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Paycheck Protection Program Loan Forgiveness

Businesses fortunate enough to receive a Paycheck Protection Loan (“PPP”) under the CARES Act are now asking, “what do I need to do to get this loan forgiven?” That answer gets more complicated as the days roll on without guidance from the Small Business Administration (“SBA”). Recall there were numerous changes/interpretations applicable to the application process as the application deadline neared.

Here is what we know so far:

- How must PPP funds be used to be forgiven?
 - PPP funds must be used on payroll, mortgage interest, rent, and utilities during the 8-week period following PPP loan funding.
 - No more than 25% can be spent on non-payroll costs [i.e. mortgage interest, rent, and utilities].
- Can PPP forgiveness be affected by not returning employees to work?
 - Yes. A reduction in Full Time Equivalent (“FTE”) employees during the Covered Period¹ will reduce the forgivable amount.
- Is there a calculation for the forgiveness amount? See attached interactive Excel document to run your own numbers.
 - $A = B(X/Y)$
 - A = Loan Forgiveness Reduction
 - B = Loan Amount
 - X = Average monthly FTEs during Covered Period [8 weeks after loan funding]
 - Y = Average monthly FTEs during either:
 - 2/15/19 and 6/30/19 **OR**
 - 1/1/20 and 2/29/20
 - Note: Reductions in FTE employees between 2/15/20 and 4/26/20 may not count if, by 6/30/20 the FTE employee count is equal to the count on 2/15/20. You can re-hire old employees or hire new employees to meet this.

Here is what we hope the SBA regulations will clarify:

- How should FTE employees be counted? Is the FTE employee count based on headcount, FT or PT classification, hours worked per employee, total hours worked divided by 40, etc.?

¹ The term “covered period” means the 8-week period beginning on the date of the origination of a covered loan.

- Are people that have voluntarily quit counted against the employer for purposes of forgiveness?
- How long do people have to work to count as an FTE employee?
- Will PPP loan forgiveness be included as gross income for state and local income tax purposes?
- Are costs and expenses paid with forgiven PPP funds deductible for federal and state income tax purposes?

Stokes Wagner will continue to monitor PPP administration and keep you updated on developments.

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