



## CARES ACT/FFCRA FAQ

### Paycheck Protection Program

- Q1** If an owner of a US corporation is a Japanese entity, does the foreign ownership prevent the US corporation from getting loan forgiveness?  
No.
- Q2** Is a US corporation who is wholly owned by a Japanese entity eligible to apply for PPP?  
Yes.
- Q3** Does a US subsidiary of a Japanese entity need to include number of employees of the Japanese entity, when counting number of employees to see if it is less than 500?  
The US subsidiary might need to include the headcounts of the Japanese entity. Please consult with your bank.
- Q4** A Japanese owned US corporation has eight employees, while its parent company in Japan has 800 employees in the group. Can we apply?  
The US corporation can apply for the loan, but it might be rejected by the bank. Please consult with your bank.
- Q5** A US subsidiary's owner is an individual living in Japan. He has a social security number. Can we apply for the loan?  
The US subsidiary can apply for the loan. An owner being a foreign person does not affect eligibility for an application.
- Q6** A US corporation is wholly owned by a Japanese entity. Do we put the Japanese entity's name in an "Owner" section of the application? Or do we put an individual shareholder who owns the Japanese entity?  
Please put the direct owner's name of the U.S. corporation.
- Q7** A US corporation is owned by many shareholders in many countries. Can the US corporation apply for the loan?  
Countries of shareholders does not affect application of the loan.



**Q8 In your presentation, you said, “Loan forgiveness will be reduced if there is a reduction in the number of employees” What happens if employees quit without us asking to leave.**

Headcounts of employees matters in order to be able to get loan forgiveness. Therefore, it does not matter if the termination of employment is voluntarily or not.

**Q9 How is payroll cost calculated?**

It includes salary, health insurance premium, retirement benefit, etc. Salaries over \$100,000 and salaries paid to residents outside the US are excluded.

**Q10 Can a Japanese bank give PPP?**

If the Japanese bank is not FDIC insured, they do not have SBA loan. However, we suggest you contact your bank to be sure.

**Q11 Under loan forgiveness provision in your presentation, it says, “Following costs incurred during 8-week period after the loan origination date.” What date is considered as “the loan origination date”?**

A loan contract should have a loan origination date on it. That is the date.

**Q12 If I receive \$10,000 in the EIDL advance, the amount which will be forgiven will be \$10,000 less?**

That is correct.

## **Tax – Recovery Rebate**

**Q1 Our child does not have an SSN, but we have visa and have SSN. Can all of us receive recovery rebates?**

Only the parents will receive the rebate.

**Q2 My wife does not have an SSN but has ITIN. We filed as married filing jointly. Can we receive the rebate?**

Only the taxpayer, not spouse, will receive the rebate.

**Q3 My daughter is a college student and files her own tax return. Can she receive the recovery rebate?**

Yes.



**Q4 Is there an age threshold for a child who is eligible to receive the recovery rebate?**

A child under 17 is eligible for the recovery rebate.

**Q5 In your presentation, you said that one of the tests to check eligibility of the recovery rebate was whether a taxpayer was a resident of the US. Does a “resident” mean a green card holder and a US citizen? Can a taxpayer with a visa receive the rebate?**

As long as you are a “resident” of the US, you can receive the rebate. For a visa holder to be a resident, s/he either have to be in the US for more than 183 days in a year, or total of “Number of days present in the US in the year + Number of days present in the US in the previous year x 1/3 + Number of days present in the US 2 years ago x 1/6” is more than 183days.

\*There are some exceptions depending on types of visa, please consult with your tax accountant.

**Q6 I am retired, have small income and do not file a tax return. Can I receive the rebate?**

*IRS.gov/coronavirus* will soon provide information instructing people in these groups on how to file a 2019 tax return with simple, but necessary, information including their filing status, number of dependents and direct deposit bank account information. Please watch out for announcement at *IRS.gov/coronavirus*.

**Q7 What is Head of Household?**

Head of household is a filing status for a taxpayer who meet all 4 of the followings.

① Not married at December 31 ② Paid more than half the cost of keeping up his home ③ The home was the principal residence for more than half the year of either the taxpayer’s qualified child or qualified relatives ④ US citizen or US resident during the entire year.

## **Tax – Extensions of Time to File and Pay**

**Q1 The second quarter estimated tax is due on June 15, 2020. Is this due date extended to July 15, 2020?**

No. It is still June 15, 2020. It might get extended in the future, but as of now, it is June 15, 2020.

**Q2 Has the income tax deadline for each state been extended?**

Though many states follow Federal extended filing and payment deadlines, there are still some states that do not extend its original deadlines. Please check each state’s rule.

Illinois extended filing and payment due dates to July 15, 2020.



## Employer Considerations

**Q1 Our company has about 250 employees and we have affiliates around the globe that are under our parent company. Do these get taken into consideration for the purpose of the FFCRA?**

Under Title VII and other employment-related legislation, including the Labor Management Relations Act, when determining whether to treat separate entities as a single employer, individual determinations are highly fact-specific and are based on the following factors:

1. interrelation of operations, i.e., common offices, common record keeping, shared bank accounts and equipment;
2. common management, common directors and boards;
3. centralized control of labor relations and personnel, i.e., hire and fire employees; and,
4. common ownership and financial control.

A determination of whether or not separate entities are an integrated employer is not determined by the application of any single criterion, but rather the entire relationship is to be reviewed in its totality. All four criteria need not be present in all cases, but the Equal Employment Opportunity Commission, which administers the Civil Rights Act, considers the first three criteria to be the most important, with centralized control of labor relations to be most critical of these three.

**Q2 An employee is requesting FFCRA Leave due to School/Daycare closure. What documents do I request from the employee?**

All employees requesting FMLA leave must provide written notice of the need for leave to the HR manager as soon as practicable. Verbal notice will otherwise be accepted until written notice can be provided.

Notice of the need for leave must include:

- The name and age of the child or children being care for.
- The name of the school, place of care, or child care provider that closed or became unavailable due to COVID-19 reasons.
- A statement representing that no other suitable person is available to care for the child or children during the period of requested leave. For children over the age of 14, a statement indicating the special circumstances that require the employee to provide care during daylight hours.

On a basis that does not discriminate against employees on FMLA leave, the company may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work.

CDH created the FFCRA Leave request form for your convenience.

Please download it from here: [FFCRA Leave Request Form Template](#)



### **Q3 Do State or Local stay-at-home or shelter-in-place orders qualify as quarantine or isolation orders under EPSLA?**

According to the Department of Labor, it does not appear that employees would qualify for paid sick leave under the EPSLA solely because they are subject to a stay-at-home or shelter-in-place order, and additional facts will dictate whether the employee is eligible for such leave, or instead should apply for unemployment benefits.

### **Q4 If we furlough our employees, can I still ask our employees to work for limited hours during a workweek?**

When an employer furloughs its employees, it requires them to work fewer hours or to take a certain amount of unpaid time off.

For example, an employer may furlough its non-exempt employees one day a week for the remainder of the year and pay them for only 32 hours instead of their normal 40 hours each week.

Another example of furlough is to require all employees to take a week or two of unpaid leave sometime during the year.

In general, for hourly non-exempt employees, you only have to pay hours that they actually work. However, for salary exempt, if they work 1 hour during a week, you must pay for the entire week of pay.

Keep that in mind and plan well when you furlough salary exempt employees.

### **Q5 Can employers require employees to self-report if they have COVID-19? Also, Can employers require employees to report contact with an infected person?**

In General, the answer to this question is NO. However, things changed in the past two weeks and the answer to this question now varies with the state and local laws and continuing guidance of the CDC.

Employers must continue to tell employees that if they are exhibiting symptoms of COVID-19, they must not come to work or go home (if at work already) and should self-quarantine and call a healthcare practitioner for additional guidance.

Please reach out with any questions or concerns. We are here to help.

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