COVID-19 & Nonprofits

Understanding Forgiveness Rules for the Paycheck Protection Program

May 21, 2020 at 12:00 pm

Presenters:
Jeff Liang, Ling & Liang PLLC
Stacey Krysnsky, Beneficial State Bank
DISCLAIMER:

This webinar is intended for educational purposes only. This presentation provides information about federal laws impacting small businesses. Legal information is not the same as legal advice (which involves applying laws to particular organizations and their circumstances).

This presentation is not intended to provide legal or financial advice or create an attorney-client relationship. It is always a good idea to consult with a lawyer to obtain advice about how the law should be interpreted based on your particular situation. It’s also a good idea to consult an accountant on the financial questions.

Also, you should be aware that the rules and laws created to respond to Covid-19 are changing quickly, and information in this video may become out of date.

This webinar is based on rules and guidance as of May 21, 2020.
Presenters

Jeff Liang, Ling Liang, PLLC for sharing his experience and knowledge!

Stacey Krynsky, Beneficial State Bank
PPP Forgiveness Rules
Start at The End – Purpose of the PPP

• Businesses or Nonprofits with Employees
  ▪ Vehicle to provide unemployment benefits to employees

• Pay a limited amount of “non-payroll” expenses
  ▪ Utilities, rent, or interest on mortgage
Overview of Forgiveness Rules

- Timing of when payroll and nonpayroll costs are being made
  - Paid OR Incurred

- Reduction Rules
  - Salary/Wage Reduction
  - Average FTE Reduction
  - Safe Harbors

- You are writing a story using numbers
PPP Forgiveness Application – 3 Chapters

• Start at the end of PPP Forgiveness Application
  ▪ Chapter 1: Worksheet
  ▪ Chapter 2: Schedule A
  ▪ Chapter 3: Loan Forgiveness Calculation Form
Forward/Prologue

• What is the 8 week period?
  ▪ Covered Period vs. Alternative Payroll Covered Period

• When can Payroll Costs and Non-Payroll Costs be paid?
  ▪ Paid OR Incurred
8-Week Period of PPP Loan

- Covered Period: 8 weeks starts on date PPP loan is received

- Alternative Payroll Covered Period: For **Payroll Costs only**, you may choose to start your 8 weeks on the first day of the first pay period following receipt of PPP loan
Covered Period

- 5/13/20 PPP funds received

5/13/20 Covered Period Starts

7/8/20 Covered Period Ends
Alternative Payroll Covered Period

• 5/15/20: Payroll begins

5/13/20
Covered
Period
Starts

5/15/20
Payroll
Begins

7/8/20
Covered
Period
Ends
Alternative Payroll Covered Period

5/13/20 Covered Period Starts

5/15/20 Payroll Begins

5/15/20 Alternative Payroll Covered Period Starts

7/8/20 Covered Period Ends
Covered Period vs. Alt. Payroll Covered Period

- Alternative Payroll Covered Period – only Payroll Costs

5/13/20 Covered Period Starts
5/15/20 Payroll Begins
5/15/20 Alternative Payroll Covered Period Starts
7/8/20 Covered Period Ends
7/10/20 Alternative Payroll Covered Period Ends

NOTE: If you don’t use Alternative Payroll Covered Period, then Payroll Costs will be under Covered Period
# Paid or Incurred

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<td>Paid during the Covered Period</td>
<td>Incurred (i.e., owed) on date during Covered Period but paid by its next regular due date even if outside of Covered Period</td>
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Paid Payroll and Non-Payroll Expenses

5/13/20 Covered Period Starts

7/8/20 Covered Period Ends
Paid Payroll and Non-Payroll Expenses

5/13/20
Covered Period Starts

7/1/20
Prepay rent for 8/20 to 12/20

7/8/20
Covered Period Ends
Paid Payroll and Non-Payroll Expenses

5/13/20 Covered Period Starts

7/8/20 Covered Period Ends

7/1/20 Prepay Rent for 8/20 to 12/20
Paid Payroll and Non-Payroll Expenses

5/15/20 Paycheck for 5/1 to 5/14

5/13/20 Covered Period Starts

7/8/20 Covered Period Ends
Paid Payroll and Non-Payroll Expenses

5/15/20
Paycheck for 5/1 to 5/14

5/13/20
Covered Period Starts

Question: Can you issue a paycheck on 5/15/20 to pay for hours worked in April of 2020? How about for hours worked during March of 2020?

7/8/20
Covered Period Ends
Paid Payroll and Non-Payroll Expenses

5/13/20 Covered Period Starts

5/15/20 Paycheck for 5/1 to 5/14

7/1/20 Rent Payment for 7/20

7/8/20 Covered Period Ends
Incurred Payroll and Non-Payroll Expenses

- **Starts**: 5/13/20
- **Ends**: 7/8/20
In incurred payroll and non-payroll expenses:

- **5/13/20**: Covered period starts
- **7/8/20**: Covered period ends
- **7/15/20**: Electricity bill paid
Incurred Payroll and Non-Payroll Expenses

- **5/13/20** Covered Period Starts
- **7/8/20** Covered Period Ends
- **7/10/20** Paycheck for 7/1 to 7/8
- **7/15/20** Electricity Bill Paid
Incurred Payroll and Non-Payroll Expenses

Note: If you are using the Covered Period, it might be easier to end your payroll period on the last day of the Covered Period. Otherwise, you will have to exclude pay for work earned after the Covered Period.

5/13/20 Covered Period Starts

7/13/20 Incurred Payroll and Non-Payroll Expenses

7/10/20 Paycheck for 7/1 to 7/8

7/15/20 Electricity Bill Paid

7/8/20 Covered Period Ends
Case Study: The Food Source (TFS)

• TFS is a nonprofit corporation that is exempt from tax under Section 501(c) (3) of the Internal Revenue Code of 1986, as amended.

• The Food Source is a foodbank that has to cut back on staff due to the impact of COVID-19.
No Tax Deduction

• IRS Notice 2020-32 (5/18/20)
  ▪ PPP loan amounts not included in income (whether forgiven or not)
  ▪ However, you don’t get to take an expense deduction if you get PPP loan funds that are forgiven and used for Payroll or Non-Payroll Costs

• If you use PPP funds to pay $8,000 in payroll and $2,000 in rent, and your PPP loan is forgiven
  ▪ Then you CAN NOT deduct the $8,000 in payroll and $2,000 in rent
Necessity Certification

• SBA issued confusing guidance that PPP applicants must exhaust other “avenues of liquidity that would enable them to support ongoing operations.”
  ▪ This caused panic and confusion as borrowers were being advised to return funds or else face steep penalties
  ▪ This was issued in response to large public and private companies receiving PPP funds
Necessity Certification

• No longer a concern for PPP loans less than $2 million.
• Over $2 million will be subject to audit
• On May 13, 2020, SBA issued guidance stating:

  Any borrower that, together with its affiliates, received PPP loans with an original principal amount of less than $2 million will be deemed to have made the required certification concerning the necessity of the loan request in good faith.
Document List - Payroll

Non-Payroll Costs
- Bank account statements
- Invoices
- Receipts/Cancelled Checks
- Other Proof of Payment
- Copy of Lease with start date
- Lender amortization schedule

Payroll Costs
- Proof of retirement plan contributions
- Proof of health insurance premiums
- Employment Tax Returns (IRS Form 941 and state) for the 8-week period
- 3rd Party Report (Gusto, ADP)
Gross wages for full quarter b/f 8-week period (IRS Form 941)

Gross wages for 8-week period (IRS Form 941)

List of employees with annualized salary > $100K in 2019

Average number of FTEs
- 2/15/19 to 6/30/19
- 1/1/20 to 2/29/20
- 8-week period

List of employees whose principal place of residence is outside of the US
Document List – Not Required to Submit

- List of each employee in Tables 1
- Proof of how you calculated Salary/Hourly Wage Reduction
- Proof of how you calculated FTE Reduction Safe Harbor
- For employees in Table 2, proof that these employees received > $100,000 in compensation
- Documentation regarding job offers, refusals, firings, voluntary resignations, etc.
Thank you!

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