

*This article presents general guidelines for Georgia nonprofit organizations as of the date written and should not be construed as legal advice. Always consult an attorney to address your particular situation.*

## **Paycheck Protection Program – More Clarification on Forgiveness**

Just about every couple of weeks, the Small Business Administration (“SBA”) puts out additional guidance related to forgiveness under the Paycheck Protection Program (“PPP”) through an interim final regulation or FAQs.

PBPA has a number of articles on [PPP](#) including a detailed article on [Loan Forgiveness](#). Beginning August 27, 2020, we will post these updates in this article and will reissue it. Each update will be numbered and dated.

1. **August 24, 2020 - Nonpayroll Costs:** The SBA clarified that the amount of loan forgiveness requested for nonpayroll costs may **not** include any amount attributable to the business operation of a tenant or sub-tenant of the PPP borrower or, for home-based businesses, household expenses. The SBA provided 4 examples:
  - a. A borrower rents an office building for \$10,000 per month and subleases out a portion of the space to other businesses for \$2,500 per month. Only \$7,500 per month is eligible for loan forgiveness.
  - b. A borrower has a mortgage on an office building it operates out of, and it leases out a portion of the space to other businesses. The portion of mortgage interest that is eligible for loan forgiveness is limited to the percent share of the fair market value of the space that is not leased out to other businesses. As an illustration, if the leased space represents 25% of the fair market value of the office building, then the borrower may only claim forgiveness on 75% of the mortgage interest.
  - c. A borrower shares a rented space with another business. When determining the amount that is eligible for loan forgiveness, the borrower must prorate rent and utility payments in the same manner as on the borrower’s 2019 tax filings, or if a new business, the borrower’s expected 2020 tax filings.
  - d. A borrower works out of his or her home. When determining the amount of nonpayroll costs that are eligible for loan forgiveness, the borrower may include only the share of covered expenses that were deductible on the borrower’s 2019 tax filings, or if a new business, the borrower’s expected 2020 tax filings.
  
2. **August 24, 2020 – Rent Payments or Mortgage Interest Payments to Related Party:**

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Rent payments to a related party may be eligible for loan forgiveness as long as:

- a. the amount of loan forgiveness requested for rent or lease payments to a related party is no more than the amount of mortgage interest owed on the property during the Covered Period that is attributable to the space being rented by the PPP borrower, and
- b. the lease and the mortgage were entered into prior to February 15, 2020.

Any ownership in common between the PPP borrower and the property owner makes the two related parties for these purposes. The borrower must provide its lender with mortgage interest documentation to substantiate these payments.

Mortgage interest payments to a related party are **not** eligible for forgiveness.