



## **COVID-19 Federal Business Relief**

### **NLBMDA Member Questions & Answers**

**Updated: April 8, 2020**

The following questions come from LBM dealers seeking additional information/clarification about the recently enacted loan programs and mandatory paid leave.

NLBMDA has compiled these questions and provided answers, noted below.

#### **Are there credit qualifications on these loans?**

No. Based on the available guidelines so far, there is currently no prescriptive guidance on credit requirements. For PPP loans, interested employers should consult their lending institutions for specific credit requirements.

#### **What documents will I need when applying for a Paycheck Protection Program loan?**

**Answer:** Small businesses will need to provide documentation (including payroll documentation) "verifying the number of full-time equivalent employees on payroll as well as the dollar amounts of payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities for the eight-week period following this loan will be provided to the lender," per the SBA.

When applying for loan forgiveness, borrowers will need to provide documentation of expenses like payroll, mortgage interest, rent, or utilities in their application.

#### **What if you do not attain the 75% of payroll requirement?**

**Answer:** For purposes of loan forgiveness, the borrower will have to document the proceeds used for payroll costs in order to determine the amount of forgiveness. If this amount is not met, a borrower could be compelled to repay at least some portion the loan that would otherwise be forgiven.

#### **Do we choose which 8 weeks that we are claiming in PPP loans?**

**Answer:** The eight week time period begins on the loan origination date.

#### **Should payments that an eligible borrower made to an independent contractor or sole proprietor be included in calculations of the eligible borrower's payroll costs?**

**Answer:** No. Any amounts that an eligible borrower has paid to an independent contractor or sole proprietor should be excluded from the eligible business's payroll costs. However, an independent contractor or sole proprietor will itself be eligible for a loan under the PPP, if it satisfies the applicable requirements.

#### **I own to separate businesses with separate Federal ID's. Can I apply for 2 EIDL's?**

**Answer:** Current guidance does not restrict applying multiple times for an EIDL.

#### **Can businesses receive an EIDL and a PPP loan as long as the same payroll/expenses are not used for both?**

**Answer:** Correct, funds from each of these cannot be used for the same expenses.

**Do we use gross or net payroll figures to calculate payroll for forgiveness?**

**Answer:** Employers should use gross figures for payroll calculations.

**For sole proprietors, if a PPP loan is obtained, how is use of funds for "payroll" costs determined since "payroll" loan application is essentially business income from Schedule C?**

**Answer:** For sole-proprietors who report income through a Schedule C, your salary is determined by your net profit. If you have filed your 2019 tax return, this will be reported on line 31 of your Schedule C. If you have yet to file your 2019 taxes, but have records for your business through 2019, this will be the net profit line on your income statement.

Your monthly average payroll expense will be your annual net profit divided by 12. If your annual net profit is over \$100,000, you may only claim up to \$100,000 divided by 12. Your loan amount will be that amount times 2.5.

For more information, the best source of information is a tax professional.

**Can you confirm that Building Material Co-op's are not eligible for PPP?**

**Answer:** Co-operatives were initially excluded from PPP eligibility, however, guidance just issued has clarified that co-operatives are now eligible for PPP loans.

**If employee qualifies for Emergency Paid Sick leave, how does that work with earned paid sick/vacation time that we are paying them?**

**Answer:** Employers cannot require an employee to immediately use personal, vacation, or sick time if they do not go into work due to COVID-19 concerns. Those concerns include feeling ill due to possible exposure to the virus or caring for someone who may have been exposed.

Additionally, employers cannot discharge, discipline, or otherwise discriminate against employees who take paid sick leave or have filed a complaint, instituted an action, or participated in a proceeding under or related to paid sick leave.

**We pay our medical insurance for our employees 1/4 in advance. Therefore the cash has already been laid out for the expense. Will we be able to use that as a payroll expense for the 8 weeks following the receipt of the PPP money even though it was paid prior to receiving the loan?**

**Answer:** NLBMDA is seeking clarification on this question from the Treasury Department, as current guidance does not answer this. This will be amended when an answer is received.

**Are LLCs eligible for EIDL's and PPP Loans?**

**Answer:** LLC's are eligible for EIDL's and PPP loans.

**Does everyone who applies for the EIDL SBA loan automatically get the \$10,000 grant and do not have to repay that regardless of if they take the loan, or get the loan?**

**Answer:** Currently, there is no requirement to take the loan if the \$10,000 grant has already been paid.

**Are all these funds taxable?**

**Answer:** Loan funds that are forgiven will not be taxable. Additional guidance is needed for funds that are not forgiven.

**Have any funds been disbursed for either the EIDL or PPP loan programs?**

**Answer:** Yes, funds have been disbursed and the Treasury Department has urged Congress to allocate additional funding for the program.

**Can I use EIDL for Cost of Goods Sold? Can I use an EIDL to pay my lumber bill?**

**Answer:** Yes. Allowable uses of EIDL funds include:

- Working capital to continue business operations;
- Necessary expenditures to alleviate the specific economic injury suffered;
- Sick leave to employees unable to work due to the direct effects of COVID-19;
- Maintaining payroll;
- Increased supply costs;
- Rent or mortgage payments; and
- Repaying debt that cannot be otherwise repaid due to revenue losses.

**For the payroll tax deferral, is there an election or just start making smaller payments that would exclude employer FICA?**

**Answer:** Guidance stipulates that employers can simply defer payment on the employer portion of these taxes up to December 31, 2020.

Reminder: the deferral is not available to any employer that receives loan forgiveness with respect to the Paycheck Protection Program

**Are elderly employees eligible if leave is self-imposed to avoid virus?**

**Answer:** The law and implementing regulations do not currently require mandatory paid leave for those voluntarily not working to avoid exposure.

**When can employers start claiming these mandated leave credits?**

**Answer:** Eligible Employers may claim tax credits for qualified leave wages paid to employees on leave due to paid sick leave or expanded family and medical leave for reasons related to COVID-19 for leave taken beginning on April 1, 2020, and ending on December 31, 2020.

Eligible Employers will claim the credits on their federal employment tax returns (e.g., Form 941, Employer's Quarterly Federal Tax Return), but they can benefit more quickly from the credits by reducing their federal employment tax deposits. If there are insufficient federal employment taxes to cover the amount of the credits, an Eligible Employer may request an advance payment of the credits from the IRS by submitting a [Form 7200, Advance Payment of Employer Credits Due to COVID-19](#). The IRS expects to begin processing these requests during April 2020.

For the circumstances, amounts, and period for which the credits are available, see [“Determining the Amount of the Tax Credit for Qualified Sick Leave Wages,”](#) [“Determining the Amount of the Tax Credit for Qualified Family Leave Wages,”](#) and [“Periods of Time for Which Credits are Available.”](#)

**Are we eligible for the mandatory leave tax credit if we’ve been awarded a PPP loan?**

**Answer:** No, recipients of PPP loans are not eligible for the mandatory leave tax credit, however, recipients of EIDL’s are eligible for those credits.

**Is there more advice for business that want to claim exemption of offering 2 weeks sick pay and extended FMLA because of having less than 50 employees?**

**Answer:** According to the Department of Labor (DOL), there is no application process. This exemption applies if the employer determines:

- Leave would result in expenses and financial obligations exceeding available business revenues and cause the small business to cease operating at a minimal capacity,
- Employee’s absence would entail a substantial risk to the financial health or operational capabilities of the business because of the employee’s specialized skills, knowledge of the business, or responsibilities; or
- Insufficient employees able, willing, and qualified at time and place needed to perform labor or services provided by the employee, and these labor or services are needed for business to operate at a minimal capacity.

For more information, visit the DOL guidance page titled, [“Families First Coronavirus Response Act: Employer Paid Leave Requirements”](#).

**Do you have information on what documentation is needed for paid sick leave and paid family and medical leave?**

**Answer:** Eligible Employers claiming the credits for qualified leave wages must retain records and documentation related to and supporting each employee’s leave to substantiate the claim for the credits, and retain the Forms 941, Employer’s Quarterly Federal Tax Return, and 7200, Advance of Employer Credits Due To COVID-19, and any other applicable filings made to the IRS requesting the credit.

For more information, see IRS guidance titled: [“How Should an Employer Substantiate Eligibility for Tax Credits for Qualified Leave Wages?”](#)

**For the Employee Retention Tax Credit, is the \$10,000 a total amount or a per employee amount?**

**Answer:** This is a per-employee amount.