

QUESTIONS & ANSWERS: OPENING BACK UP—WHAT EMPLOYEES NEED TO KNOW WEBINAR



CLEANING AND SANITIZING

Q1: Can small restrooms be closed to the public and made only for employee use?

A1: *This will depend on your overall operation. If you have 2 bathrooms gender neutral and one is made employee only - that would likely be okay. But remember that whatever you do unless there is a stated exception should be both specific with ADA and regulatory guidelines. This may be one to write and ask for a Q&A exception.*

Q2: Washing hands every 30 minutes or using sanitizers, is this a recommendation or a rule?

A2: *The exact wording states, "permitting workers at food facilities to wash their hands every 30 minutes, or as needed, to increase proper sanitation measures." This means to me wash and it may be more frequent.*

Q3: If employees refuse to follow the protocols, is there a 'guideline' for removing them from our employ?

A3: *Document and terminate if need be. Make sure though that you have a sound basis and have followed through in documenting.*

COVID-19 SCREENINGS

Q1: Can you confirm that if an employee tests positive within 14 days after return to work that it is considered to be a workers comp claim?

A1: <https://www.gov.ca.gov/wp-content/uploads/2020/05/5.6.20-EO-N-62-20-text.pdf>

Q2: Do you recommend documenting and holding onto the answers to preshift check in questions (as proof of self-declaration of health)? I know and agree with your recommendation not to document the temp check results.

A2: *Yes. As long as no actual personal information is included.*

Q3: Once all employees can go back to the office and one employee claims that they have allergies and just wants to work from home, how do you handle this?

A3: *You can ask for a medical note. This may be a specific hotline question as well.*

Q4: Do we have any liability for lawsuits if somebody claims that they got COVID at our restaurant if we are following the recommended protocols?

A4: *It would be a fact specific situation as to what occurred and what the claim was. If you do not follow the guide, then liability would of course be increased.*

HOW TO GET INVOLVED

Q1: Can CRA make a document for us all to send to our California State representatives that says no COVID-19 related lawsuits allowed. Any person who has an issue should go to a Govt. entity and they can resolve?

A1: *Please get involved at: www.calrest.org/action-center*

POSTINGS

Q1: Can CRA provide these signs for employers?

A1: *Answered live in the webinar. View recording for details.*

PPE

Q1: In the new CAPH guidance for dine-in restaurants, it states, “Dishwashers should use equipment to protect the eyes, nose, and mouth from contaminant splash using a combination of face coverings, protective glasses, and /or face shields.” Is this guidance directed toward dine-in only restaurants, or does it also include quick-service operation restaurants?

A1: *There is similar guidance in the earlier guides for food handlers. Therefore, the best practice would be to apply it universally. Since the guide is new - there will be clarification in the coming days.*

Q2: Can clear face shields be used instead of masks? I have seen them being used at the post office.

A2: *The only part of the guide that references face shield is for dishwashers - so I would say no. <https://covid19.ca.gov/pdf/guidance-dine-in-restaurants.pdf>*

Q3: Are employers required to supply the masks?

A3: *As of right now, no. Best practice would be to provide to avoid claims of unsafe work environment.*

PPP

Q1: We are nervous to spend the PPP because we would have no cushion in our account after the 8 weeks. It doesn't sound like restaurants will be opening to normal capacity any time soon. Do you recommend at all just saving the money for use as a loan?

A1: *The Final Interim Rule provides that you can't take the loan for an improper purpose, and when the loan was granted each borrower certified it was for the intended purpose of payroll. So, there is a risk that if a borrower sits on the money that they will be deemed to have violated the conditions.*

Q2: Are there any efforts in the extension of possible repayment of the PPP for restaurants?

A2: *Yes and no. There has been a proposal - but there is no rule as of yet.*

PPP CONT.

Q3: If we were owners that weren't taking a paycheck, but received a PPP loan, can we put ourselves on the payroll and use those funds?

A3: *Answered live in the webinar. View recording for details.*

Q4: I have a fairly large number of employees who work not many hours e.g. high school students. Can I work on FTE hours or do I need to work on actual headcount? What happens if I bring everyone back but do not need them all when I reopen?

A4: *Answered live in the webinar. View recording for details.*

Q5: On the topic of PPP forgiveness and the rule that an individual's wages must not drop more than 25%: is that measured based on hourly rate or TOTAL wages and for what lookback period?

A5: *In order to get forgiveness, yes. However, if they quit, a borrower may still get forgiveness if they document in accordance with FAQ No. 40/41. (link)*

Q6: What happens to a PPP loan if you hire someone back and then they decide to quit because of lack of hours? Do I have to hire someone back to cover that head count?

A6: *In order to get forgiveness, yes. However, if they quit, a borrower may still get forgiveness if they document in accordance with FAQ No. 40/41. (link)*

Q7: How do you pay a server extra for tips? Then, on June 30 we have to drop their wages – how, as an employer, do I let the employees know that their rate will change because the PPP loan money is gone?

A7: *PPP money can cover payroll costs including salary, wages, cash tips or equivalents, payment for regular leaves of absence, dismissal or separation compensation, group health insurance payments, retirement benefits payments, and some state/local payroll taxes. If these are covered for 8 weeks and then dropped and an employee quits—if it is before June 30th, document as noted above, if after it is a risk. An employer can guarantee the tips for a period of time based on historical tips of that employee or that position and then is allowed to change the terms of employment provided that it is future reduction not past.*

Q8: Can I use PPP money to pay my rent, say, one year in advance?

A8: *This would depend on your lease as it existed on February 15, 2020. At first blush, my recommendation would be no. Your CPA is a great resource here.*

Q9: Will past and pending payrolls (March 2020 when the COVID-19 shutdown starts) be forgiven or just payroll after the PPP funding?

A9: *Post funding.*

PPP CONT.

Q10: Federal unemployment extra \$600 per week is preventing my staff from coming back.

A10: *Treasury FAQ No. 40 addresses. (link)*

Q11: Do PPP loan forgivable expenses have to be both accrued and distributed prior to June 30th?

A11: *No. The 8 weeks will depend on your date of funding. June 30 is the current deadline to return staff and payroll levels.*

Q12: If my PPP forgiveness period ends in 3 weeks, and my whole staff is working now, do they still have to work until June 26th, or did I already meet my criteria in the 8 weeks (same FTE and pay)?

A12: *Technically you have to keep them on through the end of June as the Rule is written.
<https://home.treasury.gov/system/files/136/PPP--Fact-Sheet.pdf> Page 3*

Q13: In order to achieve forgiveness for the PPP Loan what kind of offer/wage for tipped employees should I make?

A13: *This will be based on your prior payroll. Your CPA can help you calculate.
Also see: <https://home.treasury.gov/system/files/136/PPP--Fact-Sheet.pdf>*

Q14: Can you pay back loans that were used for payroll in March and April prior to getting funded by PPP in May?

A14: *This sounds like you have a different loan and want to use PPP funds to repay - if so, the answer is no. If it is something else, please call the hotline.*

Q15: I know there are more and more rules being provided to comply with the PPP. Is there a final date when all rules will be finalized?

A15: *No. But in theory by June 30, 2020.*

Q16: Can I pay employees for FT work & put down FT hours even if they do not work the FT hours?

A16: *Answered live in the webinar. View recording for details.*

Q17: Are payroll taxes part of the forgiveness part?

A17: *Yes.*

PPP CONT.

Q18: Please confirm dates (beginning and ending) of FTE analysis.

A18: *This will depend on your application and the structure of your company.*

<https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf> no. 13 OR <https://home.treasury.gov/system/files/136/How-to-Calculate-Loan-Amounts.pdf>

Multiply the total dollars used for specific expenses identified in the CARES Act incurred and spent during the eight weeks following receipt of your PPP loan by the average number of full-time equivalent (FTE) employees per month during the eight-week period. (Calculate average FTEs by averaging the number of FTE employees for each pay period within a month). Divide that product by the average number of FTEs per month from February 15, 2019, to June 30, 2019.

Alternatively, the borrower may elect to use this formula:

As above, multiply the total dollars used for specific expenses identified in the CARES Act incurred and spent during the eight weeks following receipt of your PPP loan by the average number of full-time equivalent (FTE) employees per month during the eight-week period.

Divide that figure by the average number of FTEs per month from January 1, 2020, to February 29, 2020.

For seasonal employers, use the average number of FTEs per month for the period beginning February 15, 2019, and ending June 30, 2019.

Q19: Can you convert 11 part time employees to 7 FTE'S? I'm supposed to have 6.5 FTE'S according to the hours. Do I have to hire 11 part time employees, or can I hire 7 full time [employees] for the PPP forgiveness?

A19: *FTE is used for forgiveness – there is no clear answer to your question in the FAQ at this time.*

Q20: For forgiveness, an employee's minimum pay during PPP must be 75% of what they made during last FULL QUARTER, but what about the employee [who] was hired during the quarter? For example, employee earns \$1,300 in Q1, but only worked 10 weeks (instead of the full 13). How much do we have to pay them per week to get forgiveness? 75% of \$100/wk. or 75% of \$130/wk.? (See 1106(d)(3))

A20: *What they were entitled to during the 8 weeks they work. That formula was for your application to get funds, now you pay them based on what they are entitled to.*

Q21: How can any employer hire the same amount of staff pre-COVID when they will be reopening at much lower revenue volumes?

A21: *Yes. The deadlines will depend on date of funding for spending funds.*

Q22: Can I use PPP proceeds to pay for workers' compensation insurance?

A22: *No.*

PPP CONT.

Q23: In our payroll, our president and vice president have always been included at a rate of 4,500 per paycheck = 117,000/year (each). I considered them for the FTE head count. Can I still consider them for the forgiveness calculation?

A23: *Yes, but the maximum they can receive toward the forgivable part of the loan is \$15,385 during the 8 weeks.*

Q24: We were funding on a regular pay date that had a pay period that ended 2 days prior. Is that money paid out to be considered as part of the potential loan forgiveness? The guidance said incurred and paid but not sure of the timing.

A24: *This could be considered part of it since it fell mid period. The more conservative approach would be to say no it is not included.*

Q25: When does the additional \$600 per week end? We have employees who would rather stay on unemployment until then.

A25: *12 weeks with likely extensions.*

Q26: Does all the PPP money have to be used in the 8 weeks?

A26: *Yes, or it becomes exempt from forgiveness.*

REOPENING

Q1: Where do I find the guide for workers?

A1: *The CRA has resources at:*

Postings

. *Poster: Employee Rights Under the FFCRA*

Training

. *AHLEI: Free Hospitality Career Training*

. *ServSafe: COVID-19 Takeout Precautions (English & Spanish)*

. *ServSafe: COVID-19 Reopening Precautions (English & Spanish)*

Health

. *Mental Health: 24/7 Free emotional support for anxiety or stress related to COVID-19, please call 866.342.6892 (Optum Help Line)*

. *Learn more about the FREE RX Discount Card and download yours today (The National Restaurant Association)*

Relief Programs

. *<https://restaurantscare.org/> (Restaurants Care)*

REOPENING CONT.

Q2: When are restaurants going to open [at] half capacities? Also, are we required to have disposable menu, utensils etc.

A2: Yes. Page 6. <https://covid19.ca.gov/pdf/guidance-dine-in-restaurants.pdf>

Q3: Is there a form you can post that we can use to give to employees that we are hiring them back and they accept or reject?

A3: Yes, the CRA has a form for bringing employees back located here:
www.calrest.org/coronavirus-resources#employerresources

Q4: Employee just declined employment offer saying he has a compromised immune system. Can I require a doctor's note?

A4: Yes, then depending on what it says and your City/County you will need to evaluate [the] need for sick pay.

Q5: What about hiring NEW employees? What can we ask prior to interview?

A5: Here is a great resource from another CRA Legal Center partner:
<https://www.californiaemploymentlawreport.com/2020/04/eoc-issues-new-guidance-permitting-employers-to-test-employees-for-covid-19-prior-to-working/>

Q6: What if we don't have a way to reach all employees with an offer in writing (all we have are phone numbers)?

A6: You can send a text message. Text is a written form of communication. But by law you are required to have an address on each employee.

Q7: How to report to the EDD, the list of employees who refuse to return to work?

A7: https://cwdb.ca.gov/local_boards/local_workforce_investment_associations/

SERVICE

Q1: If I put gloves on my customers can they use fountain machines and coffee dispensers?

A1: No. You should remove all buffet options.
See Guide Page 8, <https://covid19.ca.gov/pdf/guidance-dine-in-restaurants.pdf>

Q2: When people pay with cash, how should you handle the contactless payment? And, do you need to change gloves after handling cash?

A2: Customer should have a plate or tray to money down on, then cashier should put cash in a small bag and hand the bag to customer to avoid contact.

SOCIAL DISTANCING

Q1: The CA state guidelines for dine-in seemed to indicate masks were required for FOH restaurant staff (due to closer customer contact) and recommended for BOH if distancing cannot be achieved. Is that the correct interpretation? It seemed somewhat unclear.

A1: *Guidelines defer to County Orders as well. Follow your County.*

Q2: I have booths that are secured to the floor, did I understand that I could separate them with glass/plexiglass and that would achieve the social distancing?

A2: *<https://covid19.ca.gov/pdf/guidance-dine-in-restaurants.pdf> Page 10*

WAGES

Q1: What about raising pay rates to balance numbers of employees?

A1: *Answered live in the webinar. View recording for details.*

Q2: Would you suggest we pay the tips that employees would typically make also?

A2: *This will be business specific, but to get forgiveness guaranteed tip payments should be similar to what they earned for the same time period previously.*