K·COE ISOM
VIRTUAL TOWN HALL
CARES Act and SBA Loan Update

SBA information as of 5/19/2020, subject to changes.
Agenda

✓ PPP Updates
  • Application Updates
  • Forgiveness Application Updates

✓ Tax Updates
PPP Overall Updates

- $513 Billion in loans approved
  - $145 Billion remaining in PPP funds
- Seasonal employer/Partnership loan modification opportunity
- Safe harbor update
Forgiveness Application

- PPP Loans in Excess of $2M: Checkbox to disclose if borrower, together with affiliates, received PPP loans in excess of $2M

- Alternative Payroll Covered Period
  - Eligible if have a biweekly or more frequent payroll schedule
  - Can calculate payroll costs using 8-week (56 day) period beginning on first day of first full pay period following PPP disbursement date.
  - Applies only to payroll costs
  - Example: loan disbursement 4/20 and next pay period begins on 4/26, APCP is 4/26-6/20
  - If elect to use APCP, must use APCP for all payroll-related calculations and documentation, including FTE calculations and salary and hourly wage reductions
Forgiveness-Payroll Costs

- **Payroll Costs: Paid and Incurred**
  - Includes costs paid during the period, meaning checks distributed or ACH originated
  - Can also include costs incurred
    - Incurred on day employee earns pay
    - Costs incurred but not paid during the period are eligible for forgiveness if paid on or before next payroll date.
Forgiveness-Payroll Costs (Cont.)

- **Payroll Costs: Compensation**
  - Must report separately employees who:
    - Earn under $100k
    - Earn over $100k
    - Are employee-owners, self-employed individuals, or general partners.
  - Tables are required, or equivalent statements from your payroll system or processor, disclosing information about each employee.
  - Owners’ compensation is limited at $15,385 per individual during the covered period, and also limited to no more than 8 weeks of 2019 compensation, if less.
  - Required documentation: documents proving payroll costs expended, including bank or payroll provider statements, payroll tax returns, state wage reports, and SUTA reports.
Forgiveness-Payroll Costs (Cont.)

- **Benefits and Non-Cash Compensation**
  - It does not appear that health care and retirement costs for owners are eligible for forgiveness.
  - Worker’s compensation: is not clarified in the instructions.
  - Documentation required: Account statements proving employer contributions to health insurance and retirement plans.
Forgiveness- Non-Payroll Expenses

- Special rule for amounts incurred: Amounts incurred for non-payroll expenses may be:
  - Paid during the period
  - Incurred during the covered period if paid on or before the next regular billing date.

- Example: Borrower receives PPP on April 20, and covered period ends 6/14. Borrower receives electric bill for May usage on June 12, due June 20. Electric bill is a forgivable expense if paid on or before June 20.

- Supporting documents required: payment receipts, canceled checks, copies of lease agreements, lender amortization schedules, utility invoices, account statements
Forgiveness Reduction Due to FTE

- Full-time equivalent based on a 40-hour workweek

- Safe Harbors:
  - If there was not a reduction in the number of FTEs or employees’ average paid hours, comparing 1/1/20 and the end of the Covered Period, Borrower deemed to have not had a reduction in FTEs.
    - If FTEs for pay period that includes 2/15/20 is less than the average FTEs between 2/15/20 and 4/26/20, the employer is not eligible for this safe harbor.
  - If FTEs were reduced during the covered period compared to beginning of 2020, borrower is exempt from forgiveness reduction if their FTEs as of 6/30/20 are equal to or greater than FTEs for the pay period including 2/15/20.
Forgiveness Reduction Due to FTE Cont.

- Three different calculation periods for Average FTEs – Borrowers get to choose the most beneficial *(the number that results in the smallest reduction to FTEs)* of:
  
  - February 15, 2019 through June 30, 2019
  
  - January 1, 2020 through February 29, 2020
  
  - Twelve-week period between May 1, 2019 and September 15, 2019 (available only for seasonal employers)
Forgiveness Reduction Due to FTE Cont.

- Exemptions to FTE Reductions: FTEs are not considered “reduced” if...
  - the borrower made a good faith written offer to rehire an employee, which the employee rejected, and
  - any employees terminated during the covered period were fired for cause, voluntarily resigned, or voluntarily requested and received a reduction of hours.
Forgiveness Reduction due to Salary/Wage

- Three-step process to determine reduction in forgiveness due to reductions in compensation. Must be calculated for each employee earning less than $100k, and documentation retained.
  - **Step 1:** Determine if employee’s pay was reduced by more than 25%
  - **Step 2:** Determine if Safe Harbor test is met – if employee’s pay is restored by June 30, no forgiveness reduction applies for this employee.
  - **Step 3:** Determine wage reduction – this is computed based on average pay for hourly employees, and based on annualized salary for salaried employees.
Business Provisions

- Delay payment of employer payroll taxes
  - Employers and self-employed individuals
  - Defer payment of the employer share of the Social Security tax.
  - Deferral of tax would be paid over next 2 years
  - PPP recipients are eligible to defer taxes from March 27, 2020 through the day their lender issues a forgiveness determination.
Business Provisions

- **Employee Retention Credit**
  - Eligible employers can receive tax credits against applicable employment taxes equal to 50% of qualified wages with respect to each employee for such calendar quarter.
    - Wages for any employee shall not exceed $10,000
    - Limited to employment taxes – but the credit is refundable

- **Employer is not eligible if taking Small Business Interruption Loan.**

- **Effective Date for Wages:** March 12, 2020 to January 1, 2021
  - IRS issued Form 7200 to allow employers to claim the credit – also includes paid leave tax credits covered later.
Business Provisions

- Qualified Wages

- Qualified Wage determination is dependent on the size of the Eligible Employer
  - Employers with >100 Full-Time Employees during 2019
    - Wages paid by the eligible employer to an employee who is not providing services due to loss of business
  - Employers with <100 Employees during 2019
    - Wages paid by the eligible employer to all employees during the eligible period.

- Qualified wages include eligible qualified health plan expenses as are properly allocable to the qualified wages
Business Provisions

**Net Operating Losses**

- Carryback temporarily allowed:
  - For all losses incurred in 2018, 2019, and 2020, 5-year carryback is allowed.
  - Indefinite carryforward still allowed.
  - No 80% cap: NOLs carried back can fully offset prior year taxable income.
  - Quick carryback forms (Form 1139 and 1045) can be used to claim carrybacks.

- Correction for fiscal year returns: 2017 fiscal year returns have a 2-year carryback, but returns must be amended by July 25, 2020.
Business Provisions

- **Qualified Improvement Property**
  - Qualified Improvement Property is now included to have a 15 year life, previously 39 year life.
  - Now eligible for Bonus Depreciation
  - Qualified Improvement Property is any improvement to a building’s interior, excluding: the enlargement of the building, any elevator or escalator, or the internal structural framework of the building.
  - Effective date is for tax years beginning after December 31, 2017
Q&A

Presenters

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