PAYCHECK PROTECTION PROGRAM (PPP)

- Program is administered by Banks, not direct like the SBA Disaster Assistance Program.
- Eligible employers -small business <500 employees, 501(c)(3) nonprofit, a 501(c)(19) veteran's organization. Includes sole-proprietors, independent contractors, and other self-employed individuals as eligible for loans.
- It allows a borrower who has an SBA Economic Injury Disaster Loan (EIDL) loan related to COVID-19 to apply for a PPP loan, with an option to refinance that loan into the PPP loan. However, the EIDL grant award of up to $10,000 would be subtracted from the amount forgiven under the PPP. Existing EIDL borrowers not related to COVID-19 are also eligible to apply for PPP for payroll assistance but they cannot refinance into a PPP.
- Requires eligible borrowers to make a good faith certification that the loan is necessary due to the uncertainty of current economic conditions caused by COVID-19; they will use the funds to retain workers and maintain payroll, lease, and utility payments; and are not receiving duplicate funds for the same uses from another SBA program.
- No borrower and lender fees for participation in the Paycheck Protection Program.
- No credit elsewhere test for funds provided under this program.
- Waives collateral and personal guarantee requirements under this program.
- Outlines the treatment of any portion of a loan that is not used for forgiveness purposes. The remaining loan balance will have a maturity of not more than 10 years, and the guarantee for that portion of the loan will remain intact.
- Interest rate not to exceed four percent.
- Allows complete deferment of PPP loan payments for at least six months and not more than a year, and requires SBA to disseminate guidance to lenders on this deferment process within 30 days.
- No prepayment fees.
- Use of loan proceeds – payroll costs, health care benefits, interest (not principal) on any mortgage obligation, rent, utilities, interest on debt obligations incurred before the covered period (February 15, 2020).
- Maximum amount is the lesser of:
    1. 2.5 times average total monthly payroll costs incurred in the one-year period before the loan is made (or for seasonal employers the average monthly payroll costs for the 12 weeks beginning on February 15, 2019, or from March 1, 2019 to June 30, 2019) PLUS the outstanding amount of a loan made under the SBA's Disaster Loan Program (EIDL) between January 31, 2020 and the date on which such loan may be refinanced as part of this new program
    2. Upon request, for businesses that were not in existence during the period from February 15, 2019 to June 30, 2019 – 2.5 times the average total monthly payroll payments from January 1, 2020 to February 29, 2020; PLUS the outstanding amount of a loan made under the SBA's Disaster Loan Program (EIDL) between January 31, 2020 and the date on which such loan may be refinanced as part of this new program;
    3. $10 million.
- Payroll costs are the sum of the following:
    - wages, commissions, salary, payment of a cash tip or equivalent, payment for vacation, parental, family, medical or sick leave, allowance for dismissal or separation, payment for group health care benefits, including premiums, payment of any retirement benefits, and payment of state or local tax assessed on the compensation of employees, or similar compensation to an employee or independent contractor and sole proprietor income.

  - Payroll costs do not include, however: the compensation of any individual employee in excess of an annual salary of $100,000, federal payroll taxes (FICA, RRTA), any compensation of an employee whose principal place of residence is outside the U.S., or any qualified sick leave or family medical leave for which a credit is allowed under the new Family First Coronavirus Response Act passed last week.

› The borrower shall be eligible for loan forgiveness equal to the amount spent by the borrower during the 8 week period (covered period) after the origination of the loan on:
  - Payroll costs (see above definition)
  - Interest payments on mortgages incurred before February 15, 2020.
  - Lease payments on leases in force before February 15, 2020.
  - Utility payments (electric, gas, water, transportation, telephone or internet access) for which service began before February 15, 2020.

› The amount of loan forgiveness is not taxable income.

› Limitation on Loan Forgiveness:
  - Cannot exceed principal.
  - Loan forgiveness will be reduced (not increased):
    - Multiplying the maximum available forgiveness (allowable amount spent during the 8 week period noted above) by
    - Average number of full-time equivalents from the 8 week period divided by the fulltime equivalents :
      - Employed from February 15, 2019 to June 30, 2019 or
      - Employed from January 1, 2020 to February 29, 2020 or
      - (Seasonal Employers), employed from February 15, 2019 until June 30, 2019.
  - For reductions in wages, the forgiveness reduction is a straight reduction by the amount of any reduction in total salary or wages of any employee during the covered period that is in excess of 25% of the employee's salary/wages during the employee's most recent full quarter of employment before the covered period. "Employee" is limited, for purposes of this subparagraph only, to any employee who did not receive during any single pay period during 2019 a salary or wages at an annualized rate of pay over $100,000.
  - There is relief from these forgiveness reduction penalties for employers who rehire employees or make up for wage reductions by June 30, 2020. Specifically, in the following circumstances, the forgiveness reduction rules above will not apply to an employer between February 15, 2020 and 30 days following enactment of the CARES Act –The employer reduces the number of FTEEs in this period and, not later than June 30, 2020, the employer has eliminated the reduction in FTEEs; or there is a salary reduction, as compared to February 15, 2020, during this period for one or more employees and that reduction is eliminated by June 30, 2020 (it is unclear whether this is also intended to be limited to employees who made under $100,000 in 2019).

- Coordination with other tax law changes of the CARES Act
    - A business that receives a Paycheck Protection Program loan is not eligible for the Employee Retention credit. This credit is a refundable payroll tax credit for 50% of wages paid by eligible employers to certain employees during the Covid-19 crisis.
    - A business that receives loan forgiveness under the Paycheck Protection Program is not eligible for deferring the payment of employer social security taxes. Under this provision, 50% of the eligible employer social security taxes are due December 31, 2021 and the remaining 50% is due December 31, 2022.

This letter is general in nature and is not intended to be nor should it be treated as tax advice. Please contact your accountant at Trout CPA if you have specific questions about the following material and how it may affect you.

For questions or assistance, please contact one of our trusted business advisors.

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