

Paycheck Protection Program (PPP)

Forgiveness for Owner-Employees

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SPEAKERS

Chris Nichols, Director of Capital Markets
CenterState Bank
cnichols@centerstatebank.com

Josh Harris, SVP Credit Administration
CenterState Bank
jaharris@centerstatebank.com

John Carpenter, Principal
Cherry Bekaert LLP
jcarpenter@cbh.com



Your guide forward



Disclaimer

PPP Forgiveness is an evolving process, subject to change as further guidance comes out from the SBA and US Treasury.

This presentation is for general information purposes only and should not be relied upon as a substitute for obtaining independent advice or undertaking independent research before starting the process to apply for PPP forgiveness. This presentation does not take into account any particular borrower's situation or needs.

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Speakers

Host



Chris Nichols
CenterState Bank

Subject Matter Experts



Josh Harris, CPA
Senior Credit
Administrator
CenterState Bank



John Carpenter
Principal
Cherry Bekaert
LLP

Payroll Costs Incurred or Paid

- ▶ **8 weeks OR 24 weeks** of wages beginning when the loan is funded for employees whose principal residence is in the US
 - Severance pay for terminated employees included
 - Earned payrolls paid in first payroll after loan funding included
 - By starting period on day of loan funding, may include more than **56 days (or 168 days)** of wages
 - Payrolls paid on first payroll date following covered period may be also be included where applicable to payroll periods occurring during covered period

Payroll Costs Incurred or Paid

- Reasonable bonus payments can be paid provided that no single employee receives more than **\$15,385 during the 8 week period** OR **\$46,154 during the 24 week period** (prorated if < 24 weeks)
- For owner-employees no more than **\$15,385 during the 8 week period** OR **\$20,833 during the 24 week period**, capped at the 2.5 month equivalent of their 2019 compensation
 - Necessary in order to avoid potential windfalls for owners where longer covered period is elected and terminated employees can't be rehired (either due to regulatory guidance or because they decline employment offers)
- Mandated paid leave wages cannot be included

Other Payroll Costs Incurred or Paid

- ▶ Qualified health care costs for employees only
 - Employer share of costs paid during the 8 (or 24) week period
 - Pre-tax amounts included in gross wages
 - Includes health care premiums and costs of a self-insured plan
 - Includes dental, vision, HDHPs, HRAs, FSAs and other usual health coverages (but not HSAs or QSEHRAs)
 - Self-insured health benefits paid from the employer's general assets or a special health plan bank account will be included
 - No prepaid premiums and contributions to health plans included
 - Can create funded trust to receive prepayments of self-insured benefits if necessary

Other Payroll Costs Incurred or Paid

- ▶ Retirement plan contributions for employees only
 - Employer share of costs paid during the 8-week (or 24-week) period
 - Pre-tax amounts included in gross wages
 - 2019 contributions not previously paid if funded in the 8-week (or 24 week) period
 - 2020 contributions for employer match, discretionary profit sharing contributions and maximum allowable defined benefit plan contributions if funded in the 8-week (or 24-week) period
 - Contributions cannot be prepaid
 - Need to be sure you comply with plan provisions regarding maximum contribution

Restrictions for Owner-Employee Forgiveness Amounts

- ▶ Owner-employees includes any shareholder of a C corporation or S corporation, any member of an LLC, any partner of a partnership and all sole proprietors
 - Owner-employees are counted regardless of ownership %, regardless how small
 - Holders of unexercised options, phantom stock, SARS, or otherwise are not receiving K-1's, are not considered owner-employees

Restrictions for Owner-Employee Forgiveness Amounts

- ▶ Amount forgiven is limited to lesser of \$15,385 during the 8 week period or \$20,833 during the 24 week period, capped at the 2.5 month equivalent of their 2019 compensation based on entity type:
 - C corp owners limited to 2.5/12 of 2019 W-2; plus 2020 ER portion of health and retirement
 - S corp owners limited to 2.5/12 of 2019 W-2;
 - < 2% ownership may include health and 2.5/12 of 2019 retirement
 - > 2% may include 2.5/12 of 2019 retirement but not health

Restrictions for Owner-Employee Forgiveness Amounts

- ▶ Amount forgiven is limited to lesser of \$15,385 during the 8 week period or \$20,833 during the 24 week period, capped at the 2.5 month equivalent of their 2019 compensation
 - General partners limited to 2.5/12 times 0.9235 of 2019 SE income less 179 deduction less unreimbursed business expenses; no health or retirement
 - Sole proprietors limited to 2.5/12 of 2019 Schedule C net profit; may not include health or retirement
 - LLC members follow the rules for general partners or corporations, depending on how they file 2019 tax returns
 - Must submit actual filed tax documents from 2019 tax returns

Examples of Owner-Employee Forgiveness Sole Proprietor

▶ Payroll costs during forgiveness period	
▶ Wages	\$18,000
▶ Health Benefits	\$2,000
▶ Retirement Benefits	\$1,000
▶ Total	\$21,000

▶ 2019 compensation	
▶ Schedule C revenues	\$246,000
▶ Schedule C net income	\$24,000
▶ Times 2.5/12	\$5,000
▶ Max Forgiveness	\$5,000

Examples of Owner-Employee Forgiveness LLC with 2 partners

▶ Payroll costs during forgiveness period

▶ Partner 1 (75% owner)

▪ Guaranteed payments	\$25,000
▪ Health Benefits	\$2,000
▪ Retirement Benefits	\$1,000
▪ Total	\$28,000
▪ Capped	\$20,833

▶ Partner 2 (25% owner)

▪ Guaranteed payments	\$18,000
▪ Health Benefits	\$2,000
▪ Retirement Benefits	\$1,000
▪ Total	\$21,000
▪ Capped	\$20,833

▶ 2019 compensation

▶ Partner 1

▪ K-1 income	\$320,000
▪ Less: 179 deduct.	\$10,000
▪ Times 0.9235	\$286,285
▪ Times 2.5/12	\$59,643
▪ Eligible amount	\$20,833

▶ Partner 2

▪ K-1 income	\$80,000
▪ Less: 179 deduct.	\$3,000
▪ Times 0.9235	\$71,109
▪ Times 2.5/12	\$14,814
▪ Eligible amount	\$14,814

Examples of Owner-Employee Forgiveness S-corp with 2 shareholders

▶ Payroll costs during forgiveness period

▶ Owner 1 (75% owner)

▪ W-2 wages	\$25,000
▪ Health Benefits	\$2,000
▪ Retirement Benefits	\$1,000
▪ Total	\$28,000
▪ Capped	\$20,833

▶ Owner 2 (25% owner)

▪ W-2 wages	\$18,000
▪ Health Benefits	\$2,000
▪ Retirement Benefits	\$1,000
▪ Total	\$21,000
▪ Capped	\$20,833

▶ 2019 compensation

▶ Owner 1

▪ W-2 wages	\$270,000
▪ Times 2.5/12	\$56,250
▪ Eligible amount	\$20,833
▪ Plus: Retirement	\$1,000
▪ No health eligible due to > 2% shareholder	

▶ Owner 2

▪ W-2 wages	\$70,000
▪ Times 2.5/12	\$14,583
▪ Eligible amount	\$14,583
▪ Plus: Retirement	\$1,000
▪ No health eligible due to > 2% shareholder	