



We are aware that many of our clients have applied for the Paycheck Protection Program (PPP), so we would like to provide updated information. The U.S. Treasury Department and Small Business Administration answered several additional questions in a Frequently Asked Questions document, which we have attached. In addition, OSHA has clarified what circumstances related to COVID-19 would be reportable and deemed a recordable illness.

**Q: Are PEO administrative fees or workers' compensation premiums considered "payroll costs" under the Paycheck Protection Program (PPP)?**

A: The statute and the SBA's guidance both indicate that "payroll costs" do not include PEO administrative fees or workers' compensation premiums. The Interim Final Rules (IFR) recently issued by the Treasury Department define "payroll costs" as:

- compensation to employees 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;
- independent contractor or sole proprietor, wage, commissions, income, or net earnings from self-employment or similar compensation.

PPP loan proceeds should only be used for "payroll costs," payments on mortgage interest, rent, utilities, and interest on pre-existing loans. If an obligation does not fall into one of these categories, the loan forgiveness portion of the PPP could be put into jeopardy.

**Q: The amount of forgiveness of a PPP loan depends on the borrower's payroll costs over an eight-week period; when does that eight-week period begin?**

A: The eight-week period begins on the date the lender makes the first disbursement of the PPP loan to the borrower. The lender must make the first disbursement of the loan no later than ten calendar days from the date of loan approval.

**Q: Is an employee confirmed with COVID-19 reportable to OSHA?**

A: A COVID-19 case is only reportable to OSHA if: 1) the employee passes away or 2) the employee requires inpatient hospital admissions as a result of contracting COVID-19 when performing work-related duties. More specifically, outpatient hospitalizations are not reportable to OSHA.

The normal criteria for reporting severe injuries applies to COVID-19 cases. Employers must report any worker fatality within 8 hours and any amputation, loss of an eye, or hospitalization of a worker within 24 hours. It should be noted that **even employers who are exempt from recordkeeping must report a severe injury if it meets these criteria.**

**Q: Is an employee confirmed with COVID-19 recordable on the OSHA 300 Log?**

A: COVID-19 is considered a recordable illness if an employee is infected as a result of performing their work-related duties. However, employers are only responsible for recording cases of COVID-19 if all of the following are met:

- The case is a confirmed case of COVID-19 (see CDC information on persons under investigation and presumptive positive and laboratory-confirmed cases of COVID-19)
- The case is work-related, as defined by 29 CFR 1904.5
- The case involves one or more of the general recording criteria set forth in 29 CFR 1904.7 (e.g. medical treatment beyond first-aid, days away from work)