

# COVID-19 LEGISLATION



## Benefits for PAA Members

Date: April 3, 2020

# AGENDA

- A brief walk through history
- Federal Tax Credits
- Expanded Unemployment
- Economic Injury Disaster Loans (EID Loans)
- Paycheck Protection Program Loans (PPP Loans)
- Employee Retention Credit
- Payroll Tax Deferral

# SUMMARY

- PHASE I (COVID-1)
  - Coronavirus Preparedness Response Supplemental and Appropriations Act
  - Enacted March 6, 2020
  - Provides \$8.3 Billion emergency funding
  - Small Business Administration SBA allocated \$7 Billion for disaster assistance / Economic Injury Disaster Loans (EIDL)

# SUMMARY

- Phase II (COVID-2)
  - Families First Coronavirus Response Act
  - Signed into law on March 18, 2020
  - Targets aid to “Families First”
  - Emergency Family Medical Leave Act (FMLA)
  - Emergency Paid Sick Leave (EPSL)
  - Aid to employees and households affected by COVID-19
  - EFFECTIVE DATE **APRIL 1, 2020**

# COVID-2

- Applies to employers with 500 or fewer employees
  - **Combined groups according to DOL rules**
- Emergency Paid Sick Leave
  - Unable to work or telework
    - **1. Employee quarantined or isolated by Federal, State or local order**
    - 2. Employee is advised by health care professional to self-quarantine due to concerns related to COVID-19
    - 3. Employee is experiencing symptoms of COVID-19 and seeking medical diagnosis
    - 4. Employee is caring for an individual subject to quarantine or isolation by Federal, State or local order or by direction of health care professional
    - 5. Employee is caring for child because of school or childcare facility closure
    - 6. Employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of Treasury and Secretary of Labor

# COVID-2

- Benefits
  - Up to 80 hours – prorated for part-time employees
  - EPSL is in addition to any other employer provided paid time off
  - Reasons 1 – 3 = Paid at 100% of employee's regular pay capped at \$511/day or \$5,110 in aggregate
  - Reasons 4 – 6 = Paid at 2/3 of employee's regular pay capped at \$200/day or \$2,000 in aggregate

# COVID-2

- Emergency Family Medical Leave
  - Unable to work or telework due to care of child <18 years old because of school or childcare facility closure due to public health emergency
  - Benefits
    - Up to 12 weeks – first 2 week are unpaid
    - Paid at 2/3 of employee's regular rate of pay
    - Capped at \$200/day or \$10,000 in aggregate
    - Job restoration at end of EFMLA

# COVID-2

- Tax Credits
  - Initially legislation had the tax credit capped at the employer portion of FICA
  - B&R and a fellow AutoCPA Group assisted NADA in writing a letter to the Secretary of Treasury
    - Explained the liquidity demands of auto dealers
    - Argued needed stimulus that provides immediate help, not help 1, 2 or 3 months from now
    - Got the credit changed to all taxes reported on 941



# SUMMARY

- Phase III (COVID-3)
  - Coronavirus Aid, Relief, and Economic Security Act – the CARES Act
  - Signed into law on March 28, 2020
  - LARGEST STIMULUS BILL IN U.S. HISTORY - \$2.2 TRILLION
  - Targeting individuals and businesses
  - Key components include:
    - Paycheck Protection Program (PPP) loans
    - Employee Retention Tax Credit
    - Expanded unemployment benefits
    - Favorable business and individual income tax provisions
    - Advance refunds to all individual taxpayers

# EXPANDED UNEMPLOYMENT

- COVID-3 includes quicker turnaround time for approval and expanded benefit time
- \$600 federal bonus or \$15/hour was not intended
- A number of Senate leaders have indicated they want it modified
- Unsure how that will impact employees if that happens

# EID LOANS

- SBA Economic Injury Disaster Loans (EID)
  - Originates with SBA
  - COVID-3 changes qualifications to 500 or fewer employees
    - **SBA principles of consolidation apply**
  - COVID-3 - Stringent underwriting and application process made easier
    - Requirement proving unable to get credit elsewhere is waived
    - Requirement that applicant be in business for one-year waived
      - Must be in business as of January 1, 2020
    - Personal guarantees no longer required if loan is less than \$200,000
    - No longer supposed to require prior year tax returns
      - COVID-3 allows approval based solely on credit score and “alternative appropriate methods”
  - Maximum Loan Amount = \$2,000,000
  - Term loan
    - 30 year amortization period
    - 3.75% interest rate
  - Deferred payments
    - COVID-3 = all principal and interest is deferred through remainder of 2020

# EID LOANS / EID LOAN GRANTS

- Uncertain whether can have BOTH an EID Loan and a PPP loan and use for COVID-19 purposes
  - COVID-3 does say you can use a PPP loan to refinance a EID Loan
  - If existing application in process, let it go
- EID Loan Grants
  - Generally EID Loans are not forgivable
  - \$10,000 grant delivered within 3-days
    - Loan not approved, then keep \$10,000
  - Website changed to accommodate loan grant on application

# PPP LOANS

- PPP Loans
  - Originate with authorized SBA Bank
    - Normal SBA channels
    - Expanded SBA channels for this loan
  - Contact your bank...FREQUENTLY
    - Already contacted? Contact them again!
    - SBA and Banks still holding discussions
    - Application Acceptance Date - ???
  - No personal guarantees or collateral
  - Interest Rate 1% (Max int rate 4% per the law)
  - Repayment Term 2 yrs (Max term 10 yrs per the law)

# PPP LOANS

- Eligibility – 500 or fewer employees as of date of loan
  - Definition of employee = anyone
  - Dealer groups with more than 500 combined employees
    - **SBA rules for consolidation**
      - Franchise carve out
      - Separate EINs
  - In business on February 15, 2020
  - Have employees to whom you paid wages and on behalf of whom you've paid payroll taxes
  - If no employees, paid independent contractors
  - Able to make certain “Good Faith Certifications”

# PPP LOANS

- Good Faith Certifications
  - Current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.
  - Retaining workers and maintaining payroll, making mortgage payments, lease payments, and utility payments
  - No applications already pending for a loan under this subsection for the same purpose
  - From February 15, 2020 through December 31, 2020 won't receive duplicative amounts

# PPP LOANS

- PPP Maximum Loan Calculation
  - Average monthly payroll costs for the 12 month period ending on the day the PPP loan is originated (or is it 2019?)
  - X 2.5
  - Not to exceed \$10,000,000
  - EIDL loans related to COVID-19 between January 31, 2020 and the date at which the PPP becomes available, you would be able to refinance the EIDL into the PPP for loan forgiveness purposes. Remaining portions of the EIDL, for purposes other than those laid out in loan forgiveness terms for a PPP loan, would remain a loan. If you took advantage of an Emergency EIDL grant award of up to \$10,000, that amount would be subtracted from the amount forgiven under PPP.



# PPP LOANS

- Payroll costs DO include:
  - Salary, wage, commission or similar compensation
  - Cash tips or equivalent
  - Vacation, parental, family, medical or sick leave
  - Allowance for dismissal or separation
  - Group health care benefits, including insurance premiums
  - Payment of any retirement benefit
  - Payment of state or local tax assessed on compensation of employees

# PPP LOANS

- Payroll costs do NOT include:
  - Compensation of an individual employee in excess of an annual salary of \$100,000, as prorated for the covered period
  - People paid via a 1099
  - FICA and withholding taxes:
    - Special Rule for 2/15/20 – 6/30/20
  - Compensation for employees living outside the U.S.
  - No double dipping on EFMLA or EPSL wages under COVID-2

# PPP LOANS

	A	B	C	D
1	<b>SMALL BUSINESS INTERRUPTION LOANS</b>			
2	<b>Paycheck Protection Program</b>			
3	<b>Estimated Maximum Loan Availability and Forgiveness Amount</b>			
4				
5				
6	<b>Maximum Loan Amount</b>			
7	<i>Represents the maximum amount a qualified borrower may apply for.</i>			
8			<u>Last 12 Months</u>	<u>Average Monthly</u>
9	<b>Maximum Loan Amount:</b>			
10	Payroll Costs:*			
11	Salaries, wages, commissions, vacation and sick pay (not to exceed \$100K			
12	per employee) other than qualified sick or family leave			
13	Group Health Insurance			
14	Retirement Benefit Costs			
15	State/Local Taxes on Employee Compensation (i.e., employer U.C. tax)			
16	Self-Employed Income (and subcontractors) not to exceed \$100K per year			
17	per self-employed prorated for the period February 15, 2020 to June 30, 2020			
18				362,834
19				2.5
20	<i>Subtotal</i>		<b>a)</b>	\$ 907,084
21				
22	<b>MAXIMUM LOAN AMOUNT [Lesser of a) or \$10 million]</b>		<b>19</b>	<b>b) \$ 907,084</b>
23				

# PPP LOANS

- Allowable uses of loan proceeds
  - Payroll costs
  - Group health care benefits
  - Employee salaries, commissions or similar compensation
    - Believed to mean portion over \$100K
  - Payments of interest on any mortgage obligation
  - Rent (including rent under a lease agreement)
  - Utilities
  - Interest on any other debt obligations that were incurred before February 15, 2020

# PPP LOANS

- Eligible for Loan Forgiveness
  - Amounts expended on the following items during the 8-week period following loan origination are eligible for forgiveness (not to exceed the original principal balance of the loan):
    - Payroll costs (up to \$100k annualized per employee)
    - Interest on mortgages that existed as of February 15, 2020
    - Rent for leases that existed as of February 15, 2020
    - Utilities that existed as of February 15, 2020
    - Not more than 25% of the forgiven amount may be for non-payroll costs.

# PPP LOANS

## What about floorplan interest?

- Will be an allowable use of loan proceeds
  - Probably only for units billed before 2/15/20
- Unclear if eligible for forgiveness
  - Is floorplan a “Mortgage on Personal Property”?

# PPP LOANS

- Reductions to amounts forgiven
  - Headcount
    - Divide the average number of full-time equivalent employees (FTE) per month during the 8-week period – by –
    - The average FTE employees per month between February 15, 2019 and June 30, 2019 – or –
    - The average FTE employees per month between January 1, 2020 and February 29, 2020 – whichever is more beneficial
  - Salary reduction
    - Salary reduction of more than 25% for any employee making less than \$100,000 (annualized) for the most recent full quarter (presumably the quarter ending March 31, 2020) compared to the 8-week period
- Poorly written law. We're hoping for clarification in the Regulations.

# PPP LOANS

- Re-hire provisions

- Headcount

- Reduction in average headcount for the period February 15, 2020 through April 26, 2020 (30-days from enactment of the CARES Act)
      - Dealers acted quickly and laid off / furloughed people
    - By June 30, 2020 you re-hire employees so your headcount is equal to what it was on February 15, 2020.

- Compensation

- Reduction in compensation for a given employee for the period February 15, 2020 through April 26, 2020
    - By June 30, 2020 you have eliminated the reduction in salary compared to February 15, 2020



# PPP LOANS

- Application for forgiveness
  - Submitted to lender servicing the loan
    - Payroll filings substantiating FTE equivalents and pay rates for the periods outlined in the reduction section
      - 8 week period
      - February 15, 2019 to June 30, 2019
      - January 1, 2020 to February 29, 2020
    - Canceled checks, payment verifications or other documentation supporting payments of mortgage interest, rent and utilities
    - Certification that the documents are true and accurate
  - Lender decision within 60-days of receipt of application

# PPP LOANS

- Taxation of amounts forgiven

**TAX-FREE**

# PPP LOANS

- Remaining balances on loan
  - Continues to be guaranteed by federal government
  - Interest Rate 1% (Max int rate 4% per the law)
  - Interest is accrued from funding date but is deferred
  - Interest on forgiven portion is forgiven as well
  - Repayment Term 2 yrs (Max term 10 yrs per the law)
  - No prepayment penalties
- Deferral of payments
  - Principal and Interest
  - 6 months from origination (law provided up to 12)

# PPP LOANS

- Documents to accumulate NOW:
  - Narrative explaining, in detail, why the loan request is necessary to support your ongoing operations.
  - Copies of payroll tax reports file with the IRS (including Forms 941, 940, state income and unemployment tax filing reports) for the entire year of 2019 and first quarter of 2020 (if available) should be presented.
  - Copies of payroll reports for each pay period for the preceding 12 months. Such reports should include gross wages including PTO (which might include vacation, sick, and other PTO). This includes payroll reports through the pay period preceding the origination of the SBA loan.
  - Documentation reflecting the health insurance premiums paid by the company under a group health plan including owners of the company for the immediately preceding 12 months prior to the date of the SBA loan origination. Copies of the monthly invoices should suffice.
  - Documentation of all retirement plan funding by the employer for the immediately preceding 12 months.
  - Copies of workpapers, schedules and remittances to the retirement plan administrator should be sufficient.

# PPP LOANS

- Documents to accumulate when asking for forgiveness:
  - Copies of payroll tax reports file with the IRS (including Forms 941, 940, state income and unemployment tax filing reports) for the 8-week period following the origination of the loan.
  - Copies of payroll reports for each pay period for the 8-week period following the origination of the loan. Gross wages including PTO (which might include vacation, sick, and other PTO) should be reflected.
  - Documentation reflecting the health insurance premiums paid by the company under a group health plan including owners of the company for the 8-week period following the origination of the loan should be provided. Copies of the monthly invoices should suffice.
  - Documentation of all retirement plan funding by the employer for the 8-weeks following the origination of loan should be sufficient. Copies of workpapers, schedules and remittances to the retirement plan administrator should be available.
  - Copies of all lease agreements for real estate and tangible personal property should be presented along with proof of payment during the 8-week period following the loan origination date.
  - Copies of all statement of interest paid on debt obligations incurred prior to February 15, 2020 indicating payment amounts and proof of payment for the 8-week period following the loan origination date.
  - Copies of cancelled checks, statements or other evidence of utilities paid during the "covered period" for the 8-week period following the loan origination date.



**Paycheck Protection Program  
Borrower Application Form**

OMB Control No.: 3245-0407  
Expiration Date: 09/30/2020

<b>Check One:</b> <input type="checkbox"/> Sole proprietor <input type="checkbox"/> Partnership <input type="checkbox"/> C-Corp <input type="checkbox"/> S-Corp <input type="checkbox"/> LLC <input type="checkbox"/> Independent contractor <input type="checkbox"/> Eligible self-employed individual <input type="checkbox"/> 501(c)(3) nonprofit <input type="checkbox"/> 501(c)(19) veterans organization <input type="checkbox"/> Tribal business (sec. 31(b)(2)(C) of Small Business Act) <input type="checkbox"/> Other		DBA or Tradename if Applicable	
Business Legal Name			
Business Address		Business TIN (EIN, SSN)	Business Phone
			( ) -
		Primary Contact	Email Address
Average Monthly Payroll:	\$	x 2.5 = EIDL, Net of Advance (if Applicable) Equals Loan Request.	\$
Purpose of the loan (select more than one):		Number of Employees:	
<input type="checkbox"/> Payroll <input type="checkbox"/> Lease / Mortgage Interest <input type="checkbox"/> Utilities <input type="checkbox"/> Other (explain):			

**Applicant Ownership**

List all owners of 20% or more of the equity of the Applicant. Attach a separate sheet if necessary.

Owner Name	Title	Ownership %	TIN (EIN, SSN)	Address

*If questions (1) or (2) below are answered "Yes," the loan will not be approved.*

Question	Yes	No
1. Is the Applicant or any owner of the Applicant presently suspended, debarred, proposed for debarment, declared ineligible, voluntarily excluded from participation in this transaction by any Federal department or agency, or presently involved in any bankruptcy?	<input type="checkbox"/>	<input type="checkbox"/>
2. Has the Applicant, any owner of the Applicant, or any business owned or controlled by any of them, ever obtained a direct or guaranteed loan from SBA or any other Federal agency that is currently delinquent or has defaulted in the last 7 years and caused a loss to the government?	<input type="checkbox"/>	<input type="checkbox"/>
3. Is the Applicant or any owner of the Applicant an owner of any other business, or have common management with, any other business? If yes, list all such businesses and describe the relationship on a separate sheet identified as addendum A.	<input type="checkbox"/>	<input type="checkbox"/>
4. Has the Applicant received an SBA Economic Injury Disaster Loan between January 31, 2020 and April 3, 2020? If yes, provide details on a separate sheet identified as addendum B.	<input type="checkbox"/>	<input type="checkbox"/>

*If questions (5) or (6) are answered "Yes," the loan will not be approved.*

Question	Yes	No
5. Is the Applicant (if an individual) or any individual owning 20% or more of the equity of the Applicant subject to an indictment, criminal information, arraignment, or other means by which formal criminal charges are brought in any jurisdiction, or presently incarcerated, or on probation or parole? <b>Initial here to confirm your response to question 5 -&gt;</b> _____	<input type="checkbox"/>	<input type="checkbox"/>
6. Within the last 5 years, for any felony, has the Applicant (if an individual) or any owner of the Applicant 1) been convicted; 2) pleaded guilty; 3) pleaded nolo contendere; 4) been placed on pretrial diversion; or 5) been placed on any form of parole or probation (including probation before judgment)? <b>Initial here to confirm your response to question 6 -&gt;</b> _____	<input type="checkbox"/>	<input type="checkbox"/>
7. Is the United States the principal place of residence for all employees of the Applicant included in the Applicant's payroll calculation above?	<input type="checkbox"/>	<input type="checkbox"/>
8. Is the Applicant a franchise that is listed in the SBA's Franchise Directory?	<input type="checkbox"/>	<input type="checkbox"/>



Paycheck Protection Program  
Borrower Application Form

**By Signing Below, You Make the Following Representations, Authorizations, and Certifications:**

**CERTIFICATIONS AND AUTHORIZATIONS**

I certify that:

- I have read the statements included in this form, including the Statements Required by Law and Executive Orders, and I understand them.
- The Applicant is eligible to receive a loan under the rules in effect at the time this application is submitted that have been issued by the Small Business Administration (SBA) implementing the Paycheck Protection Program under Division A, Title I of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (the Paycheck Protection Program Rule).
- The Applicant (1) is an independent contractor, eligible self-employed individual, or sole proprietor or (2) employs no more than the greater of 500 or employees or, if applicable, the size standard in number of employees established by the SBA in 13 C.F.R. 121.201 for the Applicant's industry.
- I will comply, whenever applicable, with the civil rights and other limitations in this form.
- All SBA loan proceeds will be used only for business-related purposes as specified in the loan application and consistent with the Paycheck Protection Program Rule.
- To the extent feasible, I will purchase only American-made equipment and products.
- The Applicant is not engaged in any activity that is illegal under federal, state or local law.
- Any loan received by the Applicant under Section 7(b)(2) of the Small Business Act between January 31, 2020 and April 3, 2020 was for a purpose other than paying payroll costs and other allowable uses loans under the Paycheck Protection Program Rule.

For Applicants who are individuals: I authorize the SBA to request criminal record information about me from criminal justice agencies for the purpose of determining my eligibility for programs authorized by the Small Business Act, as amended.

**CERTIFICATIONS**

The authorized representative of the Applicant must certify in good faith to all of the below by **initialing** next to each one:

\_\_\_\_\_ The Applicant was in operation on February 15, 2020 and had employees for whom it paid salaries and payroll taxes or paid independent contractors, as reported on Form(s) 1099-MISC.

\_\_\_\_\_ Current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.

\_\_\_\_\_ The funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments, as specified under the Paycheck Protection Program Rule; I understand that if the funds are knowingly used for unauthorized purposes, the federal government may hold me legally liable, such as for charges of fraud.

\_\_\_\_\_ The Applicant will provide to the Lender documentation verifying the number of full-time equivalent employees on the Applicant's payroll as well as the dollar amounts of payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities for the eight-week period following this loan.

\_\_\_\_\_ I understand that loan forgiveness will be provided for the sum of documented payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities, and not more than 25% of the forgiven amount may be for non-payroll costs.

\_\_\_\_\_ During the period beginning on February 15, 2020 and ending on December 31, 2020, the Applicant has not and will not receive another loan under the Paycheck Protection Program.

\_\_\_\_\_ I further certify that the information provided in this application and the information provided in all supporting documents and forms is true and accurate in all material respects. I understand that knowingly making a false statement to obtain a guaranteed loan from SBA is punishable under the law, including under 18 USC 1001 and 3571 by imprisonment of not more than five years and/or a fine of up to \$250,000; under 15 USC 645 by imprisonment of not more than two years and/or a fine of not more than \$5,000; and, if submitted to a federally insured institution, under 18 USC 1014 by imprisonment of not more than thirty years and/or a fine of not more than \$1,000,000.

\_\_\_\_\_ I acknowledge that the lender will confirm the eligible loan amount using required documents submitted. I understand, acknowledge and agree that the Lender can share any tax information that I have provided with SBA's authorized representatives, including authorized representatives of the SBA Office of Inspector General, for the purpose of compliance with SBA Loan Program Requirements and all SBA reviews.

\_\_\_\_\_  
Signature of Authorized Representative of Applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title



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<b>Business Legal Name</b>						
<b>Business Address</b>						
				<b>Business TIN (EIN, SSN)</b>	<b>Business Phone</b>	
				<b>Primary Contact</b>	<b>Email Address</b>	
Average Monthly Payroll:		\$	x 2.5 + EIDL, Net of Advance (if Applicable) Equals Loan Request:	\$	Number of Employees:	
Purpose of the loan (select more than one):						
<input type="checkbox"/> Payroll <input type="checkbox"/> Lease / Mortgage Interest <input type="checkbox"/> Utilities <input type="checkbox"/> Other (explain): _____						

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Paycheck Protection Program  
Borrower Application Form

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I certify that:

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- The Applicant (1) is an independent contractor, eligible self-employed individual, or sole proprietor or (2) employs no more than the greater of 500 or employees or, if applicable, the size standard in number of employees established by the SBA in 13 C.F.R. 121.201 for the Applicant's industry.
- I will comply, whenever applicable, with the civil rights and other limitations in this form.
- All SBA loan proceeds will be used only for business-related purposes as specified in the loan application and consistent with the Paycheck Protection Program Rule.
- To the extent feasible, I will purchase only American-made equipment and products.
- The Applicant is not engaged in any activity that is illegal under federal, state or local law.
- Any loan received by the Applicant under Section 7(b)(2) of the Small Business Act between January 31, 2020 and April 3, 2020 was for a purpose other than paying payroll costs and other allowable uses loans under the Paycheck Protection Program Rule.

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Current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.

The funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments, as specified under the Paycheck Protection Program Rule; I understand that if the funds are knowingly used for unauthorized purposes, the federal government may hold me legally liable, such as for charges of fraud.

The Applicant will provide to the Lender documentation verifying the number of full-time equivalent employees on the Applicant's payroll as well as the dollar amounts of payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities for the eight-week period following this loan.

I understand that loan forgiveness will be provided for the sum of documented payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities, and not more than 25% of the forgiven amount may be for non-payroll costs.

During the period beginning on February 15, 2020 and ending on December 31, 2020, the Applicant has not and will not receive another loan under the Paycheck Protection Program.

I further certify that the information provided in this application and the information provided in all supporting documents and forms is true and accurate in all material respects. I understand that knowingly making a false statement to obtain a guaranteed loan from SBA is punishable under the law, including under 18 USC 1001 and 3571 by imprisonment of not more than five years and/or a fine of up to \$250,000; under 15 USC 645 by imprisonment of not more than two years and/or a fine of not more than \$5,000; and, if submitted to a federally insured institution, under 18 USC 1014 by imprisonment of not more than thirty years and/or a fine of not more than \$1,000,000.

I acknowledge that the lender will confirm the eligible loan amount using required documents submitted. I understand, acknowledge and agree that the Lender can share any tax information that I have provided with SBA's authorized representatives, including authorized representatives of the SBA Office of Inspector General, for the purpose of compliance with SBA Loan Program Requirements and all SBA reviews.

**Signature**

Signature of Authorized Representative of Applicant

Print Name

Date

Title

# EMPLOYEE RETENTION CREDIT

- **NOTE: NOT AVAILABLE IF EMPLOYER RECEIVED A PPP LOAN**
- 50% credit on up to \$10,000 in wages per employee (\$5,000 total credit)
  - Including group health insurance costs
- Available for wages paid between March 12, 2020 and January 1, 2021
- Credit applied quarterly against the federal employer social security taxes (6.2%)
- Refundable if exceeds tax liability for quarter

# EMPLOYEE RETENTION CREDIT

- Eligible employers
  - Carrying on a trade or business in 2020 – AND –
  - Operations of business were partially or totally suspended during the quarter due to orders from an appropriate government authority due to COVID-19
  - – OR –
  - In a calendar quarter after December 31, 2019, gross receipts are less than 50% of gross receipts of same quarter in prior year
    - Once you become eligible under this provision, you remain eligible until your gross receipts for a quarter exceed 80% of gross receipts for the same quarter in the prior year

# EMPLOYEE RETENTION CREDIT

- Under 100 Employees (aggregated with affiliated companies) – IRS rules of aggregation apply
  - Qualified wages – all wages paid during shutdown as well as entire quarter that had gross receipts drop referenced above for eligible employers
- Over 100 Employees (aggregated with affiliated companies)
  - Qualified wages – all wages paid during shutdown to those employees NOT working and cannot exceed what employee made in the 30-days immediately preceding the shutdown

# PAYROLL TAX DEFERRAL

- **NOTE: NOT AVAILABLE IF DEBT IS FORGIVEN UNDER A PPP LOAN**
- May defer payment on employer portion of Social Security taxes (6.2%) beginning March 27, 2020 through December 31, 2020
- 50% payable December 31, 2021 and remainder payable December 31, 2022

# Summary

- If you have not done so already, contact your bank and apply for Payroll Protection Loan
- If not applying for PPP loan:
  - Gather information to calculate employee retention credit
  - Begin to defer employer portion of social security taxes
- Reevaluate staffing needs based on business activity
- Evaluate if any employees currently on payroll qualify for paid Sick Leave or paid FMLA
- Contact lenders and vendors about concessions
- Consider separate bank account for PPP money

# Summary

- Tax Items –
  - We did not review the business changes in the tax law but a number of significant changes to note – review with your tax advisor:
    - Changes in NOL provisions
    - Increase in interest deductibility
    - Retroactive change in statutory life for Qualified Improvement Property (QIP)
    - Others

# QUESTIONS?

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