April 4, 2020

IMPORTANT info on PPP from Mario at Kreischer Miller.

Thursday night the Small Business Administration (SBA) issued additional guidance for the Payroll Protection Program in the form of an interim final rule, which can be accessed on the SBA's website here.

The interim final rule outlined additional implementation guidelines and requirements for the program. It stated that the interest rate on the loans would be increasing from the previously announced 0.5 percent to 1.0 percent. It also provided additional clarity to calculate payroll costs. And, it noted that the SBA will allow lenders to rely on a borrower's documentation to determine whether the borrower is eligible for the loan as well as for loan forgiveness. Lenders are able to accept e-signatures and e-consents.

Additional highlights:

- Loans are on a first-come, first-served basis.
- Interest on the loan for the first six months may be forgivable.
- The Act and the interim final rule indicate that, for purposes of determining average monthly compensation and the resulting maximum loan amount, payroll costs are limited to $100,000 per employee on an annualized basis. There has been confusion about whether that $100,000 limitation applies to wages and salaries, or whether it applies to the aggregate of wages, salaries and other benefit costs. We have seen a lack of consistency from lender to lender, so it is important to consult with your lender to ensure that calculations conform with their interpretations of the limitation.
- The interim final rule contains conflicting language regarding the period that should be used as a basis for determining average payroll costs and the resulting maximum loan amount. Section 2d of the Rule, which illustrates the calculation of the maximum loan amount, states that it is based upon, “aggregate payroll costs…from the last twelve months." However, in Section 3biii which describes what lenders have to do during underwriting, the rule states that the lender shall, “confirm the dollar amount of average monthly payroll costs for the preceding calendar year…” As a result, borrowers will need to determine how their lenders intend to apply the rule. To ensure timely completion of the application, we recommend you consider accumulating payroll costs for both calendar year 2019 and the most recent 12 month period.
- The rule also indicates that FICA and federal withholdings during the period from February 15, 2020 through June 30, 2020 should be deducted from payroll costs when determining average monthly payroll.

Yesterday marks the first day for businesses to apply for Paycheck Protection Program loans. As of the time of writing, many banks have still not gone online with their loan application process, as they continue to sift through the details of the program and prepare their systems and staff.

We are committed to helping you as you navigate the Paycheck Protection Program loan application process. If you need assistance determining eligibility, loan amounts, or other terms, please **contact us**. **We also encourage you to reach out to your lender as soon as possible**

We recently hosted a webinar which covered key provisions of the Paycheck Protection Program, aspects of the related Loan Forgiveness, and how to prepare for the loan application process. If you missed it, you can watch the rebroadcast **here**.

As a reminder, there are also a number of business tax provisions in the CARES Act designed to provide immediate relief for businesses impacted by COVID-19, including payroll tax deferral. You can read more about these business tax provisions **here**. We are also hosting a webinar on key business tax provisions of the CARES Act on Monday, April 6 at 9:00am. **You can register for the webinar here**.

are in this together!

Stay well,

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