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U.S. Treasury Issues New Guidelines for the SBA Paycheck Protection Program - *Client Newsletter*

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The Coronavirus Aid, Relief, and Economic Security (***CARES***) Act has been signed into law, and just yesterday the U.S. Department of the Treasury issued guidance for the new Paycheck Protection Program (PPP). Under the $349 billion stimulus program, the U.S. Small Business Administration (SBA) will administer direct loans of up to $10 million through participating lenders to small businesses and nonprofit organizations across the nation.

If your business is impacted by the outbreak of coronavirus disease 2019 (COVID-19), you should call your lender now to confirm their participation in the program and compile the records needed to submit your application. Your lender should confirm the required documentation, but at a minimum you should expect to submit support for your payroll costs to determine your maximum loan amount.

When can I apply?

- Starting April 3, 2020, small businesses and sole proprietorships can apply for and receive loans to cover their payroll and other certain expenses through existing SBA lenders.Starting April 10, 2020, independent contractors and self-employed individuals can apply for and receive loans to cover their payroll and other certain expenses through existing SBA lenders.

Who is eligible for these loans?

Just about all businesses and nonprofit organizations with no more than 500 employees, sole proprietorships, and independent contractors are eligible for these loans if they were in operation on February 15, 2020 and had employees or paid independent contractors. Certain businesses in certain industries may be eligible for these loans even with more than 500 employees.

What is the amount and key terms of each loan?

The amount of each loan is based on the recipient's payroll costs per month (averaged over the course the previous year) times 2.5—up to a maximum amount of $10 million. Under the Treasury guidance issued yesterday, the interest rate for these loans is fixed at 0.50 percent, and the loans are due after two years. All payments are deferred for 6 months, however, interest will continue to accrue over this period. No collateral or personal guarantees are required. It is anticipated the SBA will be issuing it's PPP Guide with more details later today.

"Payroll costs" are the sum of all payments of any compensation, which includes payments for:

- Salaries, wages, commissions, or similar compensation;
- Cash tips or equivalents;
- Vacation, parental, family, medical, or sick leave;
- Allowances for dismissals or separations;
- Group health care benefits, including insurance premiums;
- Retirement benefits; and
- State or local taxes assessed on the compensation of employees.

What are the allowable uses of these loans?

Recipients can use the proceeds of these loans for their:

- Payroll costs;
- Costs related to the continuation of group health care periods during periods of paid sick, medical, or family leave, and insurance premiums;
- Employee salaries, commissions, or similar compensation;
- Payment of interest (but not principal) on mortgage obligations;
- Rent (including rent under a lease agreement);
- Utilities; and
- Interest on debt obligations incurred before February 15, 2020.

How much of these loans can be forgiven?

A recipient can seek loan forgiveness equal to the amount the recipient spent on the following items during the eight week-period beginning on the loan origination date:

- Payroll costs;
- Payments of interest (but not principal) on covered mortgage obligations (incurred before February 15, 2020);
- Payments on covered rent obligations (under lease agreements in force before February 15, 2020); and
- Covered utility payments (for electricity, gas, water, transportation, telephone, or internet access services that began before February 15, 2020).

Due to expected high subscription, the U.S. Treasury anticipates that not more than 25 percent of the forgiven amount may be for non-payroll costs.

Furthermore, if the recipient has furloughed or laid off employees or reduced their compensation, this amount is subject to certain reductions. Nevertheless, if the furloughs, layoffs, or reductions in compensation occurred between February 15, 2020 and April 26, 2020 (30 days after the ***CARES*** Act was enacted), then the amount of forgiveness is not subject to reduction if the recipient eliminates the furloughs, layoffs, or reductions in compensation no later than June 30, 2020.

Please click here for a recent article from our firm for more information. In the meantime, our team at Pashman Stein Walder Hayden is available should you have any questions about the ***CARES*** Act or its impact on your business. Please feel free to reach out to Frank Huttle or your usual Pashman Stein Walder Hayden attorney.