Spielman Koenigsberg & Parker, LLP
CERTIFIED PUBLIC ACCOUNTANTS

Paycheck Protection Program – Loan Forgiveness

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With loan proceeds starting to be disbursed, it is important to consider how to ensure the highest forgiveness amount possible. As of this writing, we still do not have the final rules on how the forgiveness provisions will work, but we do have the statute and subsequent interim rules and FAQ's to give us some level of guidance. Here is a look at the details, as best we know it:

1. For the 8-week period beginning on the date loan proceeds were received, at least 75% must be spent on "Payroll Costs" as defined below.
2. Up to 25% may be spent on interest on covered mortgage obligations that existed as of 2/15/20, covered rent obligations for a lease agreement that existed as of 2/15/20, and covered utility payments.
3. There has been no guidance as to whether payroll and qualified non-payroll costs will be calculated on a cash or accrual basis. You may need to consider a partial period payroll, early funding of retirement benefits, and early bill payment if a cash basis method is required.
4. Loan forgiveness may be reduced if there are reductions to the number of full-time equivalent employees (may be disregarded if employees are reinstated by June 30, subject to stipulations).
5. Loan forgiveness may be reduced if individual employees earning less than $100,000 per year are subject to a salary reduction of greater than 25% (may be disregarded if employees are reinstated by June 30, subject to stipulations).
6. Loan forgiveness should be requested from your lender that is servicing the loan and you will need to provide supporting documentation to verify the number of employees on payroll and pay rates (including payroll tax filings) and to verify payments of covered mortgage obligations, rent obligations, and utilities.

The following amounts are included in "Payroll Costs", which must make up at least 75% of the loan use for forgiveness (note: these are the same "Payroll Costs" that were used for loan application):

1. Gross wages capped at $100,000 annualized per employee. For each employee with a salary of greater than $100,000, the amount spent on their gross wages for the 8-week period that may be forgiven is calculated as $100,000 * 8/52 = $15,385.
2. Payments for group health care benefits and employer contributions to defined-benefit and defined-contribution retirement plans. This is not subject to the above $100,000 cap for an employee.
3. Medical or sick leave excluding sick or family leave for which tax credits are allowed under the Families First Coronavirus Response Act.

Loan forgiveness can be further reduced if there is a decrease in full-time employees. This decrease is calculated as follows:

1. Compare average number of full-time equivalent (FTE) employees per month during the lesser of (a) 2/15/19 - 6/30/19 or (b) 1/1/20 - 2/29/20 to the number of FTE per month in the 8-week period starting from the loan disbursement date. By way of example, if the lesser of (a) or (b) is 100 and the number of FTE per month in the 8-week period is 90, the amount of the loan that can be forgive is reduced by 10%.
2. The number of FTE employees can be based upon your standard work week (i.e., 30 hours, 37.5 hours, 40 hours, etc.) and there appears to be flexibility as long as you use the same measurement for the pre-loan and post-loan calculation.
3. This calculation can be disregarded if a layoff occurred 2/15/20 - 4/26/20 and the employee is reemployed by 6/30/20. More guidance related to this relief is needed from the Treasury.

Loan forgiveness can also be further reduced if there is a decrease in salaries of employees earning less than $100,000 per year. This decrease is calculated as follows:

1. Determine any employee that did not earn wages at an annualized rate of $100,000
2. Calculate 25% of last full quarter worked
3. Subtract amount paid in last full quarter (on an 8-week basis) from amount paid in covered period (8 weeks post loan origination)
4. If (3) < (2) then no impact on forgiveness. If (3) > (2) then forgiveness reduction is equal to the amount in excess of 25%
5. This calculation can be disregarded if the salary is increased to the 2/15/20 level by 6/30/20.

The above calculations will be straight-forward for some clients and complicated for others, depending upon your circumstances. We would recommend creating an 8-week budget to determine how the proceeds will be spent to ensure maximum forgiveness. If business realities are such that you are unable to achieve 100% forgiveness, do remind yourself that, at worst, this is a 1% loan with a two-year payback period with no collateral, no prepayment penalty and no personal guarantee.

As always, Spielman Koenigsberg & Parker, LLP is here to assist you with your needs to ensure you qualify and are properly applying for all eligible COVID-19 relief. Contact us for further guidance.