

## Survive and Advance

### Employee Rejects Offer To Be Rehired – Is There PPP Loan Forgiveness?

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As businesses prepare to get back to work, employers are offering to rehire laid off employees and learning that some employees are declining the offer.

On May 3<sup>rd</sup>, the U.S. Treasury added a question to their frequently updated PPP FAQ document. Question #40 as follows:

**Question #40:** Will a borrower's PPP loan forgiveness amount (pursuant to section 1106 of the CARES Act and SBA's implementing rules and guidance) be reduced if the borrower laid off an employee, offered to rehire the same employee, but the employee declined the offer?

**Answer:** No. As an exercise of the Administrator's and the Secretary's authority under Section 1106(d)(6) of the CARES Act to prescribe regulations granting de minimis exemptions from the Act's limits on loan forgiveness, SBA and Treasury intend to issue an interim final rule excluding laid-off employees whom the borrower offered to rehire (for the same salary/wages and same number of hours) from the CARES Act's loan forgiveness reduction calculation. The interim final rule will specify that, to qualify for this exception, the borrower must have made a good faith, written offer of rehire, and the employee's rejection of that offer must be documented by the borrower. Employees and employers should be aware that employees who reject offers of re-employment may forfeit eligibility for continued unemployment compensation.

The link to the full list of U.S. Treasury FAQs is [HERE](#).

Appropriate staffing levels is a basic component to operating your business and this information is important to follow, as there are implications for both employers and employees. We suggest you engage with your CPA, Attorney, and PPP lender for counsel and get a consensus on the appropriate way for your company to proceed.

In our purpose of Helping Others, we are here to help your business survive during these difficult times and advance out the other side stronger. More information on Coronavirus/ COVID-19 can be found [HERE](#) on our Smith Brothers Survive and Advance page. If you have any questions or would like to discuss this information further, please contact your Smith Brothers risk advisor.