



## WHAT DO INDEPENDENT CONTRACTORS, SOLE PROPRIETORSHIPS AND SELF-EMPLOYED INDIVIDUALS NEED TO KNOW ABOUT THE PAYCHECK PROTECTION PROGRAM?

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Starting April 10, 2020, independent contractors and self-employed individuals can apply for and receive loans to cover their payroll and other certain expenses through existing SBA lenders. (Small businesses and sole proprietorships eligibility for application began on April 3, 2020).

The Coronavirus Aid, Relief and Economic Security ("CARES") Act deems sole proprietors, independent contracts and self-employed individuals to be eligible to receive loans under the Paycheck Protection Program ("PPP"), assuming they provide the necessary documentation to evidence their eligibility.

Under the Act, a business is eligible for the lesser of \$10,000,000 or 2.5 times the average monthly payroll costs incurred during the one-year period before the date of the loan. This includes sole proprietors who report income and pay taxes on a Schedule C in their personal tax return and independent contractors who collect 1099-MISC forms. The business, sole proprietorship or independent contractor must have been operational as of February 15, 2020.

### **Where can I apply?**

You can apply through any existing SBA lender (you should consult with your local lender as to whether or not it is participating). If your lender is not accepting PPP applications, you would like someone to guide you through the entire process from A to Z, answer your questions on how this program and others can help your business, and connect you with a lender that will prioritize your application, contact our team at **305-858-6208** or [www.simplylegallgroup.com](https://www.simplylegallgroup.com).



## **What exactly is included in payroll costs?**

Payroll costs include:

The sum of any compensation with respect to a sole proprietor or independent contractor that is a wage, commission or similar compensation and that is not more than \$100,000 in one year, as prorated during the covered period (February 15 through June 30, 2020).

A recipient of a Payroll Protection Program loan is also eligible for an Economic Injury Disaster Loan. Keep in mind however, that the recipient may not “double dip” in benefits, meaning, you cannot apply the same funds received to the same expense. For example, you cannot use the \$10,000 grant from the EIDL to pay the same payroll expense being considered in the forgivable amount of the PPP loan.

## **Sole Proprietors and the PPP**

An individual that runs his or her business on his/her own, is a sole proprietorship, even if the individual has not formally let the IRS know. This means that a sole proprietor’s business income will be reported on a Schedule C within the individual’s personal tax return. It is part of Form 1040 and is used to let the IRS know how much the business made or lost in the last year.

The salary of a sole proprietor is determined by its net profit. Thus, if you were operational in 2019 and filed your 2019 taxes, this would be reported on line 31 of Schedule C. If you have not yet filed your 2019 taxes but have bookkeeping for your business through the 2019 year, this will be the Net Profit line on your Income Statement.

Your average monthly payroll expense would be your annual net profit divided by 12. Per the PPP, if your annual net profit is over \$100,000, you may only claim up to \$100,000 (divided by 12).

If you own more than one sole proprietorship, you may apply separately for each, but only if these sole proprietorships have separate Employer Identification Numbers (“EINs”). Generally, you can apply separately for the different businesses that you own that have separate identification numbers or separate tax reporting. You may apply for the PPP once with your Social Security Number (“SSN”) as a sole proprietor, and then separately for any other eligible business you own using their EINs.

**This document is not intended to be legal advice but provides a broad overview of certain provisions of the CARES Act. Contact your legal counsel for the most up-to-date advice and how it applies to your particular situation. If you would like to schedule a COVID-19 Strategy Session to see how the CARES Act impacts your business or need assistance with applying for the various grant and loan opportunities, please contact our office at (305) 858-6208 or visit our website <https://www.simplylegal.co/contact-us/>.**

### ***Independent Contractors and the PPP***

An independent contractor is a person who works on a contract basis to complete a particular assignment or project. An independent contractor can be a sole proprietor, be incorporated or for example, work as a freelancer. If you work as an independent contractor, you are by default considered to be a sole proprietor for the IRS. Your income is reported on Schedule C within your personal tax return. This Schedule is based on the 1099-MISC forms you collect from the companies or individuals who hired you as an independent contractor.

Your salary is determined by looking at the net profit listed on your Schedule C. If you already filed your 2019 taxes or prepared a 2019 return, this will be reported on line 31 of Schedule C. If you have not filed your 2019 return, but have bookkeeping completed for tax year 2019, this will be the Net Profit line on your Income Statement. If you have neither of these, your best estimation would come from adding all of your 1099-MISC income together. To find your monthly average, simply divide this amount by 12. If your annual net profit is over \$100,000, as stated previously, you may only claim up to \$100,000 (divided by 12).

### ***Self-Employed Individuals and the PPP***

Per Section 1102 of the CARES Act, "eligible self-employed individuals" may receive a PPP loan. The CARES Act refers to the Families First Coronavirus Response Act ("FFCRA") for the definition and indicates that an "eligible self-employed individual" means an individual who regularly carries on any trade or business within the meaning of section 1402 of the Internal Revenue Code (is subject to self-employment tax) and would be entitled to receive paid leave during the taxable year pursuant to the Emergency Paid Sick Leave Act if the individual were an employee of an employer (other than himself or herself).

### ***What kinds of documents will the Lenders request from Borrowers?***

Lenders will require documents that show proof of income. These will be all documents related to any wage, income, commission or net earnings from self-employment received. This means you will need to collect any pay stubs, earning reports, statements or invoices you have.

**Sole proprietorships:** will need to submit schedules from their 2019 tax return filed (or to be filed) showing income and expenses from the sole proprietorship.



**Independent Contractors:** will need to submit schedules from their 2019 tax return filed (or to be filed) as well as Form 1099- MISC from 2019.

**All self-employed individuals** will need to submit 2019 payroll tax filings reported to the IRS.

### ***Forgiveness under the PPP Loan***

In order for your loan to be forgiven, you must spend 75% of the loan funds on payroll costs, and the remaining 25% on other costs. These include things such as rent, mortgage interest and utilities expenses. Any amount used to pay for payroll costs, interest on a mortgage, rent or utilities in the proceeding 8-week period after accepting the money will be forgiven. Make sure to collect any paid invoices, statements, cancelled checks or lease agreements to help prove you had these expenses.

The deadline for applying for the PPP is June 30, 2020; you must submit your application no later than this date. You are encouraged to apply as early as possible to be able to take advantage of this program.