DG Advisors LLC
Proactive Tax & Profitability Solutions™
A DENTAL GROUP COMPANY

Updated April 13, 2020

Covid-19 Resources

FAQs – April 13, 2020

Getting you the answers to the many questions related to Covid-19 and its impact to you is our first priority.

Q1 - How much of my loan will be forgiven?

Answer: The full amount of your loan may be forgiven if it is used within the 8-week period and assuming it is used to cover the specified costs including payroll costs, mortgage interest, rent, and utilities payments as outlined in this FAQ. To the extent it is not forgiven you will have a loan at 1% for 2 years.

According to a recent (Fact Sheet #4) SBA/Treasury release, it is anticipated that not more than 25% of the forgiven amount may be for non-payroll costs, in other words 75% or more of the spending must be on payroll costs and the balance can be other qualified expenses as enumerated in the paragraph above.

Example 1: You submit and qualify for a $150,000 PPP loan. The first funds are distributed on April 13 which sets the beginning of the 8-week period for loan forgiveness spending. Due to the fact that you have only a skeleton crew for emergencies plus doctor owner(s) and perhaps a spouse on the payroll you are only able to spend $75,000 on payroll costs. This would allow you to spend another $25,000 on rent, utilities, and (qualified) interest payments for a total of $100,000 in forgivable spending.

Comment 1: Keep in mind this forgiveness program was modeled for businesses to provide funds to re-hire idled employees due to reduced business activity. It was not modeled with businesses, like dentistry, who are subject to a mandatory closure period in mind. There is some possibility that federal regulatory guidance or new statute – perhaps in the expected additional stimulus bill (Stimulus 4) - could provide an on-point exception. However, at this time we believe it would be imprudent to assume that will materialize.

Comment 2: We have experienced almost daily changes in the rules, interpretation, applications and processes in both the SBA EIDL loan and (this) PPP Loan program. We expect that rulemaking as relates to the forgiveness program to be every bit as fluid. In other words – please stay tuned.

Q2 - What are the other qualifications for Debt Forgiveness?

Answer: You will also owe if you do not maintain your staff and payroll costs as follows:

- Number of Staff: Your loan forgiveness will be reduced if you decrease your full-time employee headcount (see below)
- Level of Payroll: Your loan forgiveness will also be reduced if you decrease salaries and wages by more than 25% for **any employee** that made less than $100,000 (annualized) in 2019

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- Re-Hiring: You have until June 30, 2020 **to restore your full-time employment** and salary levels for any changes made between February 15, 2020 and April 26, 2020
- In short – your staffing and payroll level is measured as of June 30 and compared to your staffing and payroll levels during the period of February 15, 2019 to June 30, 2019

Q3 - What are Qualified Payroll Costs?

Answer: We believe that Qualified Payroll Costs applicable to the Forgiveness Program will be defined the same as they are for computing the PPP loan amount[1].

- Payroll costs consist of compensation to employees (whose principal place of residence is the United States) in the form of salary, wages, commissions, or similar compensation; cash tips or the equivalent, and limited to a maximum of $100,0002 per year (annualized) per individual employee; and,
- Payment for vacation, parental, family, medical, or sick leave; allowance for separation or dismissal; and,
- Payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums, and employer-paid retirement costs; and,
- Payment of state and local taxes assessed on compensation of employees; and,
- For an independent contractor or sole proprietor, wage, commissions, income, or net earnings from self-employment or similar compensation. We believe the self-employment clause should also cover individual partners or members in a partnership (LLC, PLLC).

Q4 - Should I rehire my staff for the 8-week period even if I am paying them to stay home?

Answer: This may or may not help your staff. With enhanced unemployment benefits coming on line and increasing regular benefits by $600 per week (retroactively staring the week of March 29th) and without tax withholdings or benefits, some staff members may determine they are better off on unemployment. Although the debt forgiveness program will cover payroll and state unemployment taxes associated with that payroll, it will not cover employer taxes such as Federal FICA taxes at 7.65% or Labor and Industry (worker's compensation) premiums.

Q4(a) - What if I brought my staff back to ready the practice for reopening?

Answer: This may be possible. Our read is that Dental Offices are deemed essential services in Washington State; however, under the Governor's decree, you cannot treat non-emergency patients if it requires personal protective equipment. To make sure this does not run afoul of State rules on Stay Home – Stay Safe, consult your professional practice attorney and ADA/WSDA guidelines. Also – keep in mind that we do not know for certain yet when you will be able to reopen for non-emergencies and what additional protective protocols and equipment may be required (and available).

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1 Note – many PPP lenders, in their supporting application schedules, incorrectly calculated Payroll Costs. The same was true for most if not all composite PPP reports produced by payroll companies. We hope the Forgiveness applications will be better planned.

2 The limit of $100,000 annualized per employee does not apply to benefits and taxes. I.e. benefits and taxes paid for the benefit of a doctor/owner, associate or other employee earning more than $100,000 are added on to the $100,000 (with the possible exception for sole proprietors where it appears that only net self-employment income would qualify as payroll costs).

Q4(b) - Should I put my spouse or family members on the payroll during the 8-week period?

Answer: The key to paying a spouse or family member is to make sure that the work and hours are well documented. Spouses and other family should be required to report/log hours like any other employee. They should have a detailed job description, and we recommend journaling the work activities if it is a non-standard dental position.

Q4(c) - Can I cram extra payroll into the eight-week period?

Answer: Keep in mind the Application for Forgiveness is a federal filing; so, it behooves you to be very detailed and accurate. We would not for example recommend prepaying your staff for future work; at the same time, it is possible that the timing of your payroll pay dates might be organized so that one additional payroll period is legitimately covered within the 8-week period.

Comment 3: There are any number of ways to "game" this system. If you pay your 2019 or 2020 employer retirement contributions within the 8-week period will these count as qualified Payroll Costs? Maybe, maybe not.

As noted up top, we fully expect that forgiveness rules will be forthcoming over the next several weeks that may give better guidance on how to optimize the 8-week qualified spending process while at the same time how to avoid committing a felony of the federal variety.

Comment 4: Remember that June 30 is the date you need full employment to get forgiveness on the loan, so holding off on spending funds and re-hiring employees until you are within the 8-week period is important in your calculations and considerations.

Comment 5: Even if you hold off on spending the funds until after the 8-week period ends, you end up with a loan at 1% for 2 years to help with to pay payroll costs, rent, utilities and mortgage interest when you reopen.

Q5 - What are Qualified Rent and Mortgage Interest Costs?

Answer: Rents paid on a lease entered into prior to February 15, 2020. Mortgage Interest Costs refer to valid practice level loans entered into prior to February 15, 2020.

Q6 - So how does this work if I own the building?

Answer: We believe that if you are paying rent from your practice entity to another business entity (even one that you own), the rent payment will qualify for debt relief. Conversely if the entities are disregarded then you would only be able to deduct the mortgage interest on the payment for the building. We will be looking for further guidance on this topic.

Q7 - What if I cannot spend all the funds on payroll or other allowed costs? Is it okay if I spend it on other things like PPE or supplies or similar costs?

Answer: Remember that the intent of the program is to re-hire employees and get them off of unemployment, and the loan application should be made with that intent in mind. If you have received the funds but are unable to utilize them due to government mandated closure of your dental office, then we recommend you keep them in reserves to be used for that purpose once you are able to do so. Unless clarification is provided that indicates you can use the funds for other purposes, we do not recommend you do so.

In other words, once the 8-week period has expired we believe at this time you should continue to spend any excess PPP funds on the same qualified spending items as noted above.

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Q8 - When does the 8-week period begin?

Answer: Barring further updates and changes, the 8-week period begins on the date the lender makes the first disbursement of the PPP loan to the borrower, and the lender is required to make the first disbursement no later than ten days from the date of the final loan approval.

Q9 - How can I request loan forgiveness?

Answer: You will submit an application to the lender that is servicing the loan at the end of the 8-week period; or if later, after the June 30 staff and payroll qualification date. The request will include documents that verify the number of full-time equivalent employees and pay rates, as well as the payments on eligible payroll costs, mortgage interest, rent, and utility obligations. You must certify that the documents are true and that you used the forgiveness amount to keep employees and make eligible mortgage interest, rent, and utility payments. The lender must make a decision on the forgiveness within 60 days.

CAUTION: Under no circumstances do we recommend you use this loan to refinance an existing debt; for personal expenses; expand your business; buy equipment or similar activity. We fully expect that these loans will be heavily audited in the future. As a part of your application, you certified in good faith that:

- **The funds would be used to retain workers and maintain payroll or make mortgage, rent and utility payments.**
- **You have not and will not receive another loan under this (PPP) program.**

Q10 - How do the PPP loan and the EIDL loan work together?

Answer: Our understanding, pending further clarification, is that you can apply for both loans but you cannot use them for the same purposes. EIDL loan proceeds should be targeted at overhead expenses specifically not allowed by the PPP loan.

Q11 – Which is better; the Employee Retention Credit or a Forgivable PPP Loan?

Answer: It's important to not neglect the Employee Retention Credit as another possible option **instead of taking out a PPP loan**. For some practices it may provide a better opportunity for "free money" but you must evaluate this based on your own circumstances. As a reminder here is how the credit works:

The credit is available for wages paid starting March 13, 2020 through December 31, 2020 for practices that were fully or partially suspended due to COVID-19 during the calendar quarter or can show their gross receipts are below 50% of the comparable quarter in 2019. Once the employer's gross receipts go above 80% of a comparable quarter in 2019, they no longer qualify after the end of that quarter. The credit is limited to 50% of the first $10,000 in total qualified wages, including health benefits, paid to each eligible employee for all calendar quarters (maximum credit of $5,000 per employee). **Once again, anyone that receives a Paycheck Protection Loan cannot claim any Employee Retention Credits**.

Example 2: Assuming a practice with 8 employees qualifies, and they are paid at least $10,000 of wages each in a quarter, you would receive a $40,000 (8 x $5,000) refundable tax credit when filing your Form 941 payroll tax filing. If you are primarily concerned about the loan forgiveness aspect of taking out a PPP loan (rather, are not concerned about cash needs or are looking at using the EIDL loan for working capital instead) then perhaps the $40,000 in the above example could outweigh the amount of qualified costs you can spend within the 8 week period from receiving the loan. Presumably there is a lesser record keeping requirement and less paperwork involved with simply taking the credit than pursuing a forgivable PPP loan.

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Nonetheless, it is all about timing. If you are able to obtain a PPP loan and utilize more than what you could with the employer tax credit, then a PPP loan may still provide you with more "free money" than forgoing it, but be prepared to follow the extensive rules and regulations required for forgiveness.

COMING TOMORROW: Essential Record Keeping for the PPP Loan Forgiveness Program

Dental Group, LLC - We will be working both in the office and remotely in the coming weeks. Our meetings will be done via teleconference and or online collaboration. If you plan to drop off tax documents, please call ahead to coordinate a time when we will be in the office as there is no safe place to leave documents at the door.

Our focus in the coming weeks will be on finishing tax returns such that if a refund is due to you, we can get that as quickly as possible; we are of course continuing to monitor developments so that we can be a resource to you in making decisions relative to your practice and personal finances.

If you have any questions, please do not hesitate to contact us directly at (425) 216-1612.

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