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SBA Paycheck Protection Program ("PPP") Loans Redux

- **Second Loans to Existing Borrowers;**
- **Residential Coops;**
- **First Loans** (for those late to the party)



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An Outline of the Issues

- 1. Do I qualify?**
- 2. How much?**
- 3. Loan terms?**
- 4. Forgiveness?**
- 5. Timing Issues!**
- 6. Bells, whistles and miscellany.**



Do I qualify?

- 1. Business or 501(c)(3) – expanded to cover residential coops, 501(c)(6), religious entities and some other nonprofits**
- 2. No more than 500/300 employees (first draw v. second draw loans)**
- 3. Covid-related financial hardship**



How Much?

- 1. 2.5 times average monthly “Payroll Costs”**
 - a) **Choice – 2019, 2020, last 12 months.**

- 2. Payroll Costs are costs with respect to employees [1099s - NO] incurred for:**
 - a. **salary, wage, commission, or similar compensation;**
 - b. **payment of cash tip or equivalent;**
 - c. **payment for vacation, parental, family, medical, or sick leave;**
 - d. **allowance for dismissal or separation;**
 - e. **payment required for the provisions of group health care benefits, including insurance premiums;**
 - f. **payment of any retirement benefit; or**
 - g. **payment of State or local (BUT NOT FEDERAL) tax assessed on the compensation of employees**

MINUS . . .



Deductions from “payroll costs” before the 2.5x multiplier

1. **Compensation of an employee over \$100,000 during the year, prorated. “Compensation,” is more than “salary.”**
2. **Employees whose principal residence is outside of the United States.**
3. **Certain federal taxes (employer payments)**
4. **Sick leave or family leave with tax credit under the original federal Coronavirus stimulus.**



Loans Terms

- 1. 1% interest rate, not compounded, not adjustable.**
- 2. 5 year maturity**
- 3. No payments until after forgiveness is determined**
- 4. Unforgiven portion payable over remainder of term**
- 5. Loan is from a bank or other SBA approved Lender**
- 6. No personal guarantee and no collateral**
- 7. 100% SBA guaranteed**
- 8. No fees to borrower**
- 9. Paying the loan back if not forgiven – installments – bank makes it own rules – no federal requirements**



Special Rules for Second Bite at the Apple Borrowers

- 1. Must spend first initial loan on permissible expenses before second loan disbursement**
- 2. 25% reduction in gross receipts for one quarter from 2019 to 2020 (*exclude forgiveness*).**
- 3. Document reduction NOW if loan >\$150,000; at forgiveness if <\$150,000.**
- 4. If SBA is investigating forgiveness, loan may be delayed**
- 5. Process is generally the same**
- 6. Forgiveness determination period is more flexible**
- 7. Additional exclusions – Chinese companies/lobbying and political firms/public companies**
- 8. Payroll cost calculation – either 2019 OR 2020**
- 9. Max loan - \$2,000,000**



Residential Coops

- 1. No longer debatable – definitely qualify**
- 2. Must certify eligibility and hardship**
- 3. Expressly authorized by statute**
- 4. Types of Covid-related financial hardship for coops**
- 5. Corporate governance and approval**
- 6. Formal board resolution for the lender**
- 7. Covenants in existing loan documents – are you prohibited from borrowing?**
- 8. PEOs – Employees provided by others (*depends on the facts*)**
- 9. Ownership concentrations**



Forgiveness

- 1. Loan Principal is forgiven in an amount equal to:**
 - a. All costs incurred **AND** payments made during the 8 weeks/24 weeks/anything in between after the loan is funded for:**
 - i. Payroll costs.**
 - a) For operating business, this should cover it without worrying about other items.
 - b) 24/52 > 2.5/12
 - ii. Payment of interest on “mortgage” loan incurred before February 15, 2020**
 - iii. Payment of rent on a lease created before February 15, 2020**
 - iv. Utility payments on utilities for which service began before February 15, 2020**
 - v. Other miscellaneous lobbyist-favored expenses – should not be relevant.**
- 2. 60% rule – use for payroll costs**
- 3. Forgiveness may be reduced for . . .**



Reduction in Forgiveness

- 1. Reduction in FTEEs - did you fire people?**
- 2. Reduction in Salary – did you reduce anyone’s salary by 25%**
- 3. Calculating either reduction is complicated so be careful.**

Where Can I Get a Loan?

- 1. All FDIC insured banks – If they elect to participate.**
- 2. Other lenders that are approved by the SBA**
- 3. If you have a first loan – go back to the same lender**
 - a) Administratively simpler due to documentation requirements**
- 4. Our recommendations**
 - a) Talk to your existing bank to see if they are participating**
 - b) If not, call us. We have bank clients that are interested**



Miscellaneous

1. **New first loan borrowers**
2. **Forgiveness is NOT reduction of indebtedness income.**
3. **Expenses paid with forgiven debt ARE deductible**
4. **Stay tuned – the SBA likes to change the rules in the middle of the game**
5. **Special rules for tipped employees**
6. **Must submit documentation to get forgiveness.**
 - a. **Document every cent you spend as you spend it**
7. **Questions? Contact info on next slide (or find it at gdblaw.com) – email questions to us**
8. **Can I get a copy of the slides?**
 - a) **Request by email**



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