

COVID-19 Response Update  
**April 28, 2020**



# Notice

Baker Tilly is providing updated information as it becomes available. Due to the nature of the emerging and rapidly evolving information from government and non-government relief programs, some requirements and offerings may change at any time. Please consult with your loan officer for the most current details.

**PAYCHECK PROTECTION LOANS**

## Contact information



**Patrick Yu, CPA**  
*Partner*

*Baker Tilly*  
+1 (212) 792 4802  
[patrick.yu@bakertilly.com](mailto:patrick.yu@bakertilly.com)

**PAYCHECK PROTECTION LOANS**

## Presenter's Bio

Patrick Yu, CPA, is one of the partners of Baker Tilly's healthcare/not-for-profit services in the NY Business Unit with 25 years of experience in providing various audit, review, accounting, and consulting services to behavioral health and not-for-profit entities. Patrick has worked extensively with membership organizations, behavioral health, handicapped and mental health, intellectual/developmental disabilities, Article 28 and 31 clinics, special education, private schools, community and social services, community development and HUD-funded affordable housing organizations, as well as employee benefit plans. He also specializes in CFR audits, compliance audits in accordance with Government Auditing Standards and Uniform Guidance.

Patrick is the current chair of Baker Tilly's Diversity & Inclusion Committee of the NY Business Unit and is a member of the firm's national Diversity & Inclusion Committee. Patrick is the current chair of the New York State Society of Certified Public Accountants' (NYSSCPA) Statewide Not-For-Profit Committee. Patrick is past co-chair of the NYSSCPA Not-for-Profit Organizations Committee in Suffolk County, LI. He presents frequently at the NYSSCPA Nassau-Suffolk Annual A&A Update. Patrick is past Board treasurer and past Finance Committee Chair of Easter Seals NY. Patrick is currently the Board treasurer and Finance Committee Chair of Queens Chamber of Commerce.



**PAYCHECK PROTECTION LOANS**

## Stimulus Package 2.0

### Refilling the bucket:

- \$320B for the exhausted PPP loans
    - \$250B for general fund
    - \$60B for smaller banks and lenders
  - \$60B for the EIDL programs
  - Some experts predict new funding to be exhausted in a week
  - Banks working through backlog
    - Don't withdraw your application yet
- Treasury Secretary Mnuchin on record stating that "we need to spend what it takes" to overcome COVID-19 crisis per WSJ



**PAYCHECK PROTECTION LOANS**

## Which Not-for-Profits Can Apply?

### 501 (c)(3) and 501 (c)(19):

- First come, first served
- Have 500 or fewer employees (principal place of residence in U.S.)
- Or meet the SBA employee-based size standards based on NAICS
- Maximum loan amount to be borrowed: \$10M
- Max. loan calculation: 2.5 times of average monthly eligible payroll costs
- 1% interest; two-year maturity term
- 100% guaranteed by SBA, the banks are not at risk
- Repayment deferral (at least 6 mos., max. at 1 year)

  
**PAYCHECK PROTECTION LOANS**

## Which Not-for-Profits Can Apply?

### Good Faith Certification:

- Current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant
- Applicants must make this certification in good faith, taking into account their current business activity and their ability to access other sources of liquidity sufficient to support their ongoing operations in a manner that is not significantly detrimental to the business.
- Any borrower that applied for a PPP loan prior to the issuance of this guidance (issued on April 23, 2020) and repays the loan in full by May 7, 2020 will be deemed by SBA to have made the required certification in good faith.



**PAYCHECK PROTECTION LOANS**

## Which Not-for-Profits Can Apply?

### List of Some Companies that Returned the PPP Loans:

- LA Lakers - \$4.6M
- Auto Nation (NYSE) - \$77 million
- Ruth Hospitality Group, Inc. (NASDAQ) - \$20 million
- Jake Alexander's Holdings, Inc. (NYSE) - \$15.1 million
- Shake Shack, Inc. (NYSE) - \$10 million
- Potbelly Corporation (NASDAQ) - \$10 million





**PAYCHECK PROTECTION LOANS**

## Which Not-for-Profits Can Apply?

### 501 (c)(3) and 501 (c)(19):

- Does the “*Alternative Size Standard*” apply?
  - A small business concern if it met both tests in SBA’s “alternative size standard” as of **March 27, 2020**: (1) **maximum tangible net worth** of the business is **not more than \$15 million**; and (2) the **average net income** after Federal income taxes (excluding any carry-over losses) of the business for the two full fiscal years before the date of the application is **not more than \$5 million**.



**PAYCHECK PROTECTION LOANS**

## Where to Now?

If you received PPP funding, there are some questions to address:

- How do you maximize loan forgiveness (principal and accrued interest)?
- What tests apply to your situation?
- What will I have to provide to have the loan forgiven?
- Concept of double dipping...
- Medicaid: payer of last resort...



## **PAYCHECK PROTECTION LOANS**

# How do you maximize forgiveness?

**There are four tests to pass:**

1. Spend all the proceeds
2. Spend 75% on “payroll costs”
3. Wage test
4. Headcount test

## **The June 30 Exemption**



## PAYCHECK PROTECTION LOANS

# How do you maximize forgiveness?

## 1. Spend all the proceeds

- What will you incur and spend in the next 8 weeks on:
  - Payroll costs (as so defined – *excluding \$100k annualized - \$15,385 per employee*)
  - Rent (leases)
  - Utilities
  - Interest on debt service (real and personal property + other)
- Will this be equal to or less than the loan proceeds?
- The amount unspent will not be eligible for forgiveness



## **PAYCHECK PROTECTION LOANS**

# How do you maximize forgiveness?

## 2. Spend 75% on “payroll costs”

- Payroll costs are:
  - Gross payroll
  - Healthcare
  - Retirement
  - State unemployment
- To the extent payroll costs do not meet the 75% test, that amount is not eligible for forgiveness

## PAYCHECK PROTECTION LOANS

How do you maximize forgiveness?

### 3. Wage Test

- For any employee paid during the covered period [*who has completed a full quarter of employment as of Q1 2020?*]
- Compare salary / wage during covered period to previous Q worked by each EE
- Only employees who earned less than annualized \$100,000 when analyzing by pay period for 2019
- To extent decrease in salary or wages exceeds 25%, the **excess** is a **dollar for dollar decrease** in amount eligible for forgiveness



## PAYCHECK PROTECTION LOANS

# How do you maximize forgiveness?

## 4. Headcount Test

- Compare average FTEE headcount between periods (FTEE, not FTE)
- Factor to determine ineligible portion is a ratio of:
  - FTEE headcount during covered period DIVIDED BY
  - Lower of FTEE headcount of either
    - February 15, 2019 through June 30, 2019 OR
    - January 1, 2020 through February 29, 2020
- If ratio is less than 1, current interpretation is that the delta to 1 is a “% of” decrease in amount eligible (**including eligible non-payroll costs**) for forgiveness

  
**PAYCHECK PROTECTION LOANS**

## The June 30 Exemption

### Currently reads

- If there was a reduction in either FTEEs or salary / wages between February 15, 2020 and April 26, 2020 (30 days after Act is passed)

### AND

- Not later than June 30, 2020, the above reductions are “eliminated”
- Then the reduction from February 15, 2020 to April 26, 2020 does not count against the wage or headcount test



  
**PAYCHECK PROTECTION LOANS**

What do I keep as support?

## Document Retention

- Invoices
- Payroll reports
- Bank statements
- Cancelled checks
- Executed loan and lease agreements
- Supporting calculations



## **PAYCHECK PROTECTION LOANS**

To all the above – we are here to help...

### Phase 1 – PPP Application

- Assisted on many of PPP applications.

### Phase 2 – Forgiveness Planning and Check-ins

- Forecasting for forgiveness
- Week 4 check-in and (recast and document check)
- Week 6.5 check-in (recast and document check)

### Phase 3 – Forgiveness Application

- Prepare calculations for forgiveness
- Assist with organization of supporting documents
- Finalize and confirm submittal

### Beyond PPP – Strategic Planning



## **PAYCHECK PROTECTION LOANS**

Look for more guidance on...

### Ordering of tests

- What is the order of the 4 tests to calculate forgivable portion?

### Wage Test and Headcount Test

- Will there be double penalty for terminated employees during covered period?

### June 30 Exemption

- What evidence is needed to prove compliance?
- Is it all or nothing?

## Next Steps

Please contact us to set up a virtual meeting to discuss your current situation to learn where we can help.

**PAYCHECK PROTECTION LOANS**

Contact information



**Patrick Yu, CPA**  
*Partner*

*Baker Tilly*  
+1 (212) 792 4802  
[patrick.yu@bakertilly.com](mailto:patrick.yu@bakertilly.com)



## Disclosure

The content in this presentation is a resource for Baker Tilly Virchow Krause, LLP clients and prospective clients. The information provided here is of a general nature and is not intended to address the specific circumstances of any individual or entity. In specific circumstances, the services of a professional should be sought. Tax information, if any, contained in this communication was not intended or written to be used by any person for the purpose of avoiding penalties, nor should such information be construed as an opinion upon which any person may rely. The intended recipients of this communication and any attachments are not subject to any limitation on the disclosure of the tax treatment or tax structure of any transaction or matter that is the subject of this communication and any attachments.