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HOW TO ENSURE FORGIVENESS OF YOUR PPP LOAN

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Now that you have PPP funds, we at Abo and Company want to point out certain steps you should take over the next eight weeks to ensure maximum forgiveness of your PPP loan.

Use the Funds for Forgivable Purposes. Forgiveness of your PPP loan depends largely on whether you use the money to pay forgivable expenses. These include (1) payroll costs (if you're self-employed, these costs include the net profit amount from your business, as reported on your 2019 tax return), (2) interest payments on mortgages incurred before 2/15/20, (3) rent payments on leases dated before 2/15/20, and (4) utility payments under service agreements dated before 2/15/20. However, according to the Small Business Administration (SBA), not more than 25% of the forgivable loan amount (the amount of the loan used to pay forgivable expenses) may be attributable to nonpayroll costs. In other words, at least 75% of the loan must be used for payroll costs.

To help you meet this requirement, consider implementing the following best practices:

- ▶ Set up a separate bank account for PPP funds, or deposit funds into your business savings account and transfer the money to checking and payroll accounts when needed.
- ▶ If you feel that 75% of the loan won't be used for payroll, consider modifying your payroll periods (from semimonthly to weekly, for example) or paying out bonuses toward the end of the eight-week period.
- ▶ Gather and analyze mortgage documents, leases, and utility bills to make sure obligations arose prior to 2/15/20. Each lender will likely want you to provide the documentation in a slightly different format, but it will be much easier to adapt if you've already collected your data.
- ▶ Track expenses in the general ledger. The general ledger tracking will be a good summary, but you will still need to include the details.
- ▶ If expenses are paid with a business credit card, make sure that portion of the credit card bill is paid with PPP funds before the end of the eight-week period.
- ▶ Use a simple Excel spreadsheet to track your qualifying expenses. This will allow you to see your progress in real-time and project where you will be after 60 days. To substantiate the amounts listed in the spreadsheet, gather and organize your backup documentation. Although not foolproof, the attached excel sheet might help.

Keep Track of Employee Headcount and Salary Levels. We know you already do this, but extra care should be taken to make sure these numbers are accurate. For the next eight weeks, if your average number of full-time equivalent employees per month is less than the average during a base period, your forgivable loan amount will be reduced. The base period is either (1) 2/15/19 through 6/30/19, or (2) 1/1/20 through 2/29/20. Perhaps use the period that produces the best result.

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Also, your forgivable loan amount will be reduced if salary levels are cut by more than 25%. For each employee who earns less than \$100,000, you compare total salary paid during the next eight weeks with that employee's salary during the most recent full quarter. If the reduction is greater than 25%, a corresponding reduction must be made to the forgiveness of your PPP loan. Note that this test requires the business to look at every employee individually.

If you have already laid off or furloughed workers, try to restore employee headcount and salary levels by 6/30/20. If you do so, any headcount and salary reductions that occurred between 2/15/20 and 4/26/20 will be ignored. Keep in mind you don't have to rehire the same employees. Also, rehired workers don't actually have to perform customary work duties. Before taking action, you should consult with your labor and employment attorney to work out the terms for rehiring workers.

Focus on Recordkeeping. This is crucial to obtaining maximum forgiveness of your PPP loan. At the end of the day, you have to show the bank you used the loan for eligible expenses. That's why we suggest creating a spreadsheet of all eligible expenses as they're incurred. We also recommend you maintain a special folder (electronic or otherwise) that contains the following documentation:

Employee headcount calculations. Since so many of our clients (and we) use an outside payroll processing company, it's a good idea to save payroll reports reflecting gross wages paid for each payroll incurred during the period.

Document other costs under the definition of "payroll costs" in the CARES Act (employer contributions to health, dental, vision, FSA, HRA, and retirement plans). Collect invoices, statements, payment advices, evidence of automatic bank debits, etc., to validate these costs.

- ▶ Separate the employees (including owners) who are paid more than \$100,000 annually, or \$15,385 during the eight-week period, as qualified gross payroll is limited to that amount per employee/owner.
- ▶ Payroll tax filings (both federal and state).
- ▶ Mortgage documents, leases, and utility bills.
- ▶ Cancelled checks and payment receipts.
- ▶ Bank statements for the separate account used to pay forgivable expenses. If you didn't set up a separate bank account, include copies of other bank statements with forgivable expenses highlighted to support any
- ▶ Electronic Funds Transfer (EFT) payments.

Get Ready to Apply for forgiveness of your PPP loan.

You may not apply for forgiveness of your PPP loan until at least eight weeks after receiving your PPP loan. When you're ready, you will need an authorized representative to certify that (1) the documentation presented is true and correct and (2) the amount for which forgiveness is requested was used to retain employees, make interest payments on a covered mortgage obligation, make payments on a covered rent obligation, or make

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covered utility payments. Once the bank receives your loan forgiveness application, it has 60 days to review and either approve or deny it.

If, for some reason, only a portion of the loan is forgiven, you will need to fulfill all remaining payment obligations. The unforgiven portion of the loan will be subject to a two-year note with a 1% interest rate. Fortunately, no payments will be due for the first six months (although interest will continue to accrue). In addition, no collateral or personal guarantee is required, and there are no prepayment penalties.

While all the banks are generally allowing drawdowns on the PPP loan without significant documentation, detailed records will be important to support the loan amount to be forgiven. Technical guidance regarding the specific definitions and clarifications around which expenses are allowable will be forthcoming in the next several weeks (yeh, right) and should be monitored closely.

Follow these guidelines to help make the conversations around forgiveness of your PPP loan go smoothly with our new best friend - the banker. Frankly, the PPP process has worked best for us and the clients we counsel when we've communicated ahead of time with whichever loan officer we've worked with. The same holds true now if you are prepared. Keep the documentation organized electronically in a secure location on your server so you can adapt to your lender's specific requirements. In June or July, the goal should be to have all the documentation at your fingertips to help make it easier for you to substantiate and maximize your loan forgiveness.

FOR MORE INFORMATION:

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