

## UPDATE: Calculation of Payroll Costs for Purposes of the Paycheck Protection Program (PPP)

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The Small Business Administration (SBA) continues to update its FAQs on PPP loans to provide additional guidance regarding what costs constitute payroll costs. Borrowers should use care in determining what amounts constitute payroll costs since borrowers are responsible for providing an accurate calculation of payroll costs and must attest to the accuracy of those calculations on their Borrower Application Form. Under the new guidance the SBA clarified:

- The \$100,000 annualized per employee cap only applies to cash compensation and does not include any non-cash benefits, such as employer contributions to defined benefit or defined contribution retirement plans, payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums, and payment of state and local taxes assessed on employees' compensation.
- PPP loans can be used to cover costs for employee paid vacation, parental, family, medical and sick leave (other than qualified sick and family wages for which a credit is allowed under the Families First Coronavirus Response Act).
- Payroll costs include housing stipends or any other allowances provided to an employee as part of his or her compensation, subject to the \$100,000 annualized per employee cap on compensation.
- Borrowers should calculate payroll costs on a gross basis without regard to federal taxes imposed or withheld with respect to the wages paid. However, the employer-side federal payroll taxes imposed on such wages are excluded from payroll costs.
- Payroll costs do not include amounts paid by the borrower to an independent contractor.

The SBA also provided guidance to borrowers who use professional employer organizations (PEOs) to process payroll and report taxes (so that the wages and other payroll data is reported using the EIN of the PEO), stating that such borrowers can use the payroll documentation provided by the PEO that shows the amount of wages and payroll taxes reported to the IRS by the PEO with respect to the employer's employees.

The foregoing updates our prior post relating to payroll costs, which can be found [here](#).

The SBA FAQs are available [here](#).