



GLENN BURDETTE

COVID-19 RESOURCE UPDATE

OCTOBER 12, 2020



Summary:

Is 2020 still going? Are we still talking about PPP loans? Are my kids EVER going back to school?

Yes, yes, and dear God I hope so.

A few quick updates on recent developments. Don't let it ruin your week.

Stay safe and well everyone.

IN THIS ISSUE:

PPP LOAN UPDATE

SIMPLIFICATION?

MEH.



tim.dossa@glennburdette.com

PPP Loan Updates 10/12/20

New Developments:

- There have been a couple of new developments on the PPP Loan Front recently.
- Are you nervous? Here's the first one (it won't fill you with joy).
 - **Transaction Planning Issues**
 - In some cases, the SBA now requires documentation when there is a transfer of ownership or sale of assets of an entity that has an outstanding PPP Loan.
 - See charts below:

	SBA Approval Required	Lender Approval Required	Escrow Required	Documentation Required
Transfer of less than 20% of ownership interests in the entity	No.	Maybe. Check the loan documents.	No.	None.
Transfer of 20% - 50% of ownership interests in the entity	No.	Yes.	No.	<u>Lender must submit:</u> <ul style="list-style-type: none"> • Identity of new owner(s) • New ownership percentages • Tax ID Number of any owner over 20% • Location and amount of escrow account if necessary.
Transfer of more than 50% of ownership interests in the entity	Yes, if borrower does not submit forgiveness application and escrow information.	Yes.	Yes, if borrower wishes to avoid obtaining SBA approval.	<u>If borrower needs SBA approval, he or she must submit:</u> <ul style="list-style-type: none"> • Reason for requiring approval • Details of requested transaction • Copy of PPP note • Letter of intent and purchase/sale agreement • Disclosure of buyer's PPP loan status • List of all owners over 20% Lender must submit info in box above.

PPP Loan Updates 10/12/20

New Developments continued

	SBA Approval Required	Lender Acknowledgement Required	Escrow Required	Documentation Required
Under 50% of borrower's assets (based upon fair market value)	No.	Maybe. Check your loan documents.	No.	No.
50% or more of borrower's assets (based upon fair market value)	Yes, if borrower does not submit forgiveness application and escrow information.	Yes.	Yes, if borrower wishes to avoid obtaining SBA approval.	<p><u>If borrower needs SBA approval, he or she must submit:</u></p> <ul style="list-style-type: none"> • Reason for requiring approval • Details of requested transaction • Copy of PPP note • Letter of intent and purchase/sale agreement • Disclosure of buyer's PPP loan status • List of all owners over 20% <p>Lender must submit info in box on previous slide.</p>

- So what does all this mean?
 - If you are selling more than 20% of your business, merging with or into another entity, or selling at least 50% of the assets of a business that has an outstanding PPP loan, you may need to get SBA approval.
 - **SBA approval can take up to 60 days, so plan ahead.**
 - Make sure you talk with your lender.
 - Even if you do change ownership and get approval, you are still responsible for performance of all of the PPP loan requirements.

PPP Loan Forgiveness Updates 10/12/20

Paycheck Protection Loan Forgiveness

- And now for some news that might fill you with a little bit of joy.
- But just a little...
 - PPP borrowers with loans of **\$50,000 or less** now have a new and somewhat simplified forgiveness application process.
 - **How does it work?**
 - First, you get an exemption from the FTE rules and the salary/wage reduction rules.
 - **THAT'S NICE!**
 - What else?
 - The Forgiveness application is one-page. Also nice!
 - You must certify that:
 - Dollar amount of forgiveness is not more than the loan amount. Duh.
 - The loan was used for eligible costs (payroll, rent, mortgage interest, utilities).
 - Payroll costs were at least 60% of the forgiveness amount,
 - You followed the (lame) rules on owner-employee compensation.
 - If you lied about how you spent the money, you may be subject to criminal fraud charges. So don't do that.
 - Here's the big one: you submitted to the Lender the required documentation verifying payroll costs and other eligible expenses. **Yes, you still have to send in the supporting documentation.** Bummer.
 - All the info provided is true and correct, and that it will all agree to what you submit to the IRS and state agencies, and that the SBA may still request additional info from you.
 - Somewhat better than the EZ form as you don't have to disclose as many numbers. **But you still have to calculate it, and you still have to meet the 60% threshold on payroll, so it's really not much better than the existing EZ form.**
 - **IT IS NOT AUTOMATIC FORGIVENESS.**
 - Look for Form 3508S for this simplified forgiveness application on loans of \$50,000 or less.

Regulatory Updates 10/12/20

Paycheck Protection Loans - Other Items

- We've received many questions on the timing of submitting the forgiveness application.
 - This is a judgment call, but we have advised most to wait, for the following reasons:
 - There is technically no deadline for applying for forgiveness. Technically, you don't ever have to if you don't want to. You can just leave it as a loan.
 - But 10-months after your Covered Period ends, you must begin making payments on the loan.
 - There is still a good chance that forgiveness will be simplified for loans less than \$2M. This has bi-partisan support in Congress, but has been attached to the larger Stimulus package, which as we know has been moving about as fast as, well, I can't think of anything moving slower to compare it to. Don't get me started.
 - Many lenders are still not accepting applications.
 - There are tax implications that still need IRS clarification. Under current rules, you would lose all deductions for the expenses paid for with forgiven funds. So that is a tax detriment. Some have been pushing the IRS to change this, but nothing has happened to date. So there could be benefit to waiting. Consult your tax advisor before deciding. Yes, shameless plug, but still good advice.

Most of you are just about at the end of the 24-week period. Run your numbers and see where you might fall on forgiveness so you can plan accordingly. Last minute bonuses can get you more forgiveness if you need (provided it doesn't push someone over the \$100K per year limitation).

Last shameless plug (probably not): This year, above all other years, we can't stress the importance of doing tax planning prior to 12/31/2020. There have been so many moving parts: COVID, government aid, fires that have created Federal disaster areas, reduced income, new expenses incurred, and stock market values all over the board. The variables are numerous and will have an impact on your taxes. Have a conversation with your tax advisor so you can make any moves before year end that may minimize your tax liabilities (like getting one of those tax-deductible \$70,000 haircuts!).

Take care everyone!