Loan Forgiveness Update

May 26, 2020

and

May 27, 2020

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The information presented here should not be construed as legal, tax, accounting or valuation advice. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

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Speaker Introductions

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PPP Loan Forgiveness Eligible Expenses

Loan forgiveness – cost during 8 week period beginning on loan disbursement date

- Payroll Costs (gross wages <$100,000, vacation/sick leave, employer paid group health care and retirement benefits, SUTA) – at least 75% must be this category
  - Wages
    - Alternative Payroll Covered Period – first day of next pay period (eligible if payroll schedule is bi-weekly or more frequent only)
    - Amounts paid or incurred during 8 week (56 day) period
      - Payroll costs are considered incurred on day employee's pay is earned
      - Payroll costs paid in the first regular payroll period after the 8-week period are allowed
    - Owner-employees, self-employed individuals and self-employed partners
      - Maximum compensation is 8/52 of 2019 compensation
    - Presently no guidance on any limit on increasing employee's wages; therefore it appears to be allowed.

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PPP Loan Forgiveness Eligible Expenses

- Payroll Costs (continued)
  - Health Insurance
    - Paid or incurred during 8-week period
    - Includes self-insurance
    - Reduced by employee contributions
    - It appears accrued costs paid during the 8-week period will count toward forgiveness (additional guidance may be forthcoming)
  - Retirement
    - Paid or incurred during the 8-week period
    - No limitation outlined in forgiveness application
    - It appears accrued costs paid during the 8-week period will count toward forgiveness (additional guidance may be forthcoming)
  - Employer-level state taxes
    - Amounts paid by the borrower assessed on employee compensation
    - State withholding taxes are not included

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PPP Loan Forgiveness Eligible Expenses

- Non-Payroll Costs
  - Eligible expenses limited to the following:
    - Rent or lease payments in place prior to February 15, 2020
    - Interest on mortgage obligation (real or personal property) in place prior to February 15, 2020
    - Utilities (electricity, gas, water, telephone, internet and transportation)
  - Must be paid or incurred during 8-week covered period and paid on or before the next regular billing date
  - No pre-payments are forgivable
  - Borrowers can elect to exclude any amount of non-payroll costs as part of their loan forgiveness application

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Front-end Documentation and Calculations

- Need proper documentation for loan forgiveness
- Document the expense's existence as of 2/15/2020
  - Utilities, health insurance
    - Copy of the February bill that includes 2/15
  - Rent – copy of the lease
  - Mortgage Interest – copy of the note
  - Retirement – copy of the plan document
- Do your look-back calculations
  - Full-time equivalents (2 different periods)
  - Last full quarter average wages per employee

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Reductions in Loan Forgiveness (FTEs)

- Decrease in FTE headcount during 8 week period
  - Uses a 40-hour workweek as a base
  - Any employee working less than 40 hours is a fractional employee (rounded to nearest tenth) or borrowers can elect to count all part-time employees as ½ FTE
  - Two look back periods for FTE threshold
    - Average monthly FTE for
      - 1/1/20 - 2/29/20 or
      - 2/15/19 - 6/30/19
      - Pick the lower one for your threshold
  - Meet / exceed that FTE during 8 weeks or part of loan is not forgiven
  - FTE Safe Harbor - If re-hire to the 2/15/20 FTE level by June 30th no reduction in forgiveness
  - No penalty if offer to return to work is denied (in writing), terminated for cause, voluntarily resigned or requested reduction of hours

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Reductions in Loan Forgiveness (Wages)

- Decrease in an individual employee's wages
  - Can't drop anyone's wages more than 25%
  - Exception for those making > $100k
    - Excluded from wage reduction calculation
  - Look at the employee's avg wages during the period 1/1/20-3/31/20
    - Pay them at least 75% of that amount during the 8 week period
  - Wage Reduction Safe Harbor – If the employee's annualized wages from February 15 – April 26, 2020, are less than the annualized wages on February 15, 2020 (because wages were reduced during this period), and the employee's June 30, 2020, annualized wages are greater than or equal to the employee's February 15, 2020, annualized wages, loan forgiveness does not need to be reduced for this calculation.

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Accumulating Documentation Incurred and Paid

- For each qualified expense – show it is *incurred*
  - Enter it into your tracking spreadsheet
  - Retain the supporting document (wage report, utility bill)
    - Ensure the document ties or reconciles to the payment made
  - Build your file as you go along
    - You can always remove expenses / documents if they are no longer relevant after we receive guidance
- For each qualified expense – show it is *paid*
  - Bank / credit card statement, ACH or wire receipt, cancelled checks, bank transcripts, etc. showing the payment
    - May need to reconcile gross wages to cash disbursements
      - Payroll is disbursed as net wages and taxes (include both employee vs employer)
- The SBA Forgiveness Application lists specific documentation that must be included with the application, and additional documentation that must be retained for 6 years

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Example Expense Tracker

PPP Loan Forgiveness Expense Tracking			
Loan Amount	100,000.00		
Loan Funding Date	5/1/2020		
8 weeks ends	6/25/2020		
Description	Vendor	Date	Amount
Payroll	Employees	5/1/20	20,000.00
Health Ins withheld	Employees	5/1/20	(2,000.00)
Rent	Landlord	5/1/20	3,000.00
Telephone	Phone Co	5/10/20	650.00
Electric	Elec Co	5/10/20	900.00
Payroll	Employees	5/16/20	20,000.00
Health Ins withheld	Employees	5/16/20	(2,000.00)
Internet	Company	5/20/20	250.00
Health Insurance	Insurance Co	5/20/20	8,000.00
Retirement match	Investment Co	5/25/20	1,200.00

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Example Expense Tracker

Gross Wages	Company Paid Only Health Ins	Company Paid Only Retirement	Building Rent	Other Rent	Mortgage Interest	Electric	Gas	Water	Telephone	Internet	Trans-portation	Check Figure
20,000.00												-
	(2,000.00)											-
			3,000.00									-
									650.00			-
						900.00						-
20,000.00												-
	(2,000.00)											-
										250.00		-
	8,000.00											-
		1,200.00										-

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Example Expense Tracker

PPP Loan Forgiveness Expense Tracking																
Loan Amount	100,000.00															
Loan Funding Date	5/1/2020															
8 weeks ends	6/25/2020															
				Gross	Company Paid Only		Building	Other	Mortgage						Trans-	Check
Description	Vendor	Date	Amount	Wages	Health Ins	Retirement	Rent	Rent	Interest	Electric	Gas	Water	Telephone	Internet	portation	Figure
Payroll	Employees	5/1/20	20,000.00	20,000.00												-
Health Ins withheld	Employees	5/1/20	(2,000.00)		(2,000.00)											-
Rent	Landlord	5/1/20	3,000.00				3,000.00									-
Telephone	Phone Co	5/10/20	650.00										650.00			-
Electric	Elec Co	5/10/20	900.00							900.00						-
Payroll	Employees	5/16/20	20,000.00	20,000.00												-
Health Ins withheld	Employees	5/16/20	(2,000.00)		(2,000.00)											-
Internet	Company	5/20/20	250.00											250.00		-
Health Insurance	Ins Co	5/20/20	8,000.00		8,000.00											-
Retirement match	Inv Co	5/25/20	1,200.00			1,200.00										-
Payroll	Employees	6/1/20	20,000.00	20,000.00												-
Health Ins withheld	Employees	6/1/20	(2,000.00)		(2,000.00)											-
Rent	Landlord	6/1/20	3,000.00				3,000.00									-
Telephone	Phone Co	6/10/20	650.00										650.00			-
Electric	Elec Co	6/10/20	900.00							900.00						-
Payroll	Employees	6/16/20	20,000.00	20,000.00												-
Health Ins withheld	Employees	6/16/20	(2,000.00)		(2,000.00)											-
Internet	Company	6/20/20	250.00											250.00		-
Health Insurance	Ins Co	6/20/20	8,000.00		8,000.00											-
Retirement match	Inv Co	6/25/20	1,200.00			1,200.00										-
																-
																-
Total			100,000.00	80,000.00	8,000.00	2,400.00	6,000.00	-	-	1,800.00	-	-	1,300.00	500.00	-	-
Payroll costs				90,400.00												
Payroll cost percentage - needs to be >75%				90.4%												

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Common Questions

A complete list of questions, the slides and the recording of this webinar will be available on the Marcum Coronavirus Resource Center.

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Common Questions

For health care providers such as nursing homes, what employees are included in the FTE calculations? Would all employees be counted regardless of hours worked or would employees only be counted if they were over 30 hours?

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Answers

All employees can/should be included in the FTE calculations. Employees who work 40 hours or more are considered one FTE, employees under 40 hours are a fraction of an FTE (divide the number of hours worked by 40 and round to the nearest 10th. Or you can choose to have all employees that work less than 40 hours be considered 1/2 FTE.

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Common Questions

Do we have a choice on how we can handle sick pay? For all payroll that is paid as part of the sick leave act and if you did NOT take the payroll tax credits up to the limits provided, would you be able to count all this payroll toward our PPP calculations in our "payroll costs"?

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Answers

You can include sick pay in your eligible payroll costs for PPP as long as you did not, or do not, take the credit under the FFCRA.

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Common Question

Is there another opportunity to apply for the loan if both windows were missed?

Answer

The loans are available until June 30th or until the funding runs out. It is our understanding some banks are still accepting applications. At this point it is unclear if there will be another round of funding.

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Common Questions

Our “Alternative Payroll Covered Period” started the first day of the payroll period that follows funding. The payroll period that concluded Tuesday, will be paid on Friday (which is three days into the Alternative Payroll Covered Period). Would this be paid within the 8 weeks (even though it relates to a period outside of the APCP) and presumably would be included. It effectively pushes us to 10 weeks of payroll rather than the 8 weeks that we have all been talking about? Is this correct?

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Answers

You are only eligible to use the alternative payroll covered period if you pay your employees bi-weekly or more frequently. The forgiveness application, in effect, allows cash basis reporting/eligibility on the front end of the 8 week period and accrual basis on the back end, so it is possible you may be able to have 10 weeks of payroll eligible for forgiveness.

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Common Questions

The guidance discusses 25% reduction in “Average Annual Salary or Hourly Wage”. The use of the term hourly wage in this guidance leads one to believe that it should NOT to include as furloughed time (which would drastically bring down all averages for those that did not work for the entire 8 week period) when coming up with the average over the APCP.

Do you agree on excluded furloughed time, so that the average is geared towards “rate of pay” rather than average weekly compensation.

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Answers

If you paid employees during the 8 week period and paid them at least 75% of their hourly rate (rate paid during the period 1/1/20-3/31/20) using an average number of hours, even if they were not working, you should not have your amount eligible for forgiveness reduced. If you did not pay these people during the 8 week period, then you would not include them and it could reduce your average. But remember averages are per employee and there are exceptions for employees that refused to come back to work if offered.

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Common Questions

How is PTO time and cash outs handled? If earned in a prior period, but to be paid within the covered period is that included in the forgiveness?

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Answers

The guidance does not specifically address PTO payouts where the employees are working and receiving a wage (if not working and taking PTO these are eligible payroll costs for forgiveness), however, it appears that these payments may be eligible for forgiveness if paid within the 8 week period and earned prior to or during the period, but not after. The total paid to any one employee during the 8 week period cannot exceed $15,385.

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Common Questions

What is covered under “Utilities”? Can you expense out Pest Control, Waste Removal, Land Phone Expenses, Cellular Phones, Fire/Alarm, etc?

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Answers

Utilities include electricity , gas, water, transportation (so far defined as fuel for business vehicles), telephone (cellular and landlines) and internet access. They do not include pest control, waste removal or fire/security alarm monitoring costs.

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Common Question

Which payroll taxes are deductible?

Answer

Employer paid state and local taxes assessed on employee wages such as state unemployment taxes or state disability payments are eligible expenses for forgiveness.

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Common Question

FTE period comparisons on PPP Schedule A Worksheet : average FTE 2/15/20 – 4/26/20 vs. pay period that includes 2/15/20.

Why no choice – must use the higher FTE number?

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Answer

This calculation relates to the safe harbor only. If you do not meet this safe harbor you must then determine if your forgiveness will be reduced based on FTE reductions as compared to a lookback period of either 2/15/19-6/30/19 or 1/1/20-2/29/20 (borrower choice). You can choose the lower of these two lookback periods to compare to your 8 week FTE average.

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Questions and Answers

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