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THE PAYCHECK PROTECTION PROGRAM

**Presented by Jonathan Hightower & Kevin Strachan with
Fenimore, Kay, Harrison & Ford, LLP in partnership with
Mauldin & Jenkins, LLC**



TODAY'S PRESENTERS & PANELISTS

Jonathan Hightower

Partner | FKHF

Kevin Strachan

Partner | FKHF

Hanson Borders

Managing Partner | M&J

Jeff Fucito

Partner | M&J

Carl Garner

Partner | M&J

Ryan Inlow

Partner | M&J

205-445-2880

hborders@mjcpa.com

770-955-8600

jfucito@mjcpa.com

770-955-8600

cgarner@mjcpa.com

229-446-3600

rinlow@mjcpa.com

TODAY'S PROGRAM

The Paycheck Protection Program (PPP)

- Overview of Loan Program
- Example
- Eligibility
- Determining Loan Size
- Forgiveness
- Potential Reduction of Forgiveness

SIMPLIFIED EXAMPLE

- Eligible Borrower has an average monthly payroll of \$150,000 over the last 12 months.
- The Borrower applies for a PPP loan with a participating Bank, attests that COVID-19 has impacted its business operations, and submits required documentation.
- The Borrower receives a PPP loan of \$375,000 (2.5x average monthly payroll).
- Over the next 8 weeks the Borrower incurs \$350,000 of eligible expenses (payroll, rent, utilities, interest) and submits documentation to its Bank.
- Borrower submits documentation for \$350,000 in eligible expenses to the Bank, which in turn submits to SBA.
- After 90 days, the SBA forgives \$350,000 of loan.
- Borrower is left owing \$25,000 to the Bank, due over 2 years at 0.5% interest with no payments due for six months.

PPP ELIGIBILITY: WHO CAN GET A LOAN?

- Business concerns with less than 500 employees, including:
 - Nonprofits (501(c)(3));
 - Veterans' organizations (501(c)(19));
 - Tribal business concerns;
- Sole proprietors;
- Self-employed individuals; and
- Independent contractors.

ADDITIONAL ELIGIBILITY REQUIREMENTS

- All applicants must attest that uncertainty related to COVID-19 has made a loan request necessary to support the ongoing operations of their business.
- No requirement that applicant is unable to obtain credit elsewhere.
- Businesses must have been in operation on February 15, 2020.
- SBA has determined a different size standards for many industries; if you have more than 500 employees but fewer than your industry's standard, you are eligible.
- SBA affiliation rules that treat franchisees as one business are not applicable.
- For hotels, bars, restaurants and related businesses, so long as you have fewer than 500 employees at each physical location, you are eligible.

WHERE CAN I GET A PPP LOAN?

- Banks will generally be able to facilitate your ability to get loans.
- Applications may be submitted as soon as Friday, April 3, but have patience – the publicity of the program got ahead of the guidance.
- Be in contact with your banker about how you can best prepare to receive a loan.
- Non-bank lenders may also apply for eligibility.

DETERMINING LOAN AMOUNT

- For most businesses, the maximum loan amount will be 2.5 times the average monthly “payroll costs” of the applicant, measured over the 12-month period before the date of the loan.
- Seasonal employers may choose to establish their average monthly payroll cost based on the 12-week period beginning either February 15, 2019 or March 1, 2019.
- New businesses may use January and February 2020 to establish average monthly payroll costs.
- Maximum loan size is \$10 million.
- Details of exactly how payroll will be calculated, and what support is required, will be forthcoming.

WHAT ARE “PAYROLL COSTS”?

- Employee salaries, commissions or similar compensation
- Cash tips
- Payment for vacation, sick and other leave
- Severance payments
- Payments, including premiums, for group health benefits
- Payment of retirement benefits
- Payment of state/local tax on compensation paid
- For sole proprietors/self-employed, can be compensation paid or earnings/income of business (awaiting further guidance)
- Capped at \$100,000 per year per employee (sole proprietors/self-employed, too)

ALLOWABLE USE OF PROCEEDS

- Borrower may spend the proceeds on:
 - Payroll costs (same definition as before);
 - Utilities;
 - Rent; and
 - Interest on existing mortgage debt.
- Loans are nonrecourse, although the SBA may pursue you for fraud or if funds are used for ineligible purposes.
- Forgiveness of all amounts used for eligible purposes during 8 weeks following loan.

TIMING/MECHANICS OF PPP LOAN FORGIVENESS

- At the end of the 8 week period following the loan, borrower collects documentation of forgivable costs (subject to further guidance on documentation requirements) and submits to the Bank.
- Documentation must also support the number of employees (see Reduction of Forgiveness).
- SBA accepts/denies within 90 days of submission and pays Bank.
- Lender must approve/deny within 60 days.
- Interest continues to accrue during the period between acceptance of documentation and approval of the forgiveness.

REDUCTION OF FORGIVENESS: EMPLOYEE REDUCTION

The amount of loan forgiveness will be reduced due to a reduction in employees in the following amount:

- The amount of payroll costs multiplied by the average number of full time equivalent employees (FTE) in the 8-week period following the loan date, divided by:
 - The average number of FTEs per month from February 15, 2019 to June 30, 2019; or
 - The average number of FTEs per month from January 1, 2020 to February 29, 2020; or
 - For seasonal employers, the average number of FTEs per month from February 15, 2019 to June 30, 2019.
- Example: If you had 10 employees during reference period, and only 8 during covered period, you only receive 80% forgiveness of eligible amounts

REDUCTION OF FORGIVENESS: WAGE & SALARY REDUCTION

The amount of loan forgiveness will be reduced due to a reduction in wages or salary in the following amount:

- For employees who did not earn more than an annualized rate of \$100,000 during any period in 2019, any reduction in wages greater than 25% compared to the most recent full quarter.

REDUCTION OF FORGIVENESS: 25% NON-PAYROLL LIMIT

Although not part of the law, Treasury released guidance on March 31 that they expect to limit the forgiveness of non-payroll amounts (i.e. rent, utilities, mortgage interest) to 25% of the total forgiveness request.

This is due to anticipated level of interest in the program.

WHAT IF I RE-HIRE EMPLOYEES OR RAISE SALARIES?

- If, by June 30, 2020, an employer:
 - Re-hires any full-time equivalent employees that were laid-off between February 15, 2020 and April 26, 2020; or
 - Raises to pre-emergency levels salaries and wages that were reduced between February 15, 2020 and April 26, 2020;
- Then the amount of any loan forgiveness will not be reduced due to the reduction of employees or salaries and wages.

LOAN TERMS

- After loan forgiveness, any remaining principal balance will be converted into a loan with the following terms:
 - 2 year term
 - Deferment of all payments for 6 months
 - Interest rate of 0.5%
 - No prepayment penalty
 - No personal guaranty
 - No collateral
 - No origination or other fees owed by borrower

WHAT DOCUMENTATION MUST BORROWERS PROVIDE?

- Exact requirements have not yet been established.
- However, sufficient documentation to establish average monthly payroll will be required. Most businesses with employees will be expected to provide 941s to their Banks to support maximum loan amount.
- The SBA will publish guidelines regarding other required documentation.
- Sole proprietors/self-employed may face heightened documentation requirements

WHICH SBA LIMITATIONS ARE WAIVED?

- No requirement for borrower to provide collateral.
- No requirement for personal guarantees.
- No requirement to prove that financing cannot be found elsewhere.

OTHER SBA PROGRAMS IN CARES ACT

- Payment Relief: 6 months of payments for existing 7(a) loans (not a deferral—the borrower is never responsible for these amounts).
- Express Program: Temporary increase from \$350,000 to \$1,000,000.
- 7(b) Disaster Loans available (subject to restrictions on double dipping)
- Emergency Injury Disaster Loans (EIDLs): Borrowers applying for 7(b) disaster loans can receive \$10,000 advance in 3 days
 - Any such amounts reduce the amount of a PPP loan for same purpose (no double dipping)
 - If you are denied 7(b) loan, \$10,000 is forgiven.

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Questions

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