Q&A ON PPP LOAN FORGIVENESS

Co-hosted by
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ABAW is Washington State's largest voluntary bar association of Asian attorneys. Formed in 1987 by a small group of Seattle area attorneys, ABAW now counts hundreds of member attorneys, judges, professors, and law students in a wide range of practice areas and locations in the state of Washington and throughout the country.

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NOTICE: All materials in this presentation and provided to you are informational. Any answers to questions will not be considered legal or tax advice.

Also, you should be aware that the SBA will issue rules covering PPP loan forgiveness. The materials and information in this webinar are based on current requirements that are known to the public.

DO NOT rely on this webinar as the final authority for PPP loan forgiveness.
AGENDA

1. The purpose of the Paycheck Protection Program
2. Overview of the PPP Forgiveness Rules
3. Return PPP funds by 5/14/20 deadline?
4. No Tax Deduction with Loan Forgiveness
5. Recommended Practices
6. Q&A
Two ways to ask questions:

1) Type questions into the Q&A Box on the Menu Bar of your Zoom window; or

2) Select the “Raise Hand” icon during Q&A
PURPOSE OF THE PPP
PURPOSE OF THE PPP

- Businesses or Nonprofits with Employees
  - Vehicle to provide unemployment benefits to employees
  - Pay a limited amount of “non-payroll” expenses

- Businesses without Employees
  - 8 weeks of Net Profit Replacement (also serves as alternative to unemployment benefits)
  - Pay a limited amount of “non-payroll” expenses
PURPOSE OF THE PPP – REPLACE WALL
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PURPOSE OF THE PPP – REPLACE WALL
Wall Replaced BUT:
- You used paint on other walls;
- You used wood to build a shed;
- You have money leftover; or
- You spend 50% of funds on paint.

PURPOSE OF THE PPP – REPLACE WALL
Unspent money, improperly spent money, and excess money spent on paint

1% interest over 2 years

PURPOSE OF THE PPP – REPLACE WALL
OVERVIEW OF THE PPP FORGIVENESS RULES
PPP FORGIVENESS RULES

75/25 Rule
PPP FORGIVENESS RULES

75/25 Rule

Reduction Rules
PPP FORGIVENESS RULES

75/25 Rule

Reduction Rules

Cure Exception

Headcount

Salary
PPP FORGIVENESS RULES – 75/25 RULE

75/25 Rule

Reduction Rules

- Headcount
- Salary

Cure Exception
Payroll Costs $\geq 75\% \times \text{PPP Loan Amount}$

Greater than or equal to

PPP FORGIVENESS RULES – 75/25 RULE
Payroll costs INCLUDE:

- Compensation (salary, wage, self-employ. income, etc.)
- Payment for vacation, parental, family, medical, or sick leave (except for provided under FFCRA)
- Allowance for dismissal or separation
- Group health care insurance premiums
- Retirement benefits
- State or local tax (L&I, ESD)
- Employee’s share of federal employment tax

PPP FORGIVENESS RULES – 75/25 RULE
Payroll costs EXCLUDE:

- Monetary compensation exceeding $100,000
- Employer’s share of federal employment taxes
- Compensation of employees who live outside of U.S.
- Sick and Family leave paid under Families First Coronavirus Response Act

PPP FORGIVENESS RULES – 75/25 RULE
Payroll Costs $\geq$ 75% x PPP Loan Amount

Greater than or equal to

Non-Payroll Costs $\leq$ 25% x PPP Loan Amount

Less than

PPP FORGIVENESS RULES – 75/25 RULE
- Mortgage interest on real or personal property
  - Agreements in effect prior to 2/15/20
- Rent for leases in effect prior to 2/15/20
- Utilities (established prior to 2/15/20)
  - Electricity, gas, water, transportation, water, or internet access

PPP FORGIVENESS RULES – 75/25 RULE
Maili’s LLC received $10,000 PPP Loan
To be eligible for full forgiveness
- Payroll costs $\geq 7,500$
- Non-Payroll costs $< 2,500$
During 8-week period of PPP loan, Maili’s LLC spent:

- Payroll costs = $8,000
- Non-Payroll Costs = $2,000
  - Rent: $1,800
  - Utilities: $200

PPP Forgiveness Rules – 75/25 Rule
Payroll Cost Limit

$7,500 (minimum)

PPP FORGIVENESS RULES – 75/25 RULE
Payroll Cost Limit

$7,500 (minimum)

$8,000 (actual)

PPP FORGIVENESS RULES – 75/25 RULE
Payroll Cost Limit

$7,500 (minimum)
$8,000 (actual)

75/25 Rule

PPP FORGIVENESS RULES – 75/25 RULE
PPP FORGIVENESS RULES – 75/25 RULE

**Payroll Cost Limit**
- $7,500 (minimum)
- $8,000 (actual)

**Non-Payroll Cost Limit**
- $2,500 (max)

75/25 Rule
PPP FORGIVENESS RULES – 75/25 RULE

<table>
<thead>
<tr>
<th>Payroll Cost Limit</th>
<th>Non-Payroll Cost Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>$7,500 (minimum)</td>
<td>$2,500 (max)</td>
</tr>
<tr>
<td>$8,000 (actual)</td>
<td>$2,000 (actual)</td>
</tr>
</tbody>
</table>

75/25 Rule
Payroll Cost Limit

$7,500 (minimum)
$8,000 (actual)

Non-Payroll Cost Limit

$2,500 (max)
$2,000 (actual)

75/25 Rule ✓ ✓

*$10K PPP loan eligible for forgiveness (assuming other rules met)

PPP FORGIVENESS RULES – 75/25 RULE
Alternatively, during a 8-week period of PPP loan, Maili’s LLC spent:

- Payroll costs = $7,400
- Non-Payroll Costs = $2,600
- Rent: $1,600
- Utilities: $1,000

PPP FORGIVENESS RULES – 75/25 RULE
Payroll Cost Limit

-$7,500 (minimum)
-$7,400 (actual)

Non-Payroll Cost Limit

-$2,500 (max)
-$2,600 (actual)

Poll: Is Maili’s LLC ineligible for forgiveness?

PPP FORGIVENESS RULES – 75/25 RULE
Is Maili’s LLC ineligible for forgiveness?

Unclear under SBA Interim Final Rule (4/3/20)

One interpretation is complete disqualification

Another interpretation is you qualify for forgiveness, but amount is reduced

For now: **FOLLOW 75/25 RULE**

**PPP FORGIVENESS RULES – 75/25 RULE**
PPP FORGIVENESS RULES – REDUCTION RULES

75/25 Rule

Reduction Rules

Headcount

Salary

Cure Exception
Two Reduction Rules

- Employee Headcount Reduction
- Salary Reduction

Unclear which Reduction Rule comes first

- Employee Headcount = % reduction in forgiveness
- Salary Reduction = $ reduction in forgiveness

Waiting for SBA to issue rules

PPP FORGIVENESS RULES – REDUCTION RULES
Headcount

Loan forgiveness reduced if you reduce number of full-time employees (FTEs)

- % Reduction = \( \frac{\text{Average #FTEs during 8-week period}}{\text{Average #FTEs during a reference period}} \)

Reference period is:

- 2/15/19 to 6/30/19 or
- 1/1/20 to 2/29/20

PPP FORGIVENESS RULES – REDUCTION RULES
Maili's LLC is eligible for $10,000 forgiveness

- Avg. #FTEs between 1/1/20 to 2/29/20 = 2
- Avg. #FTEs between 2/15/19 to 6/30/19 = 4
- Avg. #FTEs during 8-week period = 1

<table>
<thead>
<tr>
<th></th>
<th>1/1/20 to 2/29/20</th>
<th>2/15/19 to 6/30/19</th>
</tr>
</thead>
<tbody>
<tr>
<td>Forgiveness</td>
<td>$10K x (1/2)</td>
<td>$10K x (1/4)</td>
</tr>
<tr>
<td></td>
<td>$10K x 50% = $5,000</td>
<td>$10K x 25% = $2,500</td>
</tr>
</tbody>
</table>

Better off with 1/1/20 to 2/29/20 reference period
Salary

- Loan forgiveness reduced
- If employees who made less than $100,000 in annualized wages in 2019
- Receive a reduction in pay of more than 25% during the 8-week period

SBA will issue guidance on salary reduction

Compare Average Monthly Wages for 2020:Q1 (1/1/20 to 3/31/20) VS. Compare Average Monthly Wages for 8-week period

PPP FORGIVENESS RULES – REDUCTION RULES
PPP FORGIVENESS RULES – REDUCTION RULES

- 75/25 Rule
  - Reduction Rules
    - Headcount
    - Salary
  - Cure Exception
Reductions in employment or salary occurring between 2/15/20 and 4/26/20 can be “cured” and there will be no reduction of loan forgiveness if by 6/30/20, you restore the number of FTEs, restore wages, or both.

Unclear how this will be implemented

For example, could you restore FTEs and restore wages on 6/15/20 and then reduce workforce on 7/15/20?
SBA issued guidance on 5/3/20 stating that if a terminated employee rejects a good faith, written offer to return to work at the same salary and for the same number of hours, loan forgiveness will not be reduced with respect to that employee.

Employer must document the offer and the employee’s rejection of the offer.

However, this means employee will no longer qualify for unemployment.

PPP FORGIVENESS RULES – CURE EXCEPTION
RETURN PPP FUNDS BY 5/14/20 DEADLINE?
Media reports are stating that small-business owners could face jail time over PPP loans.

SBA issued confusing guidance that PPP applicants must exhaust other “avenues of liquidity that would enable them to support ongoing operations.”

Mainly used to target PPP loans exceeding $2 million which will likely be audited by the government.
Government will likely focus on fraud around false payroll numbers or self-employment income

- You should do what’s in your best interest.

Deadline to return PPP money was extended from 5/7/20 to 5/14/20

RETURN PPP FUNDS?
No Tax Deduction with Loan Forgiveness
IRS Notice 2020-32 (5/18/20)

- PPP loan amounts not included in income (whether forgiven or not)
- However, you don’t get to take an expense deduction if you get PPP loan funds that are forgiven and used for Payroll or Non-Payroll Costs

- If you use PPP funds to pay $8,000 in payroll and $2,000 in rent, and your PPP loan is forgiven
  - Then you CAN NOT deduct the $8,000 in payroll and $2,000 in rent

**NO TAX DEDUCTION WITH FOGIVENESS**
BEST PRACTICES
- Note on calendar when 8-week period ends
- Determine your PPP limits under the 75/25 Rule
- Immediately track how you spend your PPP funds
  - Bookkeeping (Quickbooks, accounting software, etc.)
- Keep records (see next slide)
- Track of all salaries and wages paid in 2020:Q1
  - For now, keep track of monthly averages
  - However, bank might ask you to provide info for each employee

BEST PRACTICES
Non-Payroll Costs
- Invoices
- Receipts
- Other Proof of Payment
- Copy of Lease with start date

Payroll Costs
- Proof of retirement plan contributions
- Proof of health insurance premiums
- Employment Tax Returns (fed and state) for the 8-week period
- 3rd Party Report (Gusto, ADP)

PPP FORGIVENESS DOCUMENT LIST
Headcount and Salary Documentation

- Gross wages for full quarter b/f 8-week period
- Gross wages for 8-week period
- List of employees with annualized salary > $100K in 2019

- Average number of FTEs
  - 2/15/19 to 6/30/19
  - 1/1/20 to 2/29/20
  - 8-week period
- List of employees whose principal place of residence is outside of the US

PPP FORGIVENESS DOCUMENT LIST
<table>
<thead>
<tr>
<th>Description</th>
<th>Calculation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total PPP Loan</td>
<td>$20,833.00</td>
</tr>
<tr>
<td>Max Net Profit Replacement is 8/52nds of Line 31 of Schedule C 2019 (max of $100,000)</td>
<td>$100,000 x (8/52) = $15,384.62</td>
</tr>
<tr>
<td>If 75/25 Rule applies, then Steph spends on utilities, rent, mortgage interest (that is deductible on Schedule C)</td>
<td>$5,208.25 on Non-Payroll Costs (25% max of PPP loan of $20,833.00)</td>
</tr>
<tr>
<td></td>
<td>Remaining balance $240.13 + whatever amount Steph could not spend on Non-Payroll Costs will be repaid at 1% over 2 years</td>
</tr>
<tr>
<td>If 75/25 Rule DOES NOT apply, then Steph spends on utilities, rent, mortgage interest (that is deductible on Schedule C)</td>
<td>Remaining $5,448.38 on Non-Payroll Costs</td>
</tr>
<tr>
<td></td>
<td>Whatever amount not spent on Non-Payroll Costs will be repaid at 1% over 2 years</td>
</tr>
</tbody>
</table>
- SBA PPP Page
- AICPA PPP Support Page
- Schedule a free consultation with Jeff Liang here: Booking Link
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Otherwise, please consider donating to help ABAW support API law students. Last year, we awarded over $32,500 in scholarships and will need your help this year: Donate Here if you can help us.
Q&A

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