



BLBB Entrepreneurial Financial Management

This briefing summarizes:

- SBA Paycheck Protection Program (PPP) recent updates
 - 8/4/20 SBA FAQ updates
 - PPP Strategy thoughts
- Tax planning opportunities
 - Timing expenses and revenue recognition
 - Applicable Federal Rate (AFR) and Related Party debt financing opportunities

Paycheck Protection Program Recent Updates

The SBA provided additional guidance through a FAQ update 8/4/20:

- The Borrower is not required to make any loan payments on the PPP Loan until the forgiveness amount, which was approved, is remitted to the Lender (i.e. your bank) by the SBA. If the loan is entirely forgiven, you do not have to make any payments. (see General Loan Forgiveness FAQ #3)
- The lesser of (1) \$20,833 or (2) 2.5/12 of 2019 compensation per individual cap for owner-employees and those self-employed includes *all* businesses they may work in that are applying for PPP Loan Forgiveness. If an owner-employee has two or more businesses that each applied for PPP Loans, they would need to coordinate so that the total requested Loan Forgiveness amount from *all* companies combined of the owner-employee does not exceed the cap. (see Loan Forgiveness Payroll Costs FAQ #8)
- Sole proprietors and those self-employed who had no employees when they applied for PPP Loan Forgiveness, and no employees included in the Average Monthly Payroll period they used to determine the amount of the PPP Loan, may file Loan Forgiveness Form 3508EZ. (see General Loan Forgiveness FAQ #1)
- Loan Forgiveness for interest expense is limited to interest on debt which is secured debt, such as business mortgages or personal property like business loans or copiers. (see Loan Forgiveness Nonpayroll costs FAQ #4)
- Guidance on reductions in Loan Forgiveness arising from reductions in compensation. (see Loan Forgiveness Reductions FAQ # 4)

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- This FAQ may be found at: <https://home.treasury.gov/system/files/136/PPP--Loan-Forgiveness-FAQs.pdf>

PPP Strategy thoughts:

- Most of you have finished your 8-week period and therefore now have the option of filing for Loan Forgiveness. You might want to consider waiting for several reasons. The Loan Forgiveness Application is due within 10 months of the end of your Loan Forgiveness period. Using an 8-week period this would be no earlier than April 2021. Using a 24-week period this would be no earlier than August 2021.
- Delaying offers the following advantages:
 - More clarity needs to be given on whether Congress or the courts would over-ride IRS Notice 2020-32 declaring that expenses which result in Loan Forgiveness will not be deductible.
 - A continuation of the PPP program providing an additional tranche of funds is being considered. For example, the Senators Rubio and Collins proposed Bill that the Continuing Small Business Recovery and Paycheck Protection Program Act be introduced the last week of July. If you still have a Loan, it might be easier to draw additional funds. There is also consideration of allowing Loan Forgiveness requests under \$150,000 to require very little documentation relative to current requirements.
 - This was a hurried program with many changes along the way. Likely the first series of Loan Forgiveness Applications will experience a learning curve as bank officers and SBA reviewers define further what they are looking for. This could consume more of your time and generally require more effort; you might want to file *after* the first wave.

Tax Planning

If there is a change in the Administration and Senate, taxes are likely to increase for higher income earners. If this happens, many will likely benefit from *accelerating income*, and *deferring expenses* for 2020 to take advantage of a lower marginal rate (Yes, this is atypical.) Those who might be triggering substantial capital gains in 2021 may wish to consider evaluating whether that transaction could be pulled into 2020¹. Examples would include the sale of all, or part of, a business; the sale of a vacation home; or the sale of a primary residence where the capital gain will exceed the primary residence exclusion. The election outcome should be determined the first week of November, but if there is a change most attorneys and CPAs will be busy with similar client requests from November 4th to December 31st, so we have highlighted what you may wish to consider now.

Interest on related party debt is subject to imputed income and disallowance. With the very low interest rates now, the IRS AFR (basically the rate which the IRS would not typically have reason to challenge the interest rate amount) is extremely low. For August 2020 the Short-Term (less than 3-year maturity) rate is 0.17% annually; for Mid-Term (3 to 9 years) it is 0.41% annually, and for Long-Term (greater than 9 years) it is only 1.12%. This creates some real planning opportunities, especially for estates and closely held businesses.

¹ For example, Capital Gains and Dividends taxed at 39.6% from 20% on incomes in excess of \$1.0 million. (www.TaxFoundation.org)

- Additional material:
 - Prior BBLB SBA PPP Featured articles landing page: <https://blbb.com/features/>
 - SBA General SBA PPP landing page: <https://home.treasury.gov/policy-issues/cares/assistance-for-small-businesses>

The program requirements are continuing to change and the Borrower should periodically check to see whether there is new guidance before submitting their Loan Forgiveness Application to their Lender; which is now not due until 10 months after the Covered Period ends.

BLBB does not provide tax advice nor practice law. Please see your licensed tax or legal professional who can advise you based on your particular facts and circumstances.