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Paycheck Protection Program (PPP)

Economic Injury Disaster Loan Advance (EIDL)

Presented by:

Jack Sullivan

Michael Gansl

Matt Plociak

Naman Trivedi

Federal Cares Act

The **CARES ACT** provides a one-time Federal Stimulus, along with Federal Forgivable Loans to Business Owners and Independent Contractors, etc. along with other significant changes to Federal Tax Law.

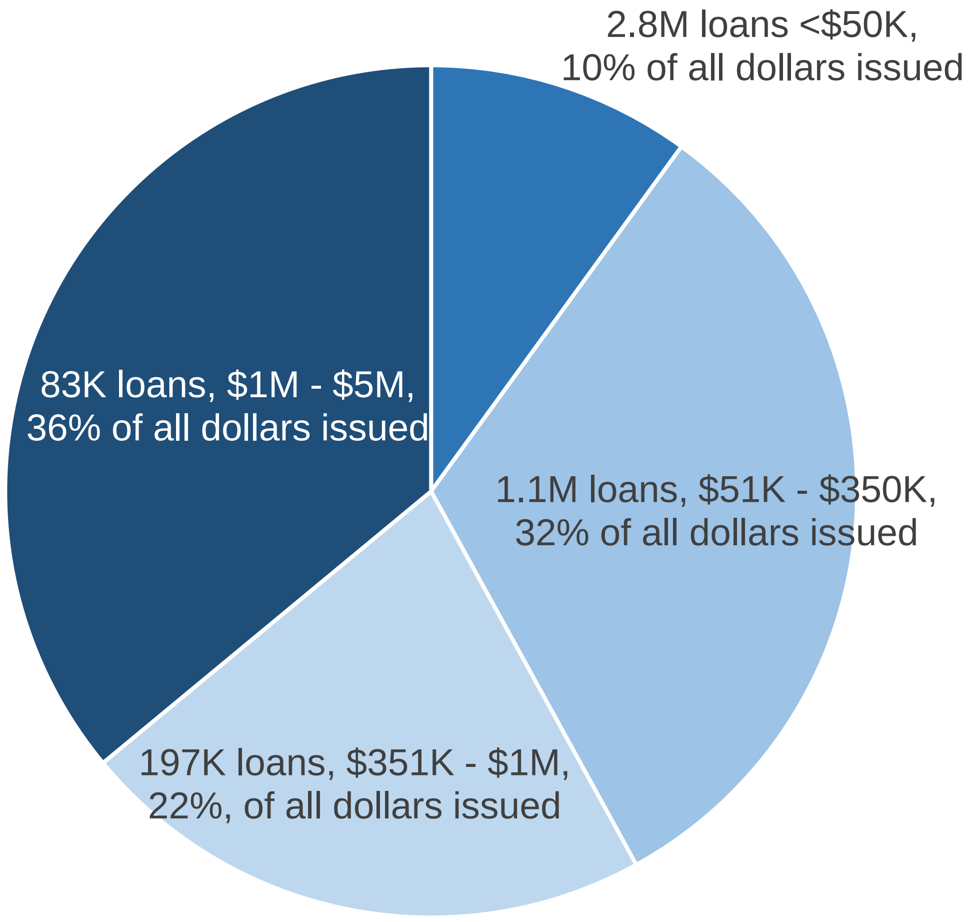
The **PAYCHECK PROTECTION PROGRAM FLEXIBILITY ACT** of 2020 (“PPPFA”), signed by President Trump on June 5, 2020, will provide additional flexibility to many borrowers attempting to maximize the benefits provided by the Paycheck Protection Program (“PPP”) established as part of the CARES Act.

Paycheck Protection Program (PPP) Report Approvals (thru 5/23/20)

Summary of PPP Approved Lending

- Over 4.4 M loans were issued in the two PPP rounds as of 5/23/20
- Over $511B dollars were issued by over 5000 lenders; overall average loan size was $116K
- The Top 10 States got 55 % of all the money or $281 billion, including:
  - California (13%), Texas (8%); New York (7%); Florida (6%); Illinois (4%)
- The Next 40 States got a total of 45% of all the money or $230 billion
- **Approximately $130+B dollars are still available**

PPP Loans Issued



Paycheck Protection Program (PPP), CARES ACT and the PPP Flexibility Act (PPPFA)

- **The Act creates the $511billion "Paycheck Protection Program" ("PPP")** aimed at providing targeted loans of up to $10,000,000 for small businesses(less than 500 employees) to enable them to retain and to pay their employees. SBA guarantees the loans.
- **Under the PPP, substantial portions of the loans may be forgiven** if the loan proceeds are used in specified ways during a specified time period (generally within eight weeks of receipt of proceeds).
- **The PPPFA eliminates the CARES Act requirement that PPP borrowers that receive any loan forgiveness are ineligible for the <u>employer payroll tax deferral provided in the CARES Act.</u>** This provision is effective as if originally included in the CARES Act and applies to any PPP loan.
    - The amount of forgiveness decreases, and the amount of the loan that must ultimately be repaid correspondingly increases, if there are reductions in the number of the borrower's employees or in their compensation during the first eight weeks that the loan is outstanding, measured against comparable amounts in specified base periods.
    - PPPFA signed into law on June 5, and it loosened/altered some of the PPP loan forgiveness aspects
    - Loans applications started being accepted on April 3, 2020 and are supposed to be available thru June 30, 2020. **THERE WILL BE NO EXTENSION FOR FILING PPP LOAN APPLICATIONS PER TREASURY SECRETARY MNUCHIN CLARIFICATION ON JUNE 8 2020**
- **Loan deferral is now delayed until the date on which forgiveness is given to the lender**, if borrower does not apply for forgiveness within 10 months of the end of the 8 or 24 week covered period, then the deferral ENDS and payments must commence
    - Original Loan Deferral under CARES Act gave deferral of not less than 6 months and not more than a year (very confusing)

Paycheck Protection Program

- The PPP is a fully forgivable loan, otherwise interest rate is 1.0% with a originally a 2 year repayment period, under
  - PPP Flexibility Act recently passed this can be expanded to 5 years, PER THE TREASURY SECRETARY MNUCHIN 5 YEARS IS ONLY ALLOWED FOR LOANS APPROVED BY THE SBA ON OR AFTER JUNE 5TH.
- You apply for the loan through your bank (EIDL you apply with SBA directly) -
  - **Most banks will only work with current customers**
- The loan amounts will be forgiven as long as:
  - If **60%** of the loan proceeds are used to cover payroll costs and up to **40%** is used to cover business mortgage interest, rent, and utility costs over either an 8 week **OR** 24 weeks period after the loan is made; and
  - Generally employee and compensation levels are maintained.
- Maximum loan amount is:
  - Loans can be used for up to 8 or 24 weeks of your average monthly payroll costs from the last year plus an additional 25% of that amount.
  - Salary cap per employee and/or owner employee is $100k per year so;
  - The most recent the SBA loan forgiveness app had max payroll per employee as $15,385 which is 8/52*$100,000. This application was issued before the recently passed PPPFA
    - This figure may now be **$ 46,153 = (24/52)*100k**, if you use 24 weeks as allowed under the PPPFA, but no guidance issued yet
  - The loan amount per business/entity is subject to a $10 million cap.

Paycheck Protection Program

- **What counts as payroll costs?**
- **Payroll costs include:**
  - Salary, wages, commissions, or tips (capped at $100,000 on an annualized basis for each employee);
  - Employee benefits including costs for vacation, parental, family, medical, or sick leave; allowance for separation or dismissal; payments required for the provisions of group health care benefits including insurance premiums; and payment of any retirement benefit;
  - State and local taxes assessed on compensation; and
  - For a sole proprietor or independent contractor: wages, commissions, income, or net earnings from their business
- **Other PPP Forgiveable Costs**
  - Business mortgage interest, rent, and utility costs
  - We DO NOT recommend prepaying any of these other forgivable costs

Paycheck Protection Program

- **TO GET FULL LOAN FORGIVENESS YOU MUST:**
  - Meet at least 60% use for payroll and up to 40 % for mortgage interest, rent and utilities (MIRU), but it is not a cliff, partial forgiveness is allowed
- **To get the entire amount of the loan forgiven** (assuming that at least 60% is spent on payroll and the rest on permitted expenses), you must

1. First, the full-time employee headcount **cannot GENERALLY decline** from average monthly levels during 2019 or during the past 12 months. (THIS CALCULATION CAN BE QUITE COMPLICATED)
2. Second, for loans to become full grants, employers cannot cut salaries or wages of employees making $100,000 or less by 25%, if they do there will be a reduction in what is forgiven.

- **SO THE LOAN IS FORGIVEN, WELL ITS NOT ALL GOOD NEWS**
  - The IRS has issued guidance saying that since the PPP Act said that if the loan is forgiven the $$ forgiven IS NOT going to be deemed cancellation of debt (COD) income, ANY EXPENSES paid with this 'FORGIVEN' MONEY WILL NOT be expenses allowable on your entity's tax return.
  - This is HUGE, so if you have a $100K loan forgiven you LOSE $100K OF THOSE EXPENSES AS DEDUCTIBLE ON YOUR ENTITY TAX RETURN

Payroll Costs Eligible for Loan Forgiveness

- Compensation to employees (whose principal place of residence is the United States) in the form of salary, wages, commissions, or similar compensation; cash tips; payment for vacation, parental, family, medical, or sick leave; allowance for separation or dismissal; payment for employee benefits - group health care coverage, insurance and retirement premiums; payment of state and local taxes assessed on compensation of employees; and for independent contractors or sole proprietor’s - wages, commissions, income, or net earnings from self-employment

- Salary, wages, or commission payments to furloughed employees; bonuses; or hazard pay during the covered period are eligible for loan forgiveness as long as they do not exceed an annual salary of $100,000, as prorated for the covered period.

Nonpayroll Costs Eligible for Loan Forgiveness

- **A nonpayroll cost is eligible for forgiveness if it was**:

  i. paid during the covered period;

  or

  ii. incurred during the covered period and paid on or before the next regular billing date

- Interest payments on any business mortgage obligation on real or personal property that was incurred before February 15, 2020
- Payments on business rent obligations under a lease agreement in force before February 15, 2020; and
- Business utility payments for electricity, gas, water, transportation, telephone, or internet access for which service began before February 15, 2020.

Reductions to Loan Forgiveness Amount

- Certain reductions in a borrower's loan forgiveness amount are allowed based on reductions in full-time equivalent employees or in employee salary and wages during the covered period.
- In general, a reduction in FTE employees during the covered period reduces the loan forgiveness amount by the same percentage as the percentage reduction in FTE employees. Full-time equivalent employee means an employee who works 40 hours or more, on average, each week. Hours of employees who work less than 40 hours are also calculated as a percentage of an FTE.
- If an offer was made to an employee at the same prior rate, and the offer was rejected by the employee, the borrower must inform the applicable state unemployment insurance office of such employee's rejected offer of reemployment within 30 days of the employee's rejection of the offer.
- **Non-Forgivable Non-Payroll Costs include:**
  - Advance payments or prepayments of interest on a covered mortgage obligation. Principal on mortgage obligations is not eligible for forgiveness under any circumstances

Loan Forgiveness Process

To receive loan forgiveness, a borrower must complete and submit the **Loan Forgiveness Application** (SBA Form 3508 or lender equivalent) to its lender (or the lender servicing its loan).

As a general matter, the lender will review the application and make a decision regarding loan forgiveness. The lender has 60 days from receipt of a complete application to issue a decision to SBA.

Please be sure to monitor your Banking and Lender updates to ensure you are aligned with their specific forgiveness process for both application and document requirements.

Documentation Requirements Such As:

- Loan Forgiveness Application (SBA Form 3508)
- Bank account statements, invoices, receipts, and payment confirmation
- Payroll service provider reports with employee listing and payroll detail
- Federal and State/Local Tax Filings
- Employee health insurance and retirement benefits – employee listing, invoices, and proof of payments
- Business mortgage interest payments – lender amortization schedule and proof of payments
- Business rent or lease payments – current lease agreements and proof of payments
- Business utility payments – copy of invoices, receipts, and proof of payments
- Borrower must retain all documents for 6 years after the loan is forgiven or repaid in full

Delay in Payment of Part of Employers' Employment Taxes

- An employer may **<u>defer payment of its share of payroll taxes</u>** for the period beginning on March 27, 2020, and ending on December 31, 2020.

- Fifty percent of the payroll taxes for this period are now due on December 31, 2021, and the remaining 50% of the deferred payroll taxes are now due on December 31, 2022.

- **<u>The deferral applies only to employers' share of OASDI taxes (generally 6.2% of wages, but subject to a cap); employers must continue to pay their share of Medicare taxes (generally 1.45% of wages, without a cap) as scheduled.</u>**

- The Act provides comparable benefits to self-employed individuals, allowing them to defer up to 50% of OASDI self-employment taxes (at a 6.2% rate) from the period beginning on March 27,2020, and ending on December 31, 2020

- As with employer payroll taxes, **<u>50% of these deferred taxes are due on December 31, 2021, and the remaining 50% are due on December 31, 2022.</u>**

- **Previously this deferral was not allowed if you got the PPP loan forgiven, the PPPFA eliminated this provision**

Delay in Payment of Employment Taxes (cont.)

- Self-employed individuals may defer the payment of 50 percent of the Social Security tax on net earnings from self-employment income imposed under section 1401(a) of the Code for the period beginning on March 27, 2020, and ending December 31, 2020. (Section 2302 of the CARES Act calls this period the "payroll tax deferral period.")

- **Previously this deferral was not allowed if you got the PPP loan forgiven, the PPPFA eliminated this provision**

Economic Injury Disaster Loan

- Apply thru the Small Business Administration (SBA)
- Existed before COVID- 19
- The EIDL is a working capital 30 year loan up to $2 million at 3.75% with principal and interest deferment that are available to pay for expenses that could have been met had the disaster not occurred, including payroll and other operating expenses. It cannot be used to repair, replace or purchase physical assets.
- Any small business with 500 or fewer employees and most private non-profits are eligible that have suffered substantial economic injury, regardless of physical damage, and **<u>are in a declared disaster area may be eligible for an Economic Injury Disaster Loan (EIDL).</u>**
- Economic Injury Disaster Loan Emergency Advance will provide up to $10,000 of economic relief to businesses that are currently experiencing temporary difficulties, and does not have to be repaid unless you have also received PPP moneys.
- **EIDL currently has a lapse in funding, no more applications are being accepted by the SBA unless for an Agricultural Business. SBA is working through the applications they have received, and the maximum loan size has been reduced from $2 million down to $150K.**

If you haven’t spent any or some of the - PPP DON’T!

- The goal is to have the PPP be able to last to get your business to at least a cash flow breakeven if possible.
- To achieve that determine the following:
  - Determine how much cash flow you will have over these next 24 weeks without the PPP
  - How long will the cash flow be able to cover your business’ expenses
- After using the PPP funds will the business be able to fund expenses thru it’s own cash flow
- If the on-going business CANNOT fund expenses after the 24 weeks PPP period, DO NOT use the PPP funds during this period
- Use only what is absolutely necessary to keep the business alive and keep the remainder of the funds as the NEW terms state the unspent finds will become a 5 year loan @ 1%
- Next Determine how long the rest of PPP Funds will last and structure the business to be breakeven cash flow-wise before the PPP money is used up
- If possible, cut more expenses than what is needed to be cash flow break-even to develop a cash cushion
- Consider an aggressive marketing campaign to generate new business

Here is an example

- You’ve gotten $100,000 in PPP money.
- Your average monthly revenue now is $75,000
- Your current expenses are $100,000 a month
- Therefore, your PPP money will last 4 months (100K of Rev. – Expenses of $75K = deficit of $25K a month – Divide $25K into $100K = 4 months of operating at breakeven level.
- Then the question becomes, is 4 months enough time to get your revenues back up to $100K a month to be cash flow even?
- If not cut expenses – Payroll, Rent, etc. to a level that gets you to cash flow breakeven with the PPP funds.

What if you've already spent or committed to spend the PPP money by the end of June?

- **What do you do now?**
  - We'd suggest to create a weekly cash flow to determine if your cash coming in is sufficient to cover expenses
  - You may have to furlough some employees
  - You may have to cut salaries again
  - You may need to cut more expenses
- **Here is an example:**
  - Your Monthly Expenses are $50,000
  - Your Current Monthly Revenue is $40,000
  - The deficit is $10,000
  - Salaries are 90% of your expenses or $45,000, all other expenses ($5,000) can't be reduced
  - To breakeven – reduce the payroll by 25% to $33,750 (45,000 X .75)
  - Now total expenses are $33,750 + $5,000 of fixed expenses = $38,750
  - Then, you are cash flow positive $40K in revenue - $38.75K in expenses = $1,250 excess cash per month

QUESTIONS?

Jack Sullivan

jsullivan@thesullivanlaw.com

Michael Gansl

mgansl@voiceofreasonconsulting.com

Matt Plociak

mplociak@voiceofreasonconsulting.com

Naman Trivedi

ntrivedi@supportingstrategies.com