



Brief Update on Critical SBA Loan Issues

May 22, 2020

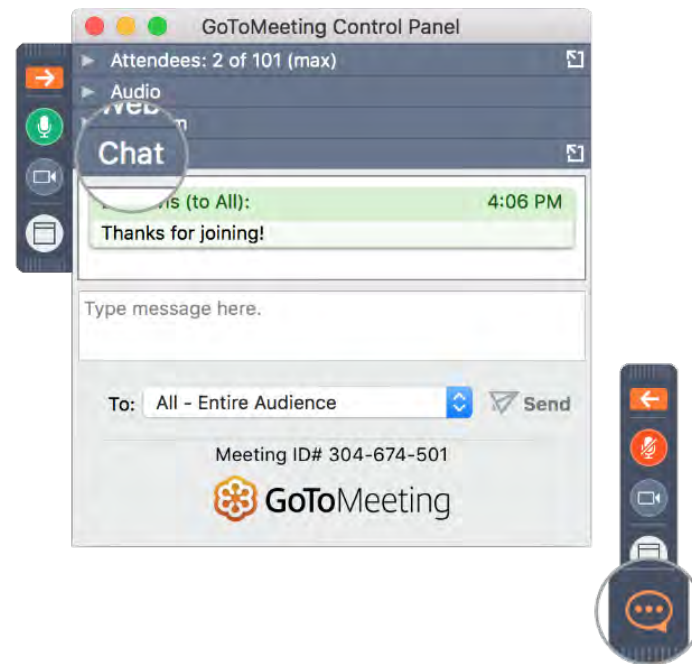
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+Please submit questions through the Chat Box in the webinar control panel



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Presenter



Diane Medley

CPA-ABV, PFS, CGMA

Executive Chairman

- Former Managing Partner and Co-Founder of Top 100 firm
- First woman in the region to have this leadership position within a major firm, and one of only a few in the U.S. Top 100.
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MCM CPAs & Advisors has formed a group of experienced advisors to assist clients on accounting and business matters in wake of implications from the coronavirus pandemic. This team of advisors has decades of experience supporting businesses in response to disastrous situations so they can feel confident and prepared for their next steps.



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SBA Forgiveness Calculator

+ PPP Forgiveness Calculation Form

- + Information related to the loan obtained
- + EIDL Loans Obtained
- + "Box" to be checked if original loan > \$2MM
- + Representations and Certifications

+ PPP Schedule A

- + Detailed calculation of Cash Compensation, Non-Cash Compensation, FTE's and Self-Employed Owner or Partner Compensation
- + Calculations of Reductions for Reduced Pay or FTE Count

+ PPP Schedule A Worksheet

- + Table 1 – listing of employees < \$100k and FTE counts; pay reductions
- + Table 2 – listing of employees > \$100k and FTE counts
- + Determination of Safe Harbors for rehires by June 30, 2020



PPP Loan Forgiveness Application



**Paycheck Protection Program
Loan Forgiveness Application**

OMB Control Number 3245-0407
Expiration Date: 10/31/2020

PPP Loan Forgiveness Calculation Form

Business Legal Name ("Borrower")	DBA or Tradename, if applicable	
Business Address	Business TIN (EIN, SSN)	Business Phone
		() -
	Primary Contact	E-mail Address

SBA PPP Loan Number: _____ Lender PPP Loan Number: _____

PPP Loan Amount: _____ PPP Loan Disbursement Date: _____

Employees at Time of Loan Application: _____

Employees at Time of Forgiveness Application: _____

EIDL Advance Amount: _____ EIDL Application Number: _____

Payroll Schedule: The frequency with which payroll is paid to employees is:

- Weekly
 Biweekly (every other week)
 Twice a month
 Monthly
 Other _____

Covered Period: _____ to _____

Alternative Payroll Covered Period, if applicable: _____ to _____

If Borrower (together with affiliates, if applicable) received PPP loans in excess of \$2 million, check here:

PPP Loan Forgiveness Application Cont'

Forgiveness Amount Calculation:

Payroll and Nonpayroll Costs

Line 1. Payroll Costs (enter the amount from PPP Schedule A, line 10):

Line 2. Business Mortgage Interest Payments:

Line 3. Business Rent or Lease Payments:

Line 4. Business Utility Payments:

Adjustments for Full-Time Equivalency (FTE) and Salary/Hourly Wage Reductions

Line 5. Total Salary/Hourly Wage Reduction (enter the amount from PPP Schedule A, line 3):

Line 6. Add the amounts on lines 1, 2, 3, and 4, then subtract the amount entered in line 5:

Line 7. FTE Reduction Quotient (enter the number from PPP Schedule A, line 13):

Potential Forgiveness Amounts

Line 8. Modified Total (multiply line 6 by line 7):

Line 9. PPP Loan Amount:

Line 10. Payroll Cost 75% Requirement (divide line 1 by 0.75):

Forgiveness Amount

Line 11. Forgiveness Amount (enter the smallest of lines 8, 9, and 10):



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By Signing Below, You Make the Following Representations and Certifications on Behalf of the Borrower:

The authorized representative of the Borrower certifies to all of the below by **initialing** next to each one.

- The dollar amount for which forgiveness is requested:
 - was used to pay costs that are eligible for forgiveness (payroll costs to retain employees; business mortgage interest payments; business rent or lease payments; or business utility payments);
 - includes all applicable reductions due to decreases in the number of full-time equivalent employees and salary/hourly wage reductions;
 - does not include nonpayroll costs in excess of 25% of the amount requested; and
 - does not exceed eight weeks' worth of 2019 compensation for any owner-employee or self-employed individual/general partner, capped at \$15,385 per individual.
- I understand that if the funds were knowingly used for unauthorized purposes, the federal government may pursue recovery of loan amounts and/or civil or criminal fraud charges.
- The Borrower has accurately verified the payments for the eligible payroll and nonpayroll costs for which the Borrower is requesting forgiveness.
- I have submitted to the Lender the required documentation verifying payroll costs, the existence of obligations and service (as applicable) prior to February 15, 2020, and eligible business mortgage interest payments, business rent or lease payments, and business utility payments.
- The information provided in this application and the information provided in all supporting documents and forms is true and correct in all material respects. I understand that knowingly making a false statement to obtain forgiveness of an SBA-guaranteed loan is punishable under the law, including 18 USC 1001 and 3571 by imprisonment of not more than five years and/or a fine of up to \$250,000; under 15 USC 645 by imprisonment of not more than two years and/or a fine of not more than \$5,000; and, if submitted to a Federally insured institution, under 18 USC 1014 by imprisonment of not more than thirty years and/or a fine of not more than \$1,000,000.
- The tax documents I have submitted to the Lender are consistent with those the Borrower has submitted/will submit to the IRS and/or state tax or workforce agency. I also understand, acknowledge, and agree that the Lender can share the tax information with SBA's authorized representatives, including authorized representatives of the SBA Office of Inspector General, for the purpose of ensuring compliance with PPP requirements and all SBA reviews.
- I understand, acknowledge, and agree that SBA may request additional information for the purposes of evaluating the Borrower's eligibility for the PPP loan and for loan forgiveness, and that the Borrower's failure to provide information requested by SBA may result in a determination that the Borrower was ineligible for the PPP loan or a denial of the Borrower's loan forgiveness application.

The Borrower's eligibility for loan forgiveness will be evaluated in accordance with the PPP regulations and guidance issued by SBA through the date of this application. SBA may direct a lender to disapprove the Borrower's loan forgiveness application if SBA determines that the Borrower was ineligible for the PPP loan.

Signature of Authorized Representative of Borrower

Date

Print Name

Title

PPP Loan Forgiveness Application Certifications



**Paycheck Protection Program
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PPP Schedule A

PPP Schedule A Worksheet, Table 1 Totals

Line 1. Enter Cash Compensation (Box 1) from PPP Schedule A Worksheet, Table 1:

Line 2. Enter Average FTE (Box 2) from PPP Schedule A Worksheet, Table 1:

Line 3. Enter Salary/Hourly Wage Reduction (Box 3) from PPP Schedule A Worksheet, Table 1:
If the average annual salary or hourly wage for each employee listed on the PPP Schedule A Worksheet, Table 1 during the Covered Period or the Alternative Payroll Covered Period was at least 75% of such employee's average annual salary or hourly wage between January 1, 2020 and March 31, 2020, check here and enter 0 on line 3.

PPP Schedule A Worksheet, Table 2 Totals

Line 4. Enter Cash Compensation (Box 4) from PPP Schedule A Worksheet, Table 2:

Line 5. Enter Average FTE (Box 5) from PPP Schedule A Worksheet, Table 2:

Non-Cash Compensation Payroll Costs During the Covered Period or the Alternative Payroll Covered Period

Line 6. Total amount paid by Borrower for employer contributions for employee health insurance:

Line 7. Total amount paid by Borrower for employer contributions to employee retirement plans:

Line 8. Total amount paid by Borrower for employer state and local taxes assessed on employee compensation:

PPP Schedule A

PPP Schedule A Cont'

Compensation to Owners

Line 9. Total amount paid to owner-employees/self-employed individual/general partners:
This amount may not be included in PPP Schedule A Worksheet, Table 1 or 2. If there is more than one individual included, attach a separate table that lists the names of and payments to each.

Total Payroll Costs

Line 10. Payroll Costs (add lines 1, 4, 6, 7, 8, and 9):

Full-Time Equivalency (FTE) Reduction Calculation

If you have not reduced the number of employees or the average paid hours of your employees between January 1, 2020 and the end of the Covered Period, check here , skip lines 11 and 12 and enter **1.0** on line 13.

Line 11. Average FTE during the Borrower's chosen reference period:

Line 12. Total Average FTE (add lines 2 and 5):

Line 13. FTE Reduction Quotient (divide line 12 by line 11) or enter 1.0 if FTE Safe Harbor is met:

SBA Form 3508 (05/20)

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**Paycheck Protection Program
Loan Forgiveness Application**

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PPP Schedule A Worksheet

Table 1: List employees who:

- Were employed by the Borrower at any point during the Covered Period or the Alternative Payroll Covered Period whose principal place of residence is in the United States; and
- Received compensation from the Borrower at an annualized rate of less than or equal to \$100,000 for all pay periods in 2019 or were not employed by the Borrower at any point in 2019.

Employee's Name	Employee Identifier	Cash Compensation	Average FTE	Salary / Hourly Wage Reduction
FTE Reduction Exceptions:				
Totals:		Box 1	Box 2	Box 3

Table 2: List employees who:

- Were employed by the Borrower at any point during the Covered Period or the Alternative Payroll Covered Period whose principal place of residence is in the United States; and
- Received compensation from the Borrower at an annualized rate of more than \$100,000 for any pay period in 2019.

Employee's Name	Employee Identifier	Cash Compensation	Average FTE
Totals:		Box 4	Box 5

Attach additional tables if additional rows are needed.

PPP Schedule A Worksheet

PPP Schedule A Worksheet Cont'

FTE Reduction Safe Harbor:

- Step 1. Enter the borrower's total average FTE between February 15, 2020 and April 26, 2020. Follow the same method that was used to calculate Average FTE in the PPP Schedule A Worksheet Tables. Sum across all employees and enter: _____.
- Step 2. Enter the borrower's total FTE in the Borrower's pay period inclusive of February 15, 2020. Follow the same method that was used in step 1: _____.
- Step 3. If the entry for step 2 is greater than step 1, proceed to step 4. Otherwise, the FTE Reduction Safe Harbor is not applicable and the Borrower must complete line 13 of PPP Schedule A by dividing line 12 by line 11 of that schedule.
- Step 4. Enter the borrower's total FTE as of June 30, 2020: _____.
- Step 5. If the entry for step 4 is greater than or equal to step 2, enter 1.0 on line 13 of PPP Schedule A; the FTE Reduction Safe Harbor has been satisfied. Otherwise, the FTE Reduction Safe Harbor does not apply and the Borrower must complete line 13 of PPP Schedule A by dividing line 12 by line 11 of that schedule.

Clarifications or even “Changes” in May 15 Released Instructions

Areas to be Covered Today

- + Payroll Periods
- + Paid or Incurred Language
- + Ordering of Forgiveness Reductions
- + 75% of Expenses Clarification
- + Mitigation and Rehiring Rules
- + Treatment of Self-Employed
- + Alternative Seasonal Method
- + Calculation of FTE's
- + Necessity of Loan Guidance
- + Non-Payroll Expenses Covered
- + Tax Treatment of Amount Forgiven
- + Documentation to Submit
- + New HB 6886 Potential Changes



Payroll Periods

- + Allows borrowers who use a biweekly or more frequent payroll schedule to calculate payroll costs using an “alternative payroll covered” period that aligns with borrowers’ regular payroll cycles.
- + The standard period is the eight week period beginning on the date of the loan disbursement and ending 56 days later.
- + This new alternative period was added for administrative convenience and allows the borrower to start the eight week payroll period with the first payroll following the date of the loan disbursement and continue it for eight consecutive weeks.
- + Unfortunately, a borrower with monthly or semi-monthly payroll periods may not use this alternative method.



Paid “or” Incurred Language

- + Previous “paid and incurred” is now “paid or incurred”
- + Seems to allow expenses BOTH paid during the eight week period and INCURRED BUT NOT YET PAID during the eight week period to be included in covered expenses
 - + For Payroll – include all prior payroll amounts paid during the period plus the amounts paid during the next payroll period that were incurred during the covered period.
 - + For Non-Payroll Costs – include all costs paid during the covered period as long as the other definitional criteria are met plus costs incurred during the period that are paid by the next billing date.
- + Be careful as this could change again....



Payroll Costs – Paid and Incurred

- + Payroll costs paid and payroll costs incurred are forgivable
 - + Paid – check distributed or ACH transaction initiated
 - + Incurred – employee’s pay is earned
- + Summary of coverage period:
 - + Beginning – cash basis
 - + End - accrual basis



Nonpayroll Costs – Paid or Incurred

- + Nonpayroll costs
 - + Paid during the covered period OR
 - + Incurred and paid on or before the next regular billing date (even if billing date is after covered period)
- + Summary of coverage period:
 - + Beginning – cash basis
 - + End – accrual basis
 - + Coverage period (alternative payroll coverage period not allowed)
 - + It is possible to have two different 8-week period coverage periods in the overall forgiveness computation – one for payroll and another for non-payroll.



Ordering of Potential Forgiveness Reductions

A. Calculate Total Amount Paid for Payroll Related Costs

Then:

1. Reduce Total by pay rate changes >25% for employees paid <\$100k per year
2. Next, reduce by ratio of FTE reduction (using most beneficial of various time periods provided)
3. Determine Net Amount Eligible for Forgiveness

B. Then, compare 75% of the Total Loan to the amount actually spent on payroll related costs and take reduction, if applicable

Amount Forgiven will be lesser of #A3 of B Above.



Ordering of the Forgiveness Reduction Provisions - Example

Payroll and Nonpayroll Costs		
1. Payroll costs		\$845,000
2. Business mortgage interest		-
3. Business rent or lease payments		140,000
4. Business utility payments		100,000

Adjustments for FTE and salary/hourly wage reductions		
5. Total salary/hourly wage reduction		(150,000)
6. All amounts on lines 1, 2, 3 and 4 less line 5		935,000
7. FTE reduction quotient		95%

Potential forgiveness amounts		
8. Modified total (6x7)		888,250
9. PPP loan amount		1,250,00
10. Payroll costs 75% requirement (1 divided by 75%)		1,126,667

Forgiveness amount		
11. Forgiveness amount (smallest of lines 8, 9 and 10)		888,250



75% of Expenses Related to Payroll Costs - More Clarification

- + The calculation involves taking the total payroll costs (not reduced by reductions in FTE's or pay rates) and divides that amount by .75 to determine the total eligible forgiveness under this test.
- + This amount is compared to the total loan amount and a reduction is taken if applicable
- + If this amount is lower than the results of the other reduction tests (total forgiveness reduced by the reduction in FTE ratio or the reduction in pay rates), this lower amount is used.
- + Although complicated, this is not an all or nothing calculation which was previously a significant concern about the wording of the previous guidance.



Mitigation and Rehiring Rules for June 30

- + The instructions detail the implementation of the rule allowing for mitigated FTE or payroll reductions if the situation is mitigated by June 30, 2020.
- + No guidance on how long the mitigation has to be continued after the June 30 date
- + Related to the FTE reductions, the instructions further clarify that the borrower will not be required to reduce the amount forgiven for:
 - + FTE's where the employer made a good faith offer to an employee to return to work that is declined
 - + Employees who were fired for cause, voluntarily resigned or voluntarily requested and received a reduction of their hours.



Mitigation and Rehiring Rules for a New Set of Dates

The same set of rules apply to mitigating the FTE reduction if the situation is mitigated by another set of dates:

- + If the borrower has not reduced the number of FTE's between January 1, 2020 and the end of the eight week period, there is no reduction
- + Previously provided June 30 date continues to apply as well



Treatment of Self-Employed Proprietors or Partners

- + The instructions provide that amounts included in the calculations for the income of these individuals would include up to a maximum of \$15,384 or the **lesser of**:
 - + the eight weeks prorated amount of their 2019 income, or
 - + the actual amounts paid during the eight week period in 2020
- + Somewhat unclear as to whether non-cash benefits are includable for active general partners; instructions seem to allow inclusion.
- + Previous guidance stated that non-cash benefits for Schedule C owners would not be included
- + Seems to indicate that actual eight week expenses are used for non-owner payroll and other covered expenses – differs from prior guidance
- + Partners or other self-employed owners are not included in FTE counts.



Use of Alternative Seasonal Period

- + Use of Alternative Seasonal Period of any twelve week period during the period of **May 1, 2019 through September 15, 2019**.
- + In prior guidance the SBA offered this alternative calculation for purposes of determining the maximum amounts to be borrowed.
- + The new instructions include this same time period for use in determining FTE's for the forgiveness calculation.



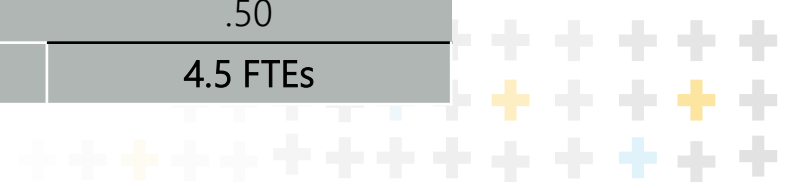
Calculation of FTE's

- + The instructions indicate that an 1.0 FTE is assumed to work 40 hours per week with the maximum per employee of 1.0 FTE.
- + But they also added the provision that a simplified method can be used to assign 1.0 FTE to any employee who works over 40 hours per week and .5 to any employee who works less than 40 hours per week.
- + Calculate each employee and each period separately
- + Does not include self employed owners or partners



40 Hours Method Example			
	Hours	Divide by 40	Capped at 1.0
Ricky Bobby	40	1.00	1.00
Cal Naughton Jr.	52	1.30	1.00
Jean Giard	42	1.05	1.00
Cole Trickle	35	.88	.88
Rowdy Burns	24	.60	.60
Russ Wheeler	16	.40	.40
Total rounded to the nearest tenth			4.9 FTEs

Alternative Method Example			
	Hours		Capped at 1.0
Ricky Bobby	40	$>40 = 1.0$ $<40 = 0.5$	1.00
Cal Naughton Jr.	52		1.00
Jean Giard	42		1.00
Cole Trickle	35		.50
Rowdy Burns	24		.50
Russ Wheeler	16		.50
Total rounded to the nearest tenth			4.5 FTEs



Necessity of Loan Guidance

- + Loans over \$2MM - the updated application contains a box to be checked if the original loan exceeds \$2MM.
- + Specifically, before submitting a PPP application, all borrowers should review carefully the required certification that “[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.” Borrowers must make this certification in good faith, taking into account their current business activity and their ability to access other sources of liquidity sufficient to support their ongoing operations in a manner that is not significantly detrimental to the business.



Necessity of Loan Guidance – Cont'

Loans Greater than \$2MM –

- + Subject to review by SBA for compliance with program requirements
- + Be prepared to furnish additional documentation and support for the necessity of the loan
- + If determination is made by SBA that borrower lacked an adequate basis regarding necessity, the SBA will seek repayment and will deem the loan ineligible for forgiveness.
- + If borrower repays the loan, the SBA will not pursue administrative enforcement



Definition of other Non-payroll Expenses

- + The SBA did not provide any additional definition around these covered expenses.
- + They include:
 - + covered mortgage interest on real or personal property where obligations were incurred before February 15, 2020;
 - + covered rent obligations on real or personal property in effect on February 15, 2020;
 - + covered utility payments for the distribution of electricity, gas, water, transportation, telephone or internet services in effect as of February 15, 2020.



Tax Treatment of Amount Forgiven

- + CARES Act stated that any amounts forgiven would be treated as non-taxable
- + Subsequent IRS Notice 2020-32 stated that any expenses paid with the loan proceeds that were ultimately forgiven would not be deductible
- + Congress continues to discuss the original intent of the law and this may be revised on a limited basis



What if you didn't receive the correct amount on your original PPP Loan?

- + If you did not include the compensation of active partners in your original loan application, you can reapply and have the additional amount disbursed to you.



Documentation to Submit - Payroll

+ Documentation to be submitted with the Loan Forgiveness Application:

1. Bank account statements or third-party service provider reports
2. Tax forms for the periods that overlap with the Covered Period
3. Payroll tax filings reported, or that will be reported to the IRS
4. State quarterly business and individual employee wage reporting and unemployment insurance tax filings reported or that will be reported
5. Payment receipts, cancelled checks, or account statements on the amount of any employer contributions to employee health insurance and retirement plans that the Borrower included in the forgiveness amount



Documentation to Submit – FTE's

+FTE Documentation showing:

1. The average number of FTE employees between Feb. 15, 2019 and June 30, 2019
2. The average number of FTE employees on payroll per month between January 1, 2020 and February 29, 2020
3. In the case of a seasonal employer, the average number of FTE's between February 15, 2019 and June 30, 2019; between January 1, 2020 and February 29, 2020; or any consecutive 12-week period between May 1, 2019 and September 15, 2019.



Documentation to Submit - Nonpayroll

- + Non-payroll documentation verifying existence of the obligations/services prior to February 15, 2020 and eligible payments from the Covered Period
 1. Business mortgage interest payments: loan documents and cancelled checks showing amounts paid during covered period
 2. Business rent or lease payments; lease agreements and cancelled checks showing amounts paid during covered period
 3. Business utility payments; invoices from Feb 2020 and cancelled checks showing amount paid during covered period



Documentation to Maintain

Documentation that each borrower must maintain for 6 years from later of date loan is forgiven or paid in full :

1. Documentation supporting each individual employee in Schedule A Worksheet Table 1.
2. Documentation supporting each individual employee in Schedule A Worksheet Table 2.
3. Any employee job offers/refusals, firings for cause, voluntary resignations, and written requests for work schedule reductions.
4. Documentation supporting the PPP Schedule A Worksheet "FTE Reductions Safe Harbor."
5. Supporting documentation on the Borrower's necessity of the loan request and eligibility.



The following provisions are either clarifications or additional changes to the previously provided guidance. According to the AICPA, they are continuing to pursue several more needed changes but are not confident that the additional changes will be made. They include:

- + Changes to the start and or end of the eight week period of covered expenses.
- + Self rentals
- + ETC



HB 6886 - Paycheck Protection Program Flexibility Act

Potential House vote next week

Supported by Administration

Not sure of Senate support for broad changes

HB 6886 changes to PPP Program

- + The bill would make a number of changes to the CARES Act's small business loan program that could not be made administratively by the SBA.
- + The proposed PPP bill would implement the following changes:
 - + Allow forgiveness for expenses beyond the 8-week covered period;
 - + Eliminate restrictions limiting non-payroll expenses to 25 percent of loan proceeds;
 - + Eliminate restrictions that limit loan terms to two years;
 - + Ensure full access to payroll tax deferment for businesses that take PPP loans; and
 - + Extend the rehiring deadline to offset the effect of enhanced Unemployment Insurance.
- + Senate has not weighed in but Trump administration is supportive.

Questions?

Please submit questions in Chat Box



COVID-19 SBA Advisory Team

MCM CPAs & Advisors has formed a group of experienced advisors to assist clients on accounting and business matters in wake of implications from the coronavirus pandemic. This team of advisors has decades of experience supporting businesses in response to disastrous situations so they can feel confident and prepared for their next steps.



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for your time!



MCM COVID-19 Resource Center

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