PAYCHECK PROTECTION PROGRAM

The Paycheck Protection Program ("PPP"), which passed as a part of the CARES Act, provides a number of measures to ease the current financial burden on small businesses across the country. In total, $349 billion was allocated by the CARES Act to fund the PPP which will be overseen by the Small Business Administration and administered by private lenders. In general, the PPP significantly broadens and expands the threshold requirements normally in place to qualify for SBA loans including eliminating requirements for guarantees, collateral, fees, and other measures.

Who is eligible?

- Generally, businesses with fewer than 500 total employees — including sole proprietors and 501(c)(3)s.

How much can I get?

- The Maximum Loan Amount available to an eligible business is based on the following calculation:
  - The lesser of, the sum of the product obtained by multiplying:
    - Average total monthly payroll costs over the trailing 1-year period (alternate calculation available for seasonal employers); by
    - 2.5; or
    - $10,000,000.
  - Special calculation available for an applicant not in business from 2/15/2019-6/30/2019.

What is included in "payroll costs"?

- (1) Salary, wages, commissions, cash/tip equivalent, or similar compensation; (2) payment for vacation/ parental/family/medical/sick leave; (3) allowance for dismissal or separation; (4) payments for health care benefits including insurance premiums; (5) retirement benefits; and (6) certain state and local tax payments assessed on compensation of employees.
- Does NOT include (among other exclusions): compensation of individual employees in excess of $100K.

What are the terms of a PPP loan?

- 75% of loan proceeds must be used to pay for Payroll Costs.
- A loan under the PPP will:
  - Have a maximum maturity of 10 years and an interest rate not exceeding 1 percent;
    - Initial payments are deferred for at least 6 months and up to 1 year;
    - Not require: (1) a personal guaranty; (2) collateral; (3) or proof of no credit elsewhere; and
    - Have the potential to be entirely forgivable and tax free (see below).

How can my PPP loan be forgiven?

- The amount eligible to be forgiven is equal to the total: payroll costs, mortgage interest payments, rent, and utilities incurred or paid by a recipient during ("Eligible Costs") expended during the 8-week period following origination of the loan.
- Any amount eligible to be forgiven will be reduced by:
  - (1) a calculation based on any reduction in full-time equivalent employees during the 8-week period; and (2) any reduction in total salary or wages of employees during the 8-week period that is in excess of 25% of total salary and wages for the most recent full quarter.

What must I submit to have my PPP loan be considered to be forgiven?

- A borrower will need to submit to Lender: (1) documentation of payroll costs; (2) proof of payment for Eligible Costs; and (3) a certificate from borrower attesting to the truth of provided documents.

For a more detailed overview of the Act, please click here. It is likely we'll also be issuing industry-specific guidance for our health care and financial institution clients.

This document provides a summary of the PPP and does not exhaustively detail all exceptions and eligibilities. Wyatt Tarrant & Combs, LLP recommends seeking expert advice to consider all unique fact-specific considerations.

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