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**Your PPP Loan Forgiveness Will Probably be Less Than Anticipated**

**Article Highlights:**

- Paycheck Protection Program
- Loan Terms
- Loan Amount
- Loan Forgiveness
- Reduction in Pay
- Decrease in Employees
- Qualified Expenses Limitation
- Documenting Forgiveness

Now that you have gotten a Paycheck Protection Program loan (PPP), it is time to start planning how to spend the loan proceeds so some portion of the loan will be forgiven.

As the loan title implies, the purpose of the loans is to enable employers to keep their employees on staff and maintain their normal rates of pay during the 8-week period immediately following the funding of the loan. The term of a PPP loan is 2 years at an interest rate of 1%, and any portion of the loan not forgiven must be repaid at the end of the 2-year period.

If you recall, when applying for the loan, you were required to provide documentation to verify your average monthly payroll for the 12-month period preceding your application. However, for calculation purposes, each employee's payroll for a year had to be limited to a maximum of $100,000. If your company was not in business and paying employees by February 15, 2019, it was considered a "new" business and the average monthly payroll was based upon the average payroll for January and February 2020. Other special testing periods are used for seasonal businesses.

Since self-employed individuals are not included on payroll, the amount a self-employed individual includes in the average monthly payroll computation is 1/12 of the business's net profits (subject to the same $100,000 limit that is applied to an employee's annual compensation).

Regardless of how your business's average payroll was determined, the PPP loan amount is based on 2.5 times the average monthly payroll as determined by one of these methods.

> ***Example:*** *Assume your business was not new or seasonal and the loan was applied for on May 1, 2020. You would have added up your company's payroll for the prior 12 months, May 2019 through April 2020 (subject to the $100,000 limit per employee), and then divided the sum by 12. Assuming the result totaled $80,000, you would have qualified for a PPPL of $200,000 (2.5 x $80,000) at 1% interest, all due and payable in 2 years.*

These loans are partially forgivable if they are used for the intended purpose of keeping your employees employed during the 8 weeks following the funding of the loan. It is important to be aware of how forgiveness is determined so you can maximize loan forgiveness for your particular circumstances. It may seem simple on first glance, but this is before taking into consideration all of the minutiae built into the loan forgiveness computation that will reduce the forgiveness.

- **Reduction of Pay** – You must determine any reduction in pay that is in excess of 25% on an employee-by-employee basis. These reductions in excess of the 25% will reduce the forgiveness amount dollar for dollar. There is no reduction in pay for an employee whose reduction is restored by June 30, 2020.

- **Decrease in Employees** – Where the average number of employees has been reduced during the 8-week period as compared to a prior testing period, the forgiveness is proportionally reduced. For example, if there were an average of 10 employees during the testing period and an average of 9 during the 8-week period, then the forgiveness will be reduced by 10%. You will be able to choose either January 15 to June 30, 2019 or January 1 to February 29, 2020 as your testing period.

- **Limitation of Expenses Other than Payroll** – Although the loan proceeds are primarily intended for maintaining payroll, other qualified uses include rent, lease, business interest and utility payments in force before February 15, 2020. However, these expenses are limited to 25% of the forgiven debt.

There are other complications involved in determining the forgiveness as well.

Determining a loan's forgiveness starts with the sum of the payroll and expenses for the 8-week period and then is reduced for each of the items above. As you can see, it is not as simple as some would have you believe, and the forgiveness is not automatic.

When applying for these loans, borrowers were required to make a good faith certification that there was a need for the loan. Originally the Treasury had indicated that every loan certification would be audited. However, the Treasury has since come up with an "economic uncertainly" safe harbor for loans of less than $2 Million, under which the borrowers of these loans will be considered as having made the required certification concerning the necessity of the loan request in good faith.

For loans of $2 million or more, the Treasury Department is giving businesses until May 18, 2020 to return the funds to avoid an audit concerning the good faith certification. For the businesses that return the funds by May 18, the Treasury will not pursue administrative enforcement or make referrals to other agencies. In addition, in an audit, where the SBA finds that the borrower's certification lacked an adequate basis for the necessity of the loan the Treasury will not pursue administrative enforcement if the borrower returns the funds after notification by the SBA.

Borrowers that do return the loan proceeds will be eligible for the employee retention credit

This office can assist you in planning your expenditures to maximize your loan forgiveness based upon government guidelines. Please call for a telephonic appointment.