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Questions and Answers from the PPAI Webinar: CARES Act: What does it mean for small businesses?

Question: Does the CARES Act apply to sole proprietors?

Answer: The CARES Act specifically includes sole proprietors. Excerpts from the Act are below:

(ii) INCLUSION OF SOLE PROPRIETORS, INDEPENDENT CONTRACTORS, AND ELIGIBLE SELF-EMPLOYED INDIVIDUALS.—

“(I) IN GENERAL.—During the covered period, individuals who operate under a sole proprietorship or as an independent contractor and eligible self-employed individuals shall be eligible to receive a covered loan.

“(II) DOCUMENTATION.—An eligible self-employed individual, independent contractor, or sole proprietorship seeking a covered loan shall submit such documentation as is necessary to establish such individual as eligible, including payroll tax filings reported to the Internal Revenue Service, Forms 1099–MISC, and income and expenses from the sole proprietorship, as determined by the Administrator and the Secretary.”

See pages 7-8 of 335 of the CARES Act: <https://www.congress.gov/116/bills/hr748/BILLS-116hr748enr.pdf>

The term ‘payroll costs’ is defined to include “(bb) the sum of payments of any compensation to or income of a sole proprietor or independent contractor that is a wage, commission, income, net earnings from self-employment, or similar compensation and that is in an amount that is not more than \$100,000 in 1 year, as prorated for the covered period”.

SBA Interim Rule: https://www.sba.gov/sites/default/files/2020-04/PPP--IFRN%20FINAL_0.pdf

The SBA Final Interim Rule defines “payroll costs” as follows: “Payroll costs consist of compensation to employees (whose principal place of residence is the United States) in the form of salary, wages, commissions, or similar compensation; cash tips or the equivalent (based on employer records of past tips or, in the absence of such records, a reasonable, good-faith employer estimate of such tips); payment for vacation, parental, family, medical, or sick leave; allowance for separation or dismissal; payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums, and retirement; payment of state and local taxes assessed on compensation of employees; and for an independent contractor or sole proprietor, wage, commissions, income, or net earnings from self-employment or similar compensation.”

Question: I am commissioned and have income in excess of \$100K annual how do you recommend we determine the number. My accountant suggested 100K max/12 + health care cost + retirement funding - thoughts?

Answer: See above for information. Applies to independent contractors as well.

See pages 7-8 of 335 of the CARES Act: <https://www.congress.gov/116/bills/hr748/BILLS-116hr748enr.pdf>

See also SBA Interim Rule: https://www.sba.gov/sites/default/files/2020-04/PPP--IFRN%20FINAL_0.pdf

Question: The CARES Act excludes from the definition of payroll costs any employee compensation in excess of an annual salary of \$100,000. Does that exclusion apply to all employee benefits of monetary value?

Answer: No. The exclusion of compensation in excess of \$100,000 annually applies only to cash compensation, not to non-cash benefits, including:

- 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 compensation of employees.

See above information on scope of “payroll costs”.

Question: Does the CARES Act apply to sole proprietors?

Answer: Yes, sole proprietors are within the scope of "eligible recipients."

See above for inclusion of sole proprietors, independent contractors, and eligible self-employed. Discuss the matter with your lender about information the lender will request or require for qualification.

Question: If the banks are processing things quicker, does it make sense to ALSO apply to your bank even if we already applied via the SBA website?

Answer: We are seeing varying results of applicants, and there is no real pattern to approvals for loans or timing for same. Here are some resources for loans and guidance:

<https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/economic-injury-disaster-loan-emergency-advance>

Independent Community Bankers of America locator: <https://www.icba.org/about/find-a-community-bank>

SBA Interim Rule: https://www.sba.gov/sites/default/files/2020-04/PPP--IFRN%20FINAL_0.pdf

See above for scope of SBA definition of “payroll costs”.

PPAI Professional Development: This is where you'll find the handouts and links to the resources that are mentioned in today's webinar in the handouts tab: <https://onlineeducation.ppai.org/products/cares-act-what-small-businesses-need-to-know>