

November 3, 2020

To all of our Valued Clients

Memo #5

It has been a while since we last communicated about the PPP loan forgiveness program. New information has been hard to come by but here is what we've learned:

1. The only major change detected is that a new one page application for loans of \$50,000 or less is available from some lenders. As we understand it, in lieu of borrowers providing numerous support documents about payroll, rent, utilities, health insurance, and retirement contributions to support their claim for loan forgiveness, we will be able to "certify" about accuracy and availability of these support documents. We will be required to retain this evidence for up to six years. Some lenders are indicating they still want full submission of these support documents.
2. If you are thinking about transferring 50% of more of your business to a new owner, the SBA is requiring their pre-approval if your PPP loan is still outstanding.

Additional thoughts we encourage us all to consider:

- A. As we have discussed several times in memo's and by phone, the IRS has taken the position that if PPP loan money is used to pay operating expenses outlined above or for any other legitimate business expense, and the loan is forgiven, we will not be able to deduct these expenses. This will more than likely result in a substantial increase in federal and state income taxes for owners of S-Corporations, LLC's, Partnerships, and Sole Proprietors.
- B. We have encouraged everyone to make a list of potential personal property assets they may want to purchase with PPP loan money and when there was clarity about our options, acquire these assets in hopes of offsetting some of the loan forgiven. Our thinking was that taking a 1% PPP loan to acquire these assets was better than facing 20-30% federal and state income tax burden.
- C. A major problem is that according to latest information, our lender has six (6) weeks to prepare and submit our application for forgiveness to SBA and the SBA has an additional eight (8) weeks to approve our application and provide loan money to our lender. This fourteen week processing period will obviously take us into 2021 before any conclusions are available.
- D. It is the consensus of our sources that posting these non-deductible expenses will occur in the year we have final word that our loan is forgiven. If that conclusion is

not conveyed to us until 2021, that will be the year we face an extraordinarily painful tax year.

- E. If we have purchased all the deductible personal property items to offset some of our entire PPP loan forgiven in 2020, we should expect to get hammered in 2021. Hopefully our list is intact and we can delay our acquisitions until 2021.
- F. Of course everything could change, depending upon the results of the Presidential election. Everything could also change if Pelosi and Mnuchin can come to some definition of what "Stimulus II" will look like. So far, it appears they have been dancing around the subject, stalling for election results. For many reasons things could change and we would probably recommend changes to our strategy. As we have stated before, there has been some talk that some members of Congress are in favor of allowing us to not report the forgiven loan as income and still be able to deduct the expenses. It was not the intent of Congress to punish small businesses in need of assistance but to help them stay in business and keep their employees working. Haven't heard much about this concept lately but everyone is busy trying to get re-elected so it probably hasn't been a priority. Approval of some version of this favorable forgiveness would certainly dictate a review of strategy.

So, where do we go from here?

If you haven't received final approval on forgiveness of your PPP loan, it is not likely that you will hear before 2020 year end unless there are significant alterations to what will be required. If you have already submitted your paperwork for loan forgiveness to your lender, it is possible you will be required to provide additional information before final approval can occur.

It would appear that for 2020, your balance sheet will show your PPP loan as a liability and your operating expenses will be deductible as normal. If you haven't yet acquired those tax deductible personal property assets and it is not an emergency, you may want to consider holding off until 2021 or until we have more clarity about our options.

If you have already acquired those personal property assets in 2020, start making your list for 2021.

We are pleased to assist you in any way possible with whatever is ultimately required to submit your loan forgiveness application. Please keep us posted on what you hear from your lender.

Thank You.


Don Brown Associates