

LEGAL UPDATES

Paycheck Protection Program: What to Do After Receiving a Loan

By now, many businesses and individuals have taken steps to apply for a Paycheck Protection Program (PPP) loan available under the Coronavirus Aid, Relief and Economic Security Act (CARES Act) through their lender from the Small Business Association (SBA).

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By now, many businesses and individuals have taken steps to apply for a Paycheck Protection Program (PPP) loan available under the Coronavirus Aid, Relief and Economic Security Act (CARES Act) through their lender from the Small Business Association (SBA). As borrowers start to receive funding there are certain steps to take and things to keep in mind in order to ensure forgiveness will be received for the entire amount of the loan. The amount that is forgiven is not considered income as a result of a discharge of indebtedness for tax purposes, meaning you will not be taxed on the amount forgiven for the taxable year. Any amount of the loan that is not forgiven will be a loan to the borrower on a 1% interest with a two-year maturity.

■ USE THE FUNDS FOR FORGIVABLE PURPOSES

The full amount of the loan will be forgiven if the borrower uses all of the loan funds for forgivable purposes. Additionally, employee and compensation levels are to be maintained. Only 25% of the loan forgiveness amount will be given for non-payroll costs. 75% of the funds will be forgiven when used for payroll costs.

Payroll Costs:

- Salary, wage, commission, or similar compensation
- Payment of cash tip or equivalent
- Payment for vacation, parental, family, medical, or sick leave
- Allowance for dismissal or separation
- Payment required for the provisions of group health care benefits, including insurance premiums
- Payment of any retirement benefit

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- For a sole proprietor or independent contractors: wages, commissions, income, or net earnings from self-employment

Note: Salary, wages, commission, or tips or payments for self-employment are capped at \$100,000 on an annualized basis for each employee.

Not Payroll Costs:

- Independent contractor expenses will not count toward loan forgiveness

Non-Payroll Costs:

- Mortgage interest payments (but not mortgage prepayments or principal payments)
- Rent payments
- Utility payments
- Interest payments on any other debt obligations that were incurred before February 15, 2020
- *If applicable*, refinancing an SBA Economic Injury Disaster Loan (EIDL) made between January 31, 2020, and April 3, 2020. If you received an SBA EIDL in that time frame you can still apply for a PPP loan. If your EIDL was not used for payroll costs, it does not affect your eligibility for a PPP. If your EIDL was used for payroll costs, your PPP loan must be used to refinance your EIDL. If you received an advance from the EIDL, the amount of the advance will be a deduction from the loan forgiveness amount on the PPP loan

KEEP RECORDS OF THE USE OF FUNDS

In order to obtain forgiveness, the CARES Act requires documentation to be submitted to the borrower's lender.

Required Documentation:

- Verification of the number of full-time equivalent employees on payroll and pay rates;
- Payroll tax filings, State income, payroll, and unemployment insurance filings;
- Documentation for cancelled checks, payment receipts, transcripts of accounts, or other documentation verifying payments on covered mortgage obligations, payments on covered lease obligations, and covered utility payments.

TAKE ADVANTAGE OF RELAXED TAX LAWS

You may receive cash refunds based on temporary changes to certain tax laws. Work with your CPA to ensure you are taking advantage of these changes.

Alternative Minimum Tax (AMT). Businesses may claim AMT credits for tax years beginning 2018.

Net Operating Losses (NOLs). Taxpayers may carry back NOLs from 2018, 2019 and 2020 to the prior 5 years.

Business Interest. Taxpayers may deduct additional business interest expenses up from 30% to 50% for tax years beginning in 2019 and 2020.



FILE A REQUEST FOR FORGIVENESS

The PPP loan will provide the borrower funds for an 8 week period. Thereafter, the borrower is to provide the lender with an application for loan forgiveness and no later than 60 days after receipt of the application the lender will issue its determination on forgiveness.

Lathrop GPM tax attorneys are available to discuss any other questions you may have.