

Payroll Protection Loan Forgiveness Documentation

BACKGROUND

Sec 1102 of the CARES Act authorized the Payroll Protection Program (HR 748)

Eligible expenses include Payroll costs, Group Health Care Benefits, Employee Salaries and Rent or Mortgage Payments.

According to Sec 1102 (A)(viii)(I)

Payroll costs are defined as: Salaries, Wages, Commissions, Cash Tips, Vacation Pay, Parental Family Medical or Sick Leave, Dismissal or Severance Pay, or similar compensation. Group Health Care Benefits including Health Insurance Premiums. Retirement and Pension Plan Benefits and Employer Contributions. State and Local Tax assessed on Employee Compensation. Income from Self Employment subject to Self-Employment Taxes.

According to Sec 1102 (A)(viii)(II)

Maximum Compensation for any employee is capped at \$1,923 per week (\$100,000/52).

Employer portion of Federal taxes on payroll do NOT count.

Wages paid to employees living outside the US do not count.

Any Wages used to claim other Coronavirus related credits do not count.

According to Sec 1102 (F)(i) funds can be used toward:

Payroll costs, group health benefits, interest paid on mortgage (not principal), rent (lease must have existed prior to February 15, 2020), utilities and interest on any other debt obligations which existed before February 15, 2020.

Documentation Required:

According to Sec 1102 (D)(II)

Self Employed businesses must provide payroll tax filings reported to the IRS, Forms 1099-MISC issued and received, and proof of income and expenses for the sole proprietorship.

According to Sec 1102 (F)(ii)(II)

Proof business was in operation on February 15, 2020 with employees or independent contractors at that time.

Sec 1106 of the CARES Act authorizes forgiveness of the Payroll Protection Loan

According to Sec 1106 (b)

Payroll costs, mortgage interest, rent and utilities incurred and paid in the period beginning when the loan proceeds are received and ending the earlier of eight weeks from that date or June 30th, 2020. All costs allowed under Sec 1102 are eligible for forgiveness.

According to Sec 1106 (d)

Forgiveness is limited to the lesser of:

The principal balance of the original loan or the reduced amount based on reduction of number of employees.

To calculate the reduction of number of employees you take the average number of full-time employees per month employed by the recipient during the eight week period divided by the monthly average number of full-time employees employed by the recipient Feb 15, 2019 thru June 30, 2019 or January 1, 2020 thru February 29, 2020.

No full-time employee can show a reduction of more than 25% of wages paid in the comparison and be counted as full-time.

According to Sec 1106 (e) documentation required includes:

Payroll tax filings with IRS, State income, payroll and unemployment insurance filings, cancelled checks, payments receipts, transcripts of accounts, mortgage statements, mortgage slips, lease agreements, lease statements, utility statements and certification by the recipient that the information is true and correct and any other documentation the Administrator determines necessary.

According to Sec 1106 (f) no one can receive forgiveness unless all documentation the SBA determines necessary is provided.

According to Sec 1106 (g) the SBA has up to 60 days to notify the recipient whether the application for forgiveness is approved or denied.

According to Sec 1106 (i) the forgiveness of debt income resulting from the forgiven loan is tax free. The IRS has clarified the expenses paid with loan proceeds are not deductible by the business instead.

The SBA has not issued guidance as to what documentation they will be requiring. This is a best guess estimate based on our interpretation.

Documentation We Recommend:

Payroll Records including specific names of employees paid, hours worked, wages paid for the pay periods of February 15, 2019 through June 30, 2019 and January 1, 2020 through June 30, 2020.

During the eight-week loan period: timecards or punch clock records in addition to payroll records.

All 2019 and 2020 (through 2nd Quarter) Payroll Reports – Form 941, Form 940, Form W3, Form W2, Form UC-101

Proof of EFTPS tax payments made April, May, June and July 2020

Health Insurance invoices February, April, May and June 2020.

Retirement Plan reports confirming breakdown of payments made for February, April, May, and June 2020.

Any other Employee benefits payments made for February, April, May, and June 2020.

Rental Agreements

April, May and June 2020 Rental receipts or statements proving the amounts were paid

Loan Agreements

April, May and June 2020 Loan payment receipts or statements proving the amounts were paid

January, February, April, May and June 2020 Utility Bills – Gas, Electric, Water, Sewer, Telephone and Internet.

February, March, April, May and June 2019 Bank Statements

February, March, April, May and June 2020 Bank Statements

We also recommend running a special payroll as of the final date of the eight week period or June 30, 2020 paying for all hours earned through that date if you are not confident you have fully utilized the funds through prior pay periods and expenses.