



# COMPREHENSIVE EMPLOYMENT SOLUTION

## **CES PPP Loan to Grant – Update May 27, 2020**

### **PPP Loan Forgiveness Application**

This is the most technical and convoluted information to date. I have done my best to sort it out. We have posted the SBA interim final guidance May 22, 2020 which this information comes from on our COVID-19 webpage. If you want me to send you the information, please drop me an email at [mgency@trustces.com](mailto:mgency@trustces.com) and I'll send it to you. Here goes!

#### **Owner-employee compensation clarification –**

The SBA and Treasury Department – have added a new term and a couple of caps (caps that are new, of course) for Owner-employee compensation and benefits. This cap calculation would only apply if you made less than \$100,000 last year. However, there is no indication of how much ownership in a company will trigger this cap... I'm going to take a stab that this is for Owner-Employees with more than 20% ownership. It's a guess on my part.

An Owner-Employee must look at their 2019 annual gross payroll (they also use the term cash compensation) and take 15.38% of number.

1. Secondly look at your 8 week forgiveness period compensation and that cannot be greater than \$15,385
2. You must use the lesser number as your cap on your forgiveness calculation.
3. The SBA is also now saying that an owner-employee are capped at their 2019 health care contributions and retirement payments (company paid) on their behalf.

This has been written so an owner-employee won't be able to use the PPP funds disproportionately to their own advantage. I don't really expect it to be an issue with most of our companies, and I do expect some future guidance on what constitutes and "owner-employer" percentage of ownership in a company. The guidance got pretty fuzzy because they also squeezed in caps and conditions for general partners, self-employed individuals, sole proprietors and they all have a little different spin compensation and caps on them. SIGH.

#### **Full Time Employee and wage reduction possible scenarios...**

If you are back at the number of full time employees you put on your loan application – you really don't have to dig into this. If you are not up to full time employees by the end of your 8 week forgiveness time period and/or June 30<sup>th</sup>, your forgiveness calculations will be reduced.

What does "full-time equivalent employee" mean?

This just got complicated – and materially changed since the guidance issued earlier this month on FTE employees and how to calculate...

1. **the SBA is now using 40 hours or more, on average, each week to define a "full time equivalent" employee. The SBA considered using a 30 hour standard, but determined that 40 hours or more better reflects full-time for the vast majority of American workers.**
2. **For employees paid less than 40 hours per week you can turn their hours worked during the covered period into a percentage (they worked 30 hours a week on average - .75 of a full time employee OR you can assign all employees working less than 40 a week on average - .50 of a full time employee. You can only choose one option.**

## Reductions to Loan Forgiveness Amount

Section 1106 of the CARES Act specifically requires certain reductions in a borrower's loan forgiveness amount based on reductions in full-time equivalent employees or in employee salary and wages during the covered period.

1. SBA has adopted an exemption the reduction rules for borrowers who have offered to rehire employees or restore employee hours, even if the employees have not accepted, provided:
  - a. There was a good faith written offer to rehire the employee or restore the reduced hours.
  - b. The offer was for the same compensation and hours earned in the last full pay period earned
  - c. Employee rejected the offer
  - d. Employer maintained records documenting the offer and rejection
  - e. Employer informed the state unemployment insurance office of the employee's rejected offer within 30 days of the rejection (there is coming guidance from the SBA on how to report this info to your state's Unemployment Office)

Couple of things – I would suggest an email or posted letter to your state's unemployment office if you need to do this. Most states UI offices are overwhelmed and chaotic – if you can get through. The guidance still says that if you are back at full strength in employees no later than June 30<sup>th</sup>, you will not need to deal with this exemption.

If you are not back up to your previous full time employee head count you must take the calculations above and come up with first a reference for an employee accounting:

- f. Jan 15, 2019 through Jun 30, 2019
  - g. Jan 20, 2020 through Feb 29, 2020
2. Do the full time calculations for your forgiveness period and the reference period. If the forgiveness FTE's are less, your forgiveness will be proportionally reduced. The example given by the SBA – you HAD 10 FTE's during the reference period, you have 8 FTE's during your forgiveness period. Your forgiveness would be reduced 20%.
  3. Employees compensation with a reduction of more than 25% will generally result in a a reduction in the loan forgiveness amount, unless an exception applies.

Back to the decent news! If you restore your Full-Time Employee count to the reference period and compensation greater than 75% of previous compensation you can avoid a reduction altogether. You need to do this within your 8 week covered forgiveness period or not later than June 30, 2020.

All this still has to have your loan calculations of at least 75% of your forgiveness must be for gross payroll and employer paid benefits and not more than 25% of the loan going to non-payroll expenses.

More to come – this was enough!

We are here to help – bottom line get your work force (it doesn't have to be the same workers) back up to where you were from Jan - Jun 2019 or Jan – Mar 2020 and pay them wages that are more than 75% of what they were making and none of this will matter except for crunching some numbers.

Be safe, stay well. WE GOT THIS!

**Check our COVID-19 webpage for the newest guidance and FAQ's from the SBA and the Treasury Department.**

**CES CAN HELP YOU NAVIGATE AND OPTIMIZE THE 8 WEEK PPP CALCULATION TIME FRAME!**

**WHEN IT IS TIME TO ACT – THE TIME TO PREPARE IS PAST**

**TURN YOUR PPP \$200,000 LOAN INTO A \$200,000 GRANT.**

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