

Paycheck Protection Program: Loan Documents & New Guidance for Self-Employed Applicants

April 16, 2020

By John Fuchs, Bailie Schnackenberg, and Char Heins

All Paycheck Protection (PPP) loan applicants should be aware that PPP loan documents vary by lender. Some lenders are including language in their promissory notes that appear to create joint and several liability for all individuals and entities signing the note. As of this writing, all available guidance and the text of the CARES Act itself make clear that no personal guarantee is required and this language should be removed in most instances.

The Small Business Administration recently issued additional regulations that clarify the PPP loan application process for independent contractors, sole proprietors, and others that are self-employed.

The new interim rule detailing the loan application process for self-employed individuals is available by **clicking here.** Below we will highlight the most commonly sought after information.

• Permissible uses of PPP funds for self-employed individuals include: owner compensation replacement (capped at $100,000/annualized); employee payroll costs, mortgage interest payments, business rent payments, and business utility payments; all to the extent such costs are deductible on your Form 1040 Schedule C.
o Payment of interest on any other debt obligations incurred before February 15, 2020 are allowed, however those amounts will not be eligible for forgiveness.
o Forgiveness of owner compensation replacement is limited to the lesser of 8/52 (8 weeks' worth) of 2019 net profit or $15,385/owner during the 8 week repayment period.
• Compensation of general partners can be included in the total payroll calculation, capped at $100,000 on an annualized basis.
• Partners in partnerships that are applying for a PPP loan cannot apply for a separate, individual PPP loan to replace the same self-employment income.
• Regardless of whether you have filed a 2019 tax return, you must provide a completed 2019 Form 1040 Schedule C and a 2019 IRS Form 1099-MISC with your application.
• Additional guidance will be issued to clarify the application process for self-employed individuals who were not in operation in 2019 but were in operation on February 15, 2020.

This article is general in nature and does not constitute legal advice. Please note that new guidance is being provided by authorities on a daily basis so please monitor new developments and guidance. Readers with legal questions about how these orders apply to your business and your employees should consult the authors John Fuchs (johnf@sb-kc.com), Bailie Schnackenberg (bailies@sb-kc.com), or Char Heins at (cheins@sb-kc.com) or your regular contact at Seigfreid Bingham at 816-421-4460.

For more updates and information, visit our COVID-19 Resources page.