

# SBA PPP Loan Guidance for Individuals and Partners with Self-Employment Income

The SBA issued CARES Act guidance on Tuesday, April 14<sup>th</sup> when it issued its [third interim final rule](#) (regulation) related to the Paycheck Protection Program (PPP). ***The third interim final rule provides guidance for individuals with self-employment income who file a Form 1040, Schedule C and provides an update specific to the calculation of payroll costs for partners in a partnership.***

## ***Are individuals with self-employment income who file Form 1040, Schedule C eligible for a PPP loan?***

Yes. The interim final rule confirms individuals with self-employment income who file a Form 1040, Schedule C are eligible for the PPP loan if they meet these 4 requirements:

1. The business was in operation on 2/15/2020;
2. The business owner is an individual with self-employment income;
3. The business owner's principal place of residence is the United States; and
4. The business owner filed, or will file, a Form 1040, Schedule C for 2019.

## ***What if I haven't prepared my 2019 Schedule C yet or I wasn't in operation during 2019?***

The interim final rule is clear you MUST present a 2019 Schedule C to apply for a PPP loan since the amounts on this form are used to determine the maximum loan amount and to estimate eventual forgiveness. If you were not in operation during 2019, but in operation on 2/15/2020, the SBA indicates it will issue future guidance to address your situation.

Furthermore, if you haven't filed your 2019 tax returns or Schedule C yet, the guidance indicates you can prepare your 2019 Schedule C and include it with your PPP loan application, even if you don't file it until later. The guidance does not address what would happen if the Schedule C you ultimately file is different than the draft used for the PPP loan application, so we recommend you file for the loan with your final version.

## ***How do I calculate my maximum loan amount?***

The calculation of the maximum loan amount depends upon whether/not your Schedule C business has employees:

- Business without employees - Utilize your 2019 Schedule C net profit (line 31) to determine the maximum loan amount. Like the employee payroll cost calculation, you must limit your net profit to \$100,000 before determining the 12-month average and multiplying by 2.5 to determine your maximum loan amount. If your 2019 net profit exceeded \$100,000, your maximum loan amount will be \$20,833.

- Business with employees – Begin with the calculation above for businesses without employees and add in employee payroll costs based upon 2019 amounts. Employee payroll costs include 2019 gross wages limited to an annualized \$100,000, employer-paid health insurance premiums, employer-paid retirement contributions, and employer-paid state & local unemployment insurance taxes. Note the interim final rule is very prescriptive in question 1(b) on how to calculate the gross wages portion of employee payroll costs based upon 2019 Form(s) 941; review this with your advisor.

***What documentation will a lender ask for?***

We recommend you ask your lender as this may vary, but the interim final rule outlines the following documentation based upon whether/not you have employees:

**Without Employees**

**With Employees**

2019 Form 1040, Schedule C

2019 Form 1040, Schedule C

2019 Form 1099-MISC for income received (if available)

2019 Form(s) 941, or equivalent payroll processor records, for all 4 quarters

2019 invoice, bank statement or books & records establishing you are self-employed (if 1099-MISC not available)

2019 state quarterly unemployment insurance tax filings

2020 invoice, bank statement or books & records that cover 2/15/2020 to establish you were in operations on 2/15/2020

Supporting documentation for 2019 payments of employer-paid health insurance & retirement contributions (if applicable)

Payroll statement or similar documentation from the pay period that covers 2/15/2020 to establish you were in operations on 2/15/2020.

### ***What can loan proceeds be used for?***

Individuals with self-employment income filing Schedule C may use the loan proceeds for the same items as other businesses with two important nuances:

1. The loan proceeds can be used to replace owner compensation. Owner compensation is calculated based on the 2019 net profit reported on Schedule C, as discussed above, for businesses without employees.
2. The loan proceeds can also be used for the [same items as other businesses](#) within the 8-week period post-loan disbursement, **BUT** the Schedule C business must have claimed a similar deduction on the 2019 Schedule C. The SBA explains the goal of this requirement is to be consistent with the borrower certification “to support the ongoing operations” thus preventing Schedule C businesses from expanding their expenditures due to receipt of the loan proceeds.

### ***What is eligible for forgiveness?***

The loan forgiveness will depend on the total amount spent on [qualified expenditures](#) during the 8-week period post-loan disbursement. Similar expenses must have been incurred on the 2019 Schedule C to qualify for forgiveness. The interim final rule provides two additional important details:

1. If you have employees, employee payroll costs during the 8-week period are comprised of the following:
  - a. Up to \$15,385 of gross wages per employee
  - b. Employer-paid health insurance
  - c. Employer-paid retirement contributions, and
  - d. State/local unemployment insurance taxes.
2. Owner compensation replacement, for forgiveness purposes, is limited to 8/52 of the 2019 Schedule C net profit with a maximum net profit of \$100,000.

Remember that 75% of the loan proceeds must be spent on payroll costs to qualify for forgiveness. Payroll costs for these purposes include employee payroll costs and owner compensation replacement. Finally, question 1(g) of the interim final rule provides the documentation requirements anticipated to support forgiveness.

### ***So if I have 2019 Schedule C net profit in excess of \$100,000 but didn't incur any [qualified expenditures](#) during 2019, I'm allowed to borrow \$20,833 but only \$15,385 can be forgiven?***

Correct. This is something to consider when deciding how much to borrow if obtaining full loan forgiveness is important in your specific situation.

***Is there anything else Schedule C businesses should consider?***

The interim final rule warns individuals that their participation in the PPP may affect their eligibility for state-administered unemployment compensation or unemployment assistance programs, including other programs established under the CARES Act. No further guidance is provided on the issue aside from a single sentence.

***What additional guidance was provided for partnerships?***

This interim final rule confirms partners in a partnership may not submit a separate PPP loan application individually as a self-employed individual. Instead, the partnership applies for the PPP loan and includes the partners' self-employment income (capped at \$100,000 per partner) as part of its payroll costs for both employees and partners. This is welcome news as there was no policy reason partnerships should be treated differently than other businesses.

At this point we are all familiar with payroll costs for employees. The interim final rules define payroll costs for partners as the self-employment income of ***general active partners*** limited to the same \$100,000 annualized cap applied to employees. If you are wondering what a ***general active partner*** is, so are we, as the term is not defined.

Without a definition, we looked to the SBA discussion within this interim final rule for clues on what is intended. It appears the intent is to include partners actively involved in the partnership earning self-employment income. We do not believe the intent was to limit the eligible partners to general partners in a state law general partnership or limited partnership, as the SBA specifically mentions LLCs filing as a partnership within its discussion.

Finally, the interim rule only addresses forgiveness for Schedule C businesses, indicating part of the forgiveness is based upon 8/52 of the Schedule C net profit for 2019 limited to a maximum net profit of \$100,000. It is unclear if the same methodology for forgiveness applies to the self-employment income of partners in a partnership, or whether the partnership will need to determine the partner's share of self-employment income during the 8-week period following receipt of the loan.