to work, can you hire a new employee to make up the difference?

A: Yes. (Revised) There are FTE reduction exceptions for: (1) Any positions for which the borrower made a good-faith, written offer to rehire an employee during the covered period or alternative covered period which was rejected by the employee; and (2) any employees who during the covered period or the alternative covered period (a) were fired for cause, (b) voluntarily resigned, or (c) voluntarily requested and received a reduction of their hours. Any reductions in these cases do not reduce the borrower's loan forgiveness.

Q: What about part time employees?

A: Part-time employees would count as partial FTEs.

Q: For FTEs, what if some of the employees are paid a stipend, regardless of the number of hours worked?

A: In consultation with your lender, a reasonable and consistent method should be implemented using the employees' historic pay rate and hours worked.

OTHER COSTS

Q: Can corporations include vehicle lease payments and gasoline/diesel expenses for company vehicles in the 25% portion of forgiveness?

A: The Interim Final Rule issued on 4/14/2020 states that proceeds of a PPP loan may be used for certain purposes including "business rent payments (e.g., the warehouse where you store business equipment or the vehicle you use to perform your business.)" Based on this IFR, we believe business vehicles, equipment, and other business lease payments meet this criteria.

Q: Expenses for car - could you have used mileage on the return?

A: The Act makes no reference to mileage being an allowable use of program loans. However, mileage reimbursement to employees during the covered period may be eligible as a payroll cost.

Q: Is business insurance (liability, auto, property) included in forgivable expenses on the 25% side?

A: The Act makes no reference to insurance other than group health benefits being an allowable use of program loans.

Q: Did you mention the "transportation" aspect of costs?

A: The Act includes transportation costs as an allowable portion of utilities. There are some interpretations that this includes fuel for business vehicles. However, Treasury will need to provide further clarification on the definition of transportation costs.

Q: We are an excavating contractor and we use a lot of fuel for our vehicles and equipment. Does any of the fuel count for us?

A: The Interim Final Rule issued on 4/14/2020 states that proceeds of a PPP loan may be used for certain purposes including "business utility payments (e.g., the cost of electricity in the warehouse you rent or gas you use in driving your business vehicle.)" Based on this IFR, we believe business vehicles and equipment fuel are forgivable costs for the PPP loan.

Q: Does rent to related parties count?

A: Treasury has not specifically included or excluded self-rent. Until further clarification is provided by Treasury, we believe self-rent is eligible if there was an agreement in place before February 15, 2020 and it meets other mortgage/rent criteria outlined in the Act.

Q: Can you confirm if interest paid on Lines of Credit or other forms of debt would be eligible for forgiveness?

A: The Interim Final Rule issued on 4/14/2020 states that proceeds of a PPP loan may be used for certain purposes including "mortgage interest payments **(but not mortgage prepayments or principal payments)** on any business mortgage obligation on real or personal property (e.g., the interest on your mortgage for the warehouse you purchased to store business equipment or the interest on an auto loan for a vehicle you use to perform your business)." This same IFR also states that loan proceeds may be used for "interest payments on any other debt obligations that were incurred before February 15, 2020." Based on this IFR we believe interest paid on lines of credit and other forms of debt would be eligible for forgiveness if the debt was incurred before February 15, 2020.

Q: Are trash removal and cell phone expenses considered utilities?

A: Utilities are generally interpreted to include electricity, gas, water, transportation, telephone and internet access for which service began before February 15, 2020 as expenses which qualify for forgiveness. We do not believe trash removal meets this criteria, however, we do consider cell phones to meet this criteria. Further clarification is needed from Treasury on utilities.

Q: Can you count the costs for lease of water coolers and mail machines? What if the billing is quarterly - can you use accrual based calculation?

A: The Interim Final Rule issued on 4/14/2020 states that proceeds of a PPP loan may be used for certain purposes including "business rent payments (e.g., the warehouse where you store business equipment or the vehicle you use to perform your business.)" Based on this IFR, we believe business vehicles, equipment, and other business lease payments meet this criteria. Treasury makes multiple references to costs paid during the covered loan period. Based on these references, we do not believe accrued expenses will be included. We believe only costs incurred and paid during the covered period will be included. Further clarification is needed from Treasury on accrual vs. cash basis of costs.

Q: We are required to pay our landlord real estate taxes. Does that count as rent?

A: We do not believe real estate taxes and other costs paid to landlords, other than those specifically eligible under the Act, beyond rent are eligible for loan forgiveness. The guidance makes no reference to other rent related costs that may be paid to landlords. Refer to the discussion of mortgage and rent costs.

SOLE PROPRIETOR

Q: I am a full-time self proprietor realtor that is not permitted to work except on transactions initiated prior to March 18. I've still been able to transact virtually. Am I still eligible for the PPP? I applied and was approved. Will I receive forgiveness?

A: We are not able to provide specific direction on whether the PPP loan was necessary for any particular business. All borrowers are required to certify that "current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant." This is a judgment made by the Applicant. The ability to transact business virtually or by other means during the covered loan period is not a factor in the forgiveness calculation. Forgiveness is ultimately determined by your bank based on eligible costs incurred and paid during the covered loan period.

Q: Can I use the PPP loan to pay myself back for the last 7-8 weeks of continually paying my employees?

A: Self-employed eligible costs for loan forgiveness include:

- Owners compensation replacement based on 2019 net profit from Line 31 of Schedule C calculated as 8/52nds of 2019 net profit.
- Employee payroll costs as defined.
- All other non-payroll costs as outlined, but must have claimed deduction for such expenses on 2019 1040 Schedule C.

Owners that do not normally take regular draws or payments should make regular payments during the 8-week covered loan period as we believe only costs incurred and paid will be eligible for forgiveness. Owners included on regular payroll (i.e. W-2) should be included in payroll costs, subject to the $100,000 annual limitation.

Q: You just said that you can use Line 31 from your 2018 schedule C. I was on an SBA webinar where they said that you must have filed your 2019 tax return with schedule C to be able to get loan forgiveness for owners compensation. The SBA webinar said that using the 2018 schedule C is not permitted. Has this changed?

A: You are correct, this should be based on 2019 Schedule C information, not 2018.

Q: Is forgiveness calculation for a self-employed general partner similar to a Schedule C 8/52nd of SE comp? 8/52 of guaranteed payments or 8/52 of SE income on Schedule K1?

A: A self-employed general partner would use 8/52 of guaranteed payments not to exceed the annual maximum of $100,000.

CERTIFICATION

Q: Regarding the newly issued guidance, if a privately owned small business had good cash flow at time of application, yet economic uncertainty and reduction in business has created significant losses, is the initial cash flow and liquidity more important than loss of business and net losses, is it recommended loan funds be returned? Owners stopped taking salaries before the loan, costs were cut where possible and still incurring net losses. Confused as to what SBA and Treasury consider having liquidity and impact on a company experiencing economic distress with losses, while keeping employees employed and receiving full pay.

A: No bright-line test has been issued for this and there is no expectation that there will be one. It is recommended that all potential scenarios where the PPP loan was necessary to support the ongoing operations of the company are documented, and that current economic uncertainty made those scenarios possible at the time of application.

EIDL

Q: If I got the EIDL and my loan was 80K, it is effectively 70K so there is no way to get it all forgiveable with that? I either send it back or I will pay the interest on 10K?

A: The principal amount of the loan and any accrued interest that is not forgiven will continue as a loan on its original terms, including:

- A maturity date which is two years from the date of disbursement.
- No payment during the first six months.
- An interest rate of one percent per annum.
- No prepayment penalty.

Alternate option would be to pay back remaining loan balance and accrued interest immediately after loan forgiveness is determined.

Q: If you also got the 10,000 disaster loan how is that treated? Is it part of the PPP loan program?

A: Proceeds from any advance up to $10,000 on an EIDL will be deducted from the loan forgiveness amount. The remaining EIDL balance does not impact the loan forgiveness calculation.

ACCOUNTING & TAX

Q: Please provide guidance as to the proper entries to make in our general ledger to recognize the loan proceeds and liability.

A: Initial entry should be to debit cash and credit notes payable - short term if it is expected to be forgiven or repaid within one year. Industry guidance is expected to be forthcoming as to entries to record should the loan be forgiven.

Q: Does timing of cash going out count, or timing of when things are due?

A: (Revised) Payroll costs incurred but not paid during the covered period are eligible for forgiveness if paid on or before the next regular payroll date after the covered period. Any nonpayroll cost must be paid during the covered period or incurred during the covered period and paid on or before the next regular billing date, even if the billing date is after the covered period.

Q: For costs other than payroll costs - is it on a cash basis regardless of service period?

A: (Revised) Payroll costs incurred but not paid during the covered period are eligible for forgiveness if paid on or before the next regular payroll date after the covered period. Any nonpayroll cost must be paid during the covered period or incurred during the covered period and paid on or before the next regular billing date, even if the billing date is after the covered period.

Q: Our 8-week period ends on June 15th, but most invoices for utilities and health insurance typically arrive after the 20th of the month. Are we permitted to prepay a recurring charge that is the same each month?

A: (Revised) Payroll costs incurred but not paid during the covered period are eligible for forgiveness if paid on or before the next regular payroll date after the covered period. Any nonpayroll cost must be paid during the covered period or incurred during the covered period and paid on or before the next regular billing date, even if the billing date is after the covered period.

Q: Is the payroll cost amount PAID or is it the pay period?

A: Revised: Based on current guidance, payroll costs paid AND payroll costs incurred during the covered period would be included. Payroll costs incurred but not paid during the covered period are eligible for forgiveness if paid on or before the next regular payroll date after the covered period.

Q: Does the business get a tax deduction for the costs that are forgiven? If so, is the forgiven amount taxable income?

A: The forgiveness amount is specifically excluded from taxable income in the CARES Act. However, the expenses that generate the loan forgiveness have been specifically made non-deductible by IRS Notice 2020-32.

Q: Can you prepay rent/utilities/profit sharing-employer contributions?

A: It is largely held that prepayments are not allowed for rent and utilities. However, a reasonable and consistent allocation of payments for profit sharing contributions should be eligible to be treated as payroll costs.

Q: If I don't use 75% for payroll, will the other 25% used for rent, utilities, etc., still be forgiven?

A: Potentially. The amount not forgiven will be equal to 75% of the loan proceeds less whatever expenses are properly classified as payroll costs. However, the payroll and FTE tests must also be met.

Q: Is there any benefit to holding the PPP funds in a separate account, if not using that account for disbursements. It's proposed to make internal transfers as needed once payrolls are funded, to reimburse ourselves. I don't expect an auditor to be interested in our internal treasury moves. I expect requests will focus on external transactions.

A: It is recommended to use a separate account and disburse eligible costs directly from that account for tracking purposes, but is not required. Specific record keeping and appropriate support should suffice in place of using a separate account.

Q: Please explain "incur and pay for" in the 8 weeks. Does that exclude bills for which some of the expense was incurred outside of the 8 weeks (quarterly sewage bill, the payroll which was paid in the 8 weeks but the labor preceded the 8 weeks).

A: (Revised) Payroll costs incurred but not paid during the covered period are eligible for forgiveness if paid on or before the next regular payroll date after the covered period. Any nonpayroll cost must be paid during the covered period or incurred during the covered period and paid on or before the next regular billing date, even if the billing date is after the covered period.

ACCOUNTING & TAX, CONT'D.

Q: Is forgiveness based on cash or accrual?

A: (Revised) Payroll costs incurred but not paid during the covered period are eligible for forgiveness if paid on or before the next regular payroll date after the covered period. Any nonpayroll cost must be paid during the covered period or incurred during the covered period and paid on or before the next regular billing date, even if the billing date is after the covered period.

PPP Webinar FAQs (revised May 21, 2020)

McKONLY & ASBURY
CPAs & Business Advisors

OTHER QUESTIONS

Q: My bank advised that all funds must be expended by June 30, 2020. That happens to be a pay period for me - should I have all employees run to the bank that day?

A: The lender should be contacted for clarification. The program ends on June 30, 2020, but the period for costs incurred and payments made is the 8-week covered period. Further, employees are not required to go to the bank, the checks must simply be written and made available to them under the cash basis.

Q: When does the accrued interest start? Date of disbursement?

A: Interest begins to accrue at the loan disbursement date. However, all interest is eligible for forgiveness.

Q: Where are you getting the information regarding that the 8-week period begins the day the loan is disbursed? Can you provide a link to where you got that information.

A: CARES Act Section 1106(a)(3) - the term "covered period" means the 8-week period beginning on the date of the origination of a covered loan.

Q: I have only seen that you must bring people back to full pay by June 30, which is a document provided by the Treasury department.

A: This relates only to the salary test and restoring salaries after the end of the 8-week covered period.

Q: Is FAQ #14 on the SBA's PPP FAQ addressing loan eligibility or loan forgiveness?

A: FAQ 14 is used only to determine the number of employees and payroll costs to calculate the maximum loan amounts. While some of the measurement dates coincide with the FTE test for loan forgiveness, this FAQ is intended to address the loan amount only.

Q: What if we have expenses to support the loan but still have cash on hand.

A: It is recommended that all cash for all eligible incurred costs be disbursed prior to the end of the 8-week covered period. It is unknown how costs incurred, for which payment has not been made will be treated.

Q: Any idea of how grant funders are going to treat salary money not used for the grant since you are using PPP money?

A: This would have to be addressed with the grant funder.

Q: Forgiveness aside, can we use loan for operation?

A: The loan proceeds should be used only for payroll costs, and interest on mortgage obligations, rent, and utilities for which agreements were in place prior to February 15, 2020. If you use PPP funds for unauthorized purposes, SBA will direct you to repay those amounts. If you knowingly use the funds for unauthorized purposes, you will be subject to additional liability such as charges for fraud.

Q: Quarter has 12 (or 13) weeks but you are comparing to an 8-week "covered" period. Even if you pay the same, you won't get all forgiven.

A: (Revised) Treasury wants to be sure that salary and hourly wages are not reduced during the covered period when compared to pre-COVID levels. Treasury has clarified that the actual amount of loan forgiveness the borrower will receive may be less, depending on whether the salary or hourly wages of certain employees during the covered period or the alternative payroll covered period was less than during the period from January 1, 2020 to March 31, 2020. Rather than compare total wages during the covered period to the first quarter of 2020, Treasury has revised the guidance to compare the average annual salary or hourly wage during the covered period or the alternative covered period to the average annual salary or hourly wage between January 1, 2020 and March 31, 2020.

Q: Is there a specified timeframe/deadline from after the conclusion of the 8-week period that you must submit request of forgiveness to the lender? I understand the bank has 60 days to decide once they receive, but I'm referring to timing/turnaround of the request to the lender a grant?

A: All payments on the loan are deferred for six months from the date the loan was funded. While there is no set timeframe to apply for forgiveness, the application for forgiveness should be submitted to the lender no later than 60 days prior to the end of the six month deferral period to allow time for the lender to make a decision on forgiveness prior to the due date of the first payment.

Q: For retail businesses that are mandated to be closed now, and have gotten funding, is there any indication that the beginning of our 8-week period will be not the date of funding but when the Gov opens up that sector?

A: No. This is a federal program that is not based on the decisions of the governor of any state.

OTHER QUESTIONS, CONT'D.

Q: What happens if the certification from the business representative turns out to be fraudulent, and funds have already been forgiven? What can the bank do to recoup funds at that point?

A: Lenders must comply with the applicable lender obligations set forth in this interim final rule, but will be held harmless for borrowers' failure to comply with program criteria.

Q: We have had employees that would not work because of fear of getting COVID, but there was work available. They have used their vacation and sick time. Now we are not paying them. Do we still have to pay them? They want to come back in June.

A: (Revised) There are FTE reduction exceptions for: (1) Any positions for which the borrower made a good-faith, written offer to rehire an employee during the covered period or alternative covered period which was rejected by the employee; and (2) any employees who during the covered period or the alternative covered period (a) were fired for cause, (b) voluntarily resigned, or (c) voluntarily requested and received a reduction of their hours. Any reductions in these cases do not reduce the borrower's loan forgiveness.

Q: If my forgivable expenses fall short of my application amount is the forgiveness prorated?

A: All eligible expenses will be forgiven provided that the 75% payroll test, FTE test, and salary test are met. The excess of loan proceeds over forgivable amounts will be required to be repaid in full with interest.

Q: Can an employee choose to stay on unemployment instead of getting these PPP funds? Some of our employees want to stay on UC because they are getting more money with the $600 per week bonus.

A: Yes. (Revised) There are FTE reduction exceptions for: (1) Any positions for which the borrower made a good-faith, written offer to rehire an employee during the covered period or alternative covered period which was rejected by the employee; and (2) any employees who during the covered period or the alternative covered period (a) were fired for cause, (b) voluntarily resigned, or (c) voluntarily requested and received a reduction of their hours. Any reductions in these cases do not reduce the borrower's loan forgiveness.

Q: Any chance the 8-week "covered" period of forgiveness payback gets extended until "stay at home" orders are lifted?

A: There has been no indication that this will be the case, and considering that this is a federal program and there is no nationwide "stay at home" order, there is no expectation that there will be one.

Q: What happens if your business gets back to operations part-way through the 8-week period?

A: Employees would be paid as they normally would and those amounts would be included in the payroll costs eligible for forgiveness.

Q: If there is a portion of the loan that's not forgivable, and we choose to keep the money, are uses of those funds restricted to the same types of expenses?

A: Yes. If you knowingly use the funds for unauthorized purposes, you will be subject to additional liability such as charges for fraud.

Q: What is the time period that you need to get the documentation to the lender for loan forgiveness after your 8-week period?

A: All payments on the loan are deferred for six months from the date the loan was funded. While there is no set timeframe to apply for forgiveness, the application for forgiveness should be submitted to the lender no later than 60 days prior to the end of the six month deferral period to allow time for the lender to make a decision on forgiveness prior to the due date of the first payment.

Q: If we don't have business after June 30, can employees quit or go back on unemployment?

A: Yes.

Q: What if we bring back all employees to full-time, pay them using PPP funds by June 30th, and then in July or August, because of lack of business due to COVID or economy have to furlough them, would this not be forgiven even if we follow all other regulations?

A: There is nothing in the CARES Act that addresses any action by the employer after the end of the 8-week covered period or June 30, 2020 that would decrease loan forgiveness.

Q: What if we decide we only need a portion of the loan and send a partial amount back? Can the loan still be moved to a grant?

A: Yes. The remainder should still be eligible for forgiveness as long as the payroll %, FTE, and salary tests are met.

Q: If we only use 90% of our loan, are we only responsible for paying back the 10% we did not use?

A: Yes - plus interest.

OTHER QUESTIONS, CONT'D.

Q: I own 2 restaurants that are still closed. How do I bring back 75% of staff if we are only allowed to operate at 50%?

A: The physical presence of employees is not required in order for them to be paid. However, many employers are finding creative ways to continue to keep employees engaged by requesting them to perform tasks at the place of business that would not normally be in line with their employment duties (e.g. cleaning, maintenance, landscaping, etc.).

Q: Can we only use the PPP money for (8) pay periods? I was fortunate and may get 9 or ten but not sure if that is allowed.

A: While prepayments are largely held as not permitted, if the cost is incurred and you can pay it within the 8-week period, there is no reason to believe it is not eligible for forgiveness.