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# PrestigePEO

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August 5, 2020

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# COVID-19

We Are Here For You

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# Today's Presenters



Jason Flinn  
Today's Moderator  
and Director of  
PrestigePEO Client  
Services



Andrew Lubash  
Founder and  
Principal of Prestige  
Employee  
Administrators



Malcolm C. Slee  
Principal  
Groom Law Group



Carol Sawyer  
Tax Manager at  
PrestigePEO

# Today's Topics



- New SBA Guidance issued August 4, addressing borrower and lender questions concerning forgiveness of PPP loans
  - General Forgiveness FAQs
  - Payroll Costs FAQs
  - Nonpayroll Costs FAQs
  - Load Forgiveness Reduction FAQs
- General FAQs

- ❖ Webinar Forum
  - All participants are muted.
  - Please type questions in the side navigation panel and we will try to address most questions.
  - Today's presentation will be posted [prestigepeo.com/covid-19](https://prestigepeo.com/covid-19).

## Welcome Update Presented by Andrew Lubash



- Andrew (Andy) Lubash is Founder and Principal of Prestige Employee Administrators.
- Andy currently holds several positions at the National Association of Professional Employer Organizations (NAPEO);
  - Chairman of the Board of Directors
  - Member of the Federal Government Affairs Committee
  - Member of the Healthcare Committee
- Previously, Andy was Chairman of the State Government Affairs Committee for five years.

## Legal Update

### Presented by Malcolm C. Slee



- Malcolm Slee is Principal at Groom Law Group, Chartered, a Washington, DC law firm that focuses exclusively on benefits matters
- In his role at Groom Law Group, Malcolm advises clients on issues under ERISA, the Internal Revenue Code, and related laws and regulations as they relate to qualified retirement and welfare plans. A specific focus of his practice is benefits issues arising in the PEO arena.
- Malcolm is a graduate of Tufts University and Georgetown University Law Center

# New Paycheck Protection Program Guidance

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- SBA, in consultation with Department of Treasury, issued 21 new Frequently Asked Questions (and Answers) on August 4, 2020
- The FAQs address borrower and lender questions concerning forgiveness of PPP loans

# General Forgiveness FAQs

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- Sole proprietors, independent contractors, and self-employed individuals with no employees should complete the “EZ” loan forgiveness application form.
- PPP lenders can use scanned copies of documents, E-signatures, and E-consents for loan forgiveness applications and loan forgiveness documentation (if E-signatures are not feasible, lenders should take “appropriate steps” to ensure the proper party executed the document).
- If a borrower submits a timely forgiveness application within ten months of completion of Covered Period, no payments on loan are due until forgiveness amount is remitted to lender by SBA.

# Payroll Costs FAQs

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- Payroll costs incurred but not paid during Covered Period or Alternative Payroll Covered Period can still be eligible for loan forgiveness if paid on or before the next regular payroll date.
- Payroll costs incurred *before* the Covered Period but paid during the Covered Period are eligible for loan forgiveness.
- Borrowers who pay employees twice a month or less frequently than biweekly will need to calculate payroll costs for partial pay periods. (This is because their pay periods will not align with their 8- or 24-week Covered Period.)

# Payroll Costs FAQs

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- When calculating cash compensation, borrowers should use the *gross amounts* before deductions for taxes, employee benefits payments, and similar payments, not the net amount paid to employees.
- Payroll costs include tips, commissions, bonuses, and hazard pay (up to the \$100,000 annualized cap).

# Payroll Costs FAQs- Employee Benefits

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## Benefit expenses that are Payroll Costs:

- *Employer expenses for group health care, paid or incurred during Covered Period*
- *Insurance premiums for an insured group health plan, if paid during the Covered Period or by next premium due date after end of Covered Period*
- *Employer contributions for retirement benefits, paid or incurred during Covered Period*

## Benefit expenses that are not Payroll Costs:

- *Expenses for group health care paid by employees, whether pre-tax or post-tax*
- *Employee contributions to retirement plans (i.e., salary reductions)*
- *Expenses for group health benefits or retirement plan contributions accelerated from periods outside the Covered Period*

**NOTE-** Different rules apply for owners!

# Payroll Costs FAQs- Owner Compensation

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- The amount of compensation of owners who work at their business that is eligible for forgiveness varies depending on the business type (and whether using 8-week or 24-week Covered Period).
- Compensation for forgiveness purposes is generally capped at:
  - For 8 week covered period- lesser of 8 weeks of 2019 comp or \$15,385
  - For 24 week covered period- lesser of 2.5 months of 2019 comp or \$20,833
- Different rules apply for:
  - Owner-employee of a C-corp
  - Owner-employee of an S-corp
  - Self-employed/sole proprietors/independent contractors (Schedule C or F Filers)
  - General partners
  - LLC owners

# Nonpayroll Costs FAQs

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- Nonpayroll costs incurred prior to Covered Period, but paid during Covered Period, are eligible for loan forgiveness.
- Nonpayroll costs incurred during the Covered Period, but paid on or before the next regular billing date, are eligible for loan forgiveness.
- An “Alternative Payroll Covered Period” does not apply to nonpayroll costs.
- Interest on unsecured credit is not eligible for loan forgiveness (although you can use loan proceeds to pay it if incurred before February 15, 2020).

# Nonpayroll Costs FAQs

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- If a lease or mortgage existed prior to February 15, 2020, but was subsequently renewed or refinanced, payments on that loan or mortgage are still eligible for loan forgiveness.
- “Transportation utility fees” assessed by state and local governments are eligible for loan forgiveness.
- A borrower’s entire electricity bill payment is eligible for loan forgiveness (even if charges are invoiced separately).

# Loan Forgiveness Reduction FAQs

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- Borrowers can exclude reduction in FTE employees if borrower can document (1) inability to rehire individuals who were employees on February 15, 2010 and (2) inability to hire similarly qualified individuals for unfilled positions on or before December 31, 2020.
  - Must notify state UI office of rejected rehire offer within 30 days of rejection of offer.
  - Borrowers should maintain written offer to rehire, written record of rejection, and written record of efforts to hire other individuals.
- Seasonal employer that elects to use a 12-week period between May 1, 2019 and September 15, 2019 to calculate its maximum loan amount must use the same 12-week period as reference period for calculation of reduction of loan forgiveness.

# Loan Forgiveness Reduction FAQs

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- FTE Reduction Exceptions (on Table 1 of PPP Schedule A Worksheet)- borrowers should include employees who made more than \$100,000 in 2019.
- If the salary or hourly wage of a covered employee is reduced by more than 25% during the Covered Period or the Alternative Payroll Covered Period, the portion in excess of 25% reduces the eligible forgiveness amount unless the borrower satisfies safe harbor (FAQ provides additional examples).
- For purposes of calculating reductions in the loan forgiveness amount, borrower should only take into account decreases in salaries/wages – not other compensation.

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# General FAQs

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# FAQs

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## General

Has there been any definitive research that the federal UI supplemental has caused delays in return to work...this supposition has caused me many problems with furlough and layoff management?

- We have heard from clients that they have employees refusing to return to work because they do make more on unemployment. So while there is no "research" are experience is that it has caused problems.

Has the forgiveness for loans under 150k been approved?

- It has not. It has been proposed in the Senate plan.

# FAQs

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## General

If you have used up all the PPP funds and want to use the 24-week period, do you have to wait till the 24-week period ends to get reports? We want to apply for forgiveness as soon as the banks allow.

- You do not need to wait till the 24-week period ends however most banks still are not accepting forgiveness applications. We can run the reports for you as soon as they are completed.

Is there any information on extending the \$600 additional federal unemployment insurance dollars that ended on July 31<sup>st</sup>?

- As we know, the \$600 additional unemployment benefits expired at the end of July. While the government has been discussing potential options to extend, there has been no word on an extension yet.

# FAQs

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## Human Resources

Many NYC employees need to take public transportation including subway and LIRR. Employees don't think these modes of transportation are safe because people don't always comply to wearing masks. So we've opted to extend working remotely to end of the year. What is everyone else doing who have companies in Manhattan?

- Many of our clients in NYC with the capabilities to do so are extending the work from home setup either into the Fall or through the end of the year.

Vacation time – Is it required to create a policy indicating where employees can travel? If the employee visits an area that requires quarantine, do we need to pay the employee?

- You don't need to create a policy related to where employees travel. However, you must make it clear that travel to a place that requires quarantine will require the loss of pay/increased use of sick time. The most important thing here is consistency in application.

# FAQs

## Human Resources

Has Prestige written a travel policy that we can include in our employee handbook?

- We have not written a master policy for all clients to use, but you can contact your HR Business Partner to assist you with creating one specific to your company's travel needs.

Are we required to ask employees if they've traveled to high risk states?

- You are not required to ask, but you can. If you do ask, it is important to consistently ask all employees if they have traveled to high risk states to avoid any potential perceptions of discriminatory treatment.

Can we decline the time off for employees traveling to/from a travel advisory state?

- Employers cannot dictate what employees do on their personal time.

Do we have to pay COVID FFCRA Sick time to employees who voluntary travel to/from a travel advisory state?

- Yes, the mandatory self-quarantine of 14 days for traveling from an advisory state is an eligible reason for the 80 hours of FFCRA Sick pay, if they cannot telework.

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# Client Communications

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## Prestige Communications

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Today's presentation will be posted in our [COVID-19 resource center](#). Visit our resource center at [prestigepeo.com/covid-19](https://prestigepeo.com/covid-19) for all things COVID-19.

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