

PPP Eligibility Rules for Self-Employed—Including Farmers

To be eligible for a PPP (Paycheck Protection Program) loan, a self-employed individual, including a self-employed farmer, must meet four requirements. ⁷¹

1. First, the self-employed person must have been in operation on February 15, 2020. ⁷²
2. Second, a self-employed person must have self-employment income. ⁷³ This can be, for example, income from an independent contractor or a sole proprietor.
3. Third, the self-employed person must have a principal place of residence in the United States. ⁷⁴
4. Fourth, the self-employed person must have filed, or intend to file, a 2019 IRS Form 1040 Schedule C. ⁷⁵ This requirement is confusing and has important implications for farmers.

Schedule C and Farmer Eligibility

As the above section noted, to be eligible for PPP as a self-employed person, the applicant must have filed, or have plans to file, a 2019 Form 1040 Schedule C. ⁷⁶ It appears SBA is interested in the financial tax records

for the small businesses that apply for PPP. For those who filed (or will file) a 2019 Form 1040 Schedule C, the Self-Employed PPP Interim Final Rule provides detailed guidance on PPP eligibility.⁷⁷ For farmers, however, it is more complicated because they often do not file a Schedule C. While a detailed discussion of federal taxation is far beyond the scope of this Guide, the current Schedule C eligibility requirement forces farmers to think about these issues. Different kinds of business tend to file different tax forms. For corporations, the tax form filed will generally be a Form 1120, the “U.S. they are a: (1) sole proprietor; (2) independent contractor; or (3) eligible self-employed individual.

[PPP Borrower Application Form](#), at 1.

71 Self-Employed PPP Interim Final Rule, 85 Fed. Reg. 21747, 21748 (April 20, 2020).

72 Self-Employed PPP Interim Final Rule, 85 Fed. Reg. 21747, 21748 (April 20, 2020).

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75 Self-Employed PPP Interim Final Rule, 85 Fed. Reg. 21747, 21748 (April 20, 2020).

76 According to the Self-Employed PPP Interim Final

Rule, a partner in a partnership may not file a separate PPP loan application as a self-employed individual. Instead, the partnership may file a PPP loan application and report the self-employment income of the general active partners as payroll costs. See Self-Employed PPP Interim Final Rule, 85 Fed. Reg. 21747, 21748 (April 15, 2020). 77 Self-Employed PPP Interim Final Rule, See 85 Fed. Reg. 21747, 21748 (April 20, 2020).

Corporation Income Tax Return.”⁷⁸ The focus for this Guide, however, is the tax forms that smaller businesses use. Smaller businesses, especially those where there is a sole proprietorship, will often use an IRS Form 1040, the “Individual Income Tax Return.”⁷⁹ This is the familiar form that individuals tend to use. A sole proprietorship might be organized as a limited liability company (LLC), may be a sole proprietor that is not an incorporated business, or may be an independent contractor. In each of those cases, the sole proprietor uses an IRS Form 1040. IRS Form 1040 has a line for “other income” from what is called “Schedule 1, Additional Income and Adjustments to Income.”⁸⁰ Schedule 1, in turn, has a line for “business income or (loss).” To get that number, the taxpayer must use “Schedule C, Profit or Loss from Business.”⁸¹ Schedule C, in other words, is the IRS

tax form that describes a sole proprietor's business income and expenses. Expenses on Schedule C include wages paid.

In sum, to be eligible for PPP, a self-employed person, sole proprietor, and independent contractor must use a Schedule C form for federal income tax purposes. It is not surprising that for the PPP program a self-employed person must produce some documentation from Schedule C. The problem for farmers is that the Self-Employed PPP Interim Final Rule seems to assume that every self-employed person files a Schedule C, when in fact the overwhelming majority of self-employed farmers do not file a Schedule C.⁸² Most farmers file a Schedule F, "Profit and Loss from Farming," as well as a Form 1040.⁸³ For these farmers, the process is much like it is for other small business. Generally, a Form 1099 is filed, and Form 1099 requires a Schedule 1, and the Schedule 1 has a place for

78 See Form 1120, U.S. Corporation Tax Return for 2019, at: <https://www.irs.gov/pub/irs-pdf/f1120.pdf>. IRS rules describe which businesses should be taxed as corporations. See IRS Publication 542, Corporations 2-3 (January 2019), at: <https://www.irs.gov/pub/irs-pdf/p542.pdf>.

79 Form 1040, U.S. Individual Income Tax Return (2019), at: <https://www.irs.gov/pub/irspdf/f1040.pdf>. They also might use IRS Form 1040-SR, U.S. Tax Return for Seniors (2019), at: <https://www.irs.gov/pub/irs-pdf/f1040s.pdf>. See IRS Publication 554, Tax Guide for Seniors (2019), at: <https://www.irs.gov/pub/irs-pdf/p554.pdf>.

80 Schedule 1 (Form 1040 or 1040-SR), Additional Income and Adjustments to Income (2019), at: <https://www.irs.gov/pub/irs-pdf/f1040s1.pdf>.

81 IRS Schedule C, Profit or Loss from Business (2019), at <https://www.irs.gov/pub/irspdf/f1040sc.pdf>. See, as well, IRS Publication 334, Tax Guide for Small Business (For Individuals Who Use Schedule C) (2019), at: <https://www.irs.gov/pub/irs-pdf/p334.pdf>.

82 Farm taxes are discussed in IRS Publication 225, Farmers Tax Guide (2019), at: <https://www.irs.gov/pub/irs-pdf/p225.pdf>.

83 According to the IRS, a Schedule F is the form used to report farm income by individuals, trusts, partnerships, S corporations, LLCs that are taxes and partnerships, and sole members of a

domestic LLC. See Internal Revenue Service, Farmer's Tax Guide, Publication 225 (2019), at: <https://www.irs.gov/pub/irs-pdf/p225.pdf>. See Schedule F, Profit or Loss From Farming (2019), at: <https://www.irs.gov/pub/irs-pdf/f1040sf.pdf>.

Some farmers file as a partnership. That means using a Form 1065, U.S. Return of Partnership Income (2019), at: <https://www.irs.gov/pub/irspdf/f1065.pdf>. Even a Form 1065, however, includes net farm profit or loss. And asks the tax payer to include a Schedule F. Partnership filing are discussed in IRS Publication 541, Partnerships (2019), at: <https://www.irs.gov/pub/irs-pdf/p541.pdf>; and in IRS, 2019 Instructions for Schedule C (2019), at: <https://www.irs.gov/pub/irs-pdf/i1040sc.pdf>.

Schedule F. 84 Like Schedule C, Schedule F has a line for the cost of labor hired. In other words, the Schedule F serves a similar function for the taxpayer as does a Schedule C, but one is for a small business, and one for a farm. Unfortunately, the Self-Employed PPP Interim Final Rule appears to require a Schedule C when applying for PPP, which many farmers simply do not have. The Rule does not mention a Schedule F, and does not discuss PPP eligibility for self-employed people who do not file a

Schedule C.

The Treasury Department, however, has since released guidance that says farmers can use Schedule F in place of Schedule C.⁸⁵ Specifically, it says self-employed farmers who report their net farm profits on IRS Form 1040 Schedule 1 and Schedule F should use Schedule F, line 34 (net farm profit), in place of Schedule C, line 31 (net profit). In order to be eligible for a PPP loan as a self-employed farmer, the farmer's net profit on line 34 of Schedule F must be greater than zero.⁸⁶ According to the Treasury guidance, in all other respects the PPP calculation for Schedule F filers is the same as that for Schedule C filers. It is important to note that this guidance expressly says that it "does not carry the force and effect of law independent of the statute and regulations on which it is based."⁸⁷ That said, according to the Treasury Department, SBA will use this guidance to implement PPP. Any farmers who have been discouraged from applying for a PPP by a lender, or have been denied by a lender, should try again. If the lender is not aware of the possibility of using a Schedule F, show the lender this Guide, and feel free to call FLAG for assistance.

Farm Eligibility and PPP

Despite some confusion on this question, agricultural producers, farmers, and ranchers can be eligible for PPP.⁸⁸ The vast majority of farms will qualify as sole

proprietorships or under the category of self-employed individuals. As noted above, in general for self-employed people, including farmers, if the business has less 500 employees it will not be too large to be eligible for PPP. A Treasury Department Frequently Asked Questions (FAQs) page for PPP confirms that “agricultural producers, farmers, and ranchers” are eligible for PPP.

*84 See IRS Form 1099-MISC (2020),
at: <https://www.irs.gov/pub/irs-pdf/f1099misc.pdf>.*

*85 Treasury Department, Paycheck Protection Program: How to Calculate Maximum Loan Amounts—By Business Type, Question 3 (June 26, 2020),
at: <https://home.treasury.gov/system/files/136/How-to-Calculate-Loan-Amounts.pdf>. If the rules had not changed, almost all farmers would not have been able use the PPP program.*

86 Treasury Department, How to Calculate Maximum Loan Amounts—By Business Type, Questions 1, 3 (June 26, 2020).

87 Treasury Department, How to Calculate Maximum Loan Amounts—By Business Type, page 1 (June 26, 2020).

88 Treasury Department, Paycheck Protection Program Loans Frequently Asked Questions (FAQs), Question 34 (June 25, 2020).

Small farm cooperatives are also eligible.⁹⁰ The FAQ adds details that suggest some farms with more than 500 employees can still be eligible.⁹¹ Farms that have year-round workers are likely to be most benefited by the program. For farms with employees, independent contractors are not counted when calculating the farm's PPP loan amount.⁹² This is because independent contractors can themselves apply for a PPP loan.