NARI WEBINAR

PPP LOAN FORGIVENESS AND CARES ACT OPPORTUNITIES

Agenda

PPP Loans

Tax Law Changes

Payroll Tax Deferrals

Year-end tax and cash flow planning

Payroll Protection Program – History

- Created in March 2020 under the CARES ACT
- Intended to keep employees off unemployment
- Loan amount based on 2 ½ months payroll costs from 2019
- Initially 8 week period to spend funds on qualified expenses
- If certain criteria are met, loan is forgiven
- Subsequent legislation increased 8 week period to 24 weeks to spend PPP funds on qualified expenses

Payroll Protection Program – Qualified Expenses

- Payroll (limit to $100,000 of annual compensation for individual employees)
- Benefits – Health insurance and retirement plan contributions
- State UC taxes on wages paid
- Rent
- Utilities
- Mortgage interest

- Most business will use the PPP funds on payroll costs during 24 week period so will not need to consider other expenses.

Payroll Protection Program – Forgiveness Criteria

1. Spend PPP funds on qualified expenses – 60% must be on payroll costs
2. Maintain number of employees on payroll
   - Compare average number of FTEs for 24 week period to the number from a) Feb 15 - June 30 2019 and b) Jan 1 – Feb 29, 2020.
   - If seasonal, use 2019 FTEs.
   - If no reduction in FTEs, no reduction in forgiveness amount.
   - If a reduction in FTEs, reduce forgiveness in proportion to the FTE reduction
   - Can reinstate your head count by Dec 31st
3. Maintain at least 75% of salary/wages for each employee
   - If employees pay over 24 weeks is less than 75% of pay they received in first quarter, forgiveness amount is reduced.
   - Can reinstate pay decreases by Dec 31st

4. Self-employed
   - 2.5 months of 2019 net profit is forgiven as "Owner Compensation Replacement"
   - Other PPP funds received would have to be used on eligible expenses

Process and Timing of forgiveness applications

- Talk with your financial institution to understand their process
- Complete Standard or EZ Form for PPP Forgiveness
  - Note changes could occur for smaller loans.
- Compile and review loan forgiveness application packet and send to bank
- Bank has 60 days to approve application and submit to SBA
  - Many banks processing very quickly
- SBA has 90 days to approve and remit forgiven funds back to the lender
- Bank notifies borrower if there is an amount due and determines repayment schedule

Strategies for submitting forgiveness applications

- EZ Form
  - Self-employed with no employees
  - Did not reduce salary or hourly wages of any employee by more than 25% AND
    - Did not reduce FTEs or,
    - Were unable to operate at same level of business activity due to compliance with requirements or guidance by SHHS, CDC, or OSHA.

- Standard Form
  - If you have a reduction in FTEs or payroll levels that would require a reduction in forgiveness amount

PPP current treatment for income tax purposes

- Intent of Congress was to make any amounts forgiven to be tax-free grant
- Historically, expenses paid by tax-free income would not be deductible expense
- IRS has taken the position that is how the tax-free PPP funds would be treated. Expense paid with forgiven funds would not be deductible.
- IRS has told Congress they need to pass a law that specifically allows deductions of the expenses. Nothing has passed at this time.
- Need to stay on top of this issue. Could create all kinds of issues:
    - Deductible or non-deducible expenses
    - What to do if forgiveness happens after 12/31/2020?

Net operating loss changes

- This applies for C-Corporations (pay tax as an entity)
- Individuals

- Losses occurring in 2018, 2019 or 2020 can be carried back to get refunds from tax paid in prior years.
- Carryback period is five years.

Depreciation changes

- Modification for qualified improvement property (QIP) - improvements made to the interior of a commercial real property. Improvements must be placed into service after the building's date of service and explicitly exclude expansion of the building, elevators and escalators, and changes made to a building's internal structural framework.
- Change is effective back to beginning of 2018.
- Improvements that are QIP can get some great depreciation benefits. Depreciation life changes from 39 years to 15 years. It also allows for bonus depreciation and Section 179. These are methods to accelerate depreciation into one year instead of spreading out over the 15-year period.
- Can amend returns or file a change in accounting method form and apply adjustment in 2020.

- Example – You made a $195,000 improvement to your business building while doing a remodel in 2018. It meets all qualifications for qualified improvement property. Under old rules this would be depreciated over 39 years at $5K/year. Under the new rules, you can accelerate the depreciation and could take bonus depreciation to fully deduct the $195,000.

Interest expense modifications for larger companies

- Only applies to businesses in excess of $26M average gross revenue over past three years.
- Changed business interest expense deductibility from 30% to 50%.
- Only applies to larger and highly leveraged companies with a lot of debt.

Payroll Tax Credits –

- Employee Retention Credit
  - Does not apply if you took PPP loan
  - Applies from March 12 – December 31, 2020
  - Businesses (including non-profits) can qualify if:

  1. The full or partial suspension of the operation of their business during any calendar quarter because of governmental orders limiting commerce, travel, or group meetings due to COVID-19, or
  2. A significant decline in gross receipts - A significant decline in gross receipts begins on the first day of the first calendar quarter of 2020 for which an employer’s gross receipts are less than 50% of its gross receipts for the same calendar quarter in 2019.

- Family First Coronavirus Response Act Tax Credits
  - These credits apply to payroll tax deposits
  - Self care sick leave pay – 100% of pay up to $511/day
  - Care for others sick leave pay – 2/3 of pay up to $200/day

Payroll Tax Deferrals (Not Recommended) –

- Can defer paying payroll taxes in 2020 and pay portions back in 2021 and 2022.

- Can defer paying employee social security (6.2% of employee wages for employees making under $104,000/yr.) from September – December 2020.
  - This gets paid back from January – April 2021. Employee social security would be 12.4% withheld as opposed to 6.2% (doubled to make up for deferral from September – December 2020

Year-end tax planning and Cash flow planning

- Defer income, accelerate expenses
- Impact of election results – most potential tax increases affect highest income levels
- Update equipment/vehicles if necessary
- Entity Level Tax to Wisconsin
- PPP Loan impact – still uncertainty
- Retirement plan contributions
- Method of accounting
- Depending on how seasonal your business is, cash flow planning is oftentimes involved as well with tax planning.

Questions?

Mike Gustafson, CPA
Principal
SVA Certified Public Accountants
gustafsonm@sva.com
608-826-2292

Dan Bergs, CPA
Senior Manager
Wegner CPAs
dan.bergs@wegnercpas.com
608-442-1986