

PPP Update – Forgiveness Details & Lender Guidance

On August 28, 2020, the American Institute of CPAs (AICPA) released a [Technical Questions and Answers](#) covering a lender's accounting for forgiveness or repayments of a U.S. Small Business Administration's (SBA) Paycheck Protection Program (PPP) loan.

The SBA began accepting forgiveness applications on August 10, 2020, but continues to issue program updates. While businesses may be eager to apply for debt forgiveness, it might make sense to wait. Borrowers will have 10 months after the end of the covered period to seek forgiveness for PPP loans. There are still a number of open questions, most notably around IRS rules that certain expenses paid for with PPP funding cannot be deducted for federal tax purposes. In addition, there is substantial pressure in Washington to further simplify the forgiveness process.

AICPA Guidance for Lenders

A lender has 60 days after a loan forgiveness application and supporting documentation is submitted by the borrower to issue a decision to the SBA if all or some of the loan is entitled to forgiveness. The SBA then has up to 90 days for review and to remit the forgiven amount plus accrued interest to the lender. Immediate loan repayment from the borrower is required if the SBA determines the borrower was ineligible for a PPP loan. If the borrower does not submit a forgiveness application within the program's time frame, the borrower must begin making interest and principal payments.

The AICPA guidance addresses a lender's accounting treatment during the settlement period from the borrower's forgiveness application to the SBA's repayment or rejection. A lender should continue to account for the PPP loans as an interest-bearing loan (including amortization of loan origination fees) through receipt of payment from the borrower or the SBA. Payments received from the borrower or the SBA prior to loan maturity of the loan (other than required payments of principal and interest) are considered prepayments of the loan.

The SBA is considered one of the counterparties to the loan agreement that will repay the principal and accrued interest on the loan if the borrower provides the institution and the SBA with documentation that it has met the conditions to have the loan forgiven. AICPA staff believe that payments received from the SBA should be treated similarly to payments received from the borrower. When payment is received from the borrower or the SBA (either in full or in part) prior to the loan's maturity, amounts received should be accounted for as a prepayment, and unamortized loan origination fees should be accounted for in accordance with FASB Accounting Standards Codification 310-20, *Receivables—Nonrefundable Fees and Other Costs*.

SBA Updates

On August 24, 2020, the SBA issued an [interim final rule](#) (IFR) addressing owner-employee compensation, tenants, subtenants, and home-based businesses, as well as related party rent.

Owner-Employee Compensation

Previous guidance limited compensation for owners of an S Corporation or C Corporation to the lesser of \$20,833, or 20.833 percent of their 2019 compensation, or the lesser of \$15,385 or 15.385 percent of 2019 compensation if the borrower elects to use an eight-week covered period. The most recent interim IFR notes that owners of C and S corps with less than 5 percent ownership are not subject to the owner compensation rules because they have no meaningful ability to influence decisions over how loan proceeds are allocated. These individuals are now eligible for \$46,154 for the 24-week covered period.

The IFR did not provide a similar exception for partners in a partnership—**partners are still subject to the limitations of \$20,833 for the 24-week covered period.**

Tenants, Subtenants & Home-Based Businesses

Nonpayroll costs do not include any amounts attributable to the operation of a tenant or subtenant of the PPP borrower. This concept is illustrated in the guidance with the following four examples:

- Rents received from subletting real estate offset the total rent expense of the borrower
- Mortgage interest is reduced for any sublet space, allocated on a percentage of the space’s fair market value
- For rented space shared between two businesses, the borrower must prorate rent and utility payment in the same manner as they are allocated for 2019 tax filings (or anticipated 2020 filings for new businesses)
- Home-based businesses may include as covered nonpayroll expenses only the portion that was deductible on the 2019 (or anticipated 2020) tax returns

Related Party Rent

The guidance indicates PPP loans are intended to cover nonpayroll costs paid to third parties, not payments to the owner that occur because of how the business is structured. A related party includes “[a]ny ownership in common between the business and the property owner.”

- Mortgage interest paid to a related party is not eligible for forgiveness
- Rents paid to a related party may be eligible for forgiveness if:
 - The lease and mortgage were entered into prior to February 15, 2020, and
 - Amounts do not exceed mortgage interest on the property that is attributable to the space being rented to the business during the covered period
- Borrower must provide lender mortgage interest documentation

PPP borrowers that own their building in a separate entity free and clear with no mortgage will not receive credit toward forgiveness for rent paid to the related entity.

BKD Resource

[Important New Details on PPP Loan Forgiveness](#)

Conclusion

BKD will continue to follow this developing situation. As with most topics related to COVID-19, changes are being made rapidly. Please note that this information is current as of the date of publication. Visit [BKD’s COVID-19 Resource Center](#) to learn more. If you have questions about these changes, contact your **BKD Trusted Advisor**™ today.

Contributor

Anne Coughlan
Director
317.383.4000
acoughlan@bkd.com