



CAREFUL PLANNING CAN HELP YOU ENSURE THAT YOUR PPP LOAN IS FORGIVEN

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With the application process well underway and some Paycheck Protection Program (PPP) loans already having been approved, PPP borrowers should take the time to plan carefully and map out in advance exactly how and when they are going to use their PPP loan proceeds to maximize forgiveness of their PPP loans. We have written about the PPP loans in depth here: ***Update: Congress Passes CARES Act to Stimulate Business Efforts*** and ***SBA Issues Guidance on Paycheck Protection Program***.

Planning in advance when to take the PPP funds, when they will actually be spent and how they will be tracked is essential for any PPP loan recipient. In particular, each borrower should consider the following before its loan is funded:

Timing of the Loan Funding

First, it is critical to recognize that the funds must be spent within an eight week period starting on and including the date of initial loan funding, and that the prescribed 8-week period is not equivalent to a two-month period (e.g., loan funding on Thursday, April 16 triggers an 8-week period that ends on Wednesday, June 10). Loan funding must occur no later than ten calendar days from the date of loan approval. Since 75% of the loan proceeds must be used for payroll costs for the loan to be forgiven, the date selected for loan funding (within that 10-day period) may make a crucial difference in whether the borrower will be able to meet the 75% payroll threshold.

Borrowers will want to time their first disbursement to ensure that the 8-week period will include the maximum number of its payrolls. For example, taking the loan disbursement a few days after a payroll date may reduce the number of payrolls a borrower can include during the 8-week period. Thus, a borrower should look at its scheduled payroll dates and then work with its lender to set the time for funding its PPP loan with the goal of covering

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the maximum number of those payroll dates. Failure to coordinate its loan funding date with its payroll cycle may render a borrower unable to spend a sufficient amount of PPP loan proceeds on its payroll costs within the 8-week period. As a result, a substantial portion of its PPP loan may have to be repaid.

Good Record Keeping is Key

While the SBA has not specified exactly what types of proof it will require to forgive a PPP loan, good record keeping is key. Borrowers must request forgiveness from their lenders and be prepared after the 8-week period ends to show exactly how and when they used their PPP loan funds. Borrowers should consider keeping the PPP loan funds segregated so that they can easily demonstrate that the funds were used for permitted purposes. While opening a separate bank account is not required, it may make tracking expenditures easier. A practical alternative to opening a new account may be to have the funds kept in an existing money market account and suspending the deposit of money other than PPP proceeds into that account during the 8-week period.

It is anticipated that the SBA will issue further guidance on the process for obtaining forgiveness on the PPP loans. We will update this article when more information becomes available.