



STARKWEATHER & SHEPLEY
INSURANCE BROKERAGE INC.

CARES ACT UPDATE:

Calculating Loan Forgiveness and The Business Insurance Impact

Presented by



ANTHONY MANGIARELLI, CPA, MST

KLR, Partner and Director of Enterprise
Solutions Group



SEAN COTTRELL

Starkweather & Shepley Insurance,
Senior VP and Human Services/
Healthcare Practice Group Leader



Agenda

- KLR Update on the Paycheck Protection Program and Discussion on the Loan Forgiveness Calculation
- Starkweather & Shepley COVID-19 Business Insurance Impact
 - Changing Business Environment
 - Insurance Premium Cash-Flow Management
 - Key Coverage Discussion
 - Business Interruption Insurance Update/
Filing a Claim
- Q&A – webinar attendees

Paycheck Protection Program Review

Paycheck Protection Program (PPP)

What is it?

The Paycheck Protection Program (PPP) is a loan program designed to provide two months of payroll and assist with necessary operating expenses.

The key provision of this loan is that payroll and certain other costs incurred in the 8 week period after the loan is made will potentially be eligible for forgiveness. Such forgiveness will be tax free to the borrower.



Paycheck Protection Program

Who is Eligible?

Generally speaking, for-profit, non-profit (501(c)(3) organizations) Tribal organizations and veterans organizations that employ less than 500 individuals. Also, sole proprietors, independent contractors and other self employed individuals may be eligible to receive loans.

How much can I borrow?

The maximum loan amount available is the lesser of:

The 12 month average monthly eligible payroll costs of the applicant incurred prior to the date the loan is disbursed to the applicant multiplied by 250% (2.5) **or** \$10,000,000 loan amount



Paycheck Protection Program

What can I use the loan proceeds for?

Borrowers may use the loan for eligible payroll costs, payments of interest (not principal) on mortgage obligations on real or personal property, rent payments, utilities, interest payments on other debt obligations and refinancing of EIDL loans received between Jan. 31 – April 3, 2020.

For mortgage, debt, rent, and utilities the agreement had to be in effect prior to February 15, 2020.

**** Note:** 75% of PPP loan proceeds must be used for eligible payroll costs and while you can use loan proceeds to pay interest payments on other debt obligations, these amounts are not eligible for forgiveness.



Paycheck Protection Program

Million Dollar Question:


How much will be forgiven and is it taxable?

3 Step Process based upon guidance through today (April 21, 2020): Allowable Costs, Headcount reduction and Salary Reduction

- CARES Act
- Interim Final Rules
- FAQs

SBA will issue additional guidance on loan forgiveness

Amounts forgiven will not be includable in taxable income.



Determining Loan Forgiveness 3 Steps



Step 1: Track Eligible Costs in 2 Buckets

What are eligible payroll costs? (Bucket A)

Generally speaking, payroll costs consist of all GROSS compensation paid to employees not to exceed a \$100,000 annual rate cap per employee; employer payments for health care coverage, employer retirement plan contributions and payments of state and local taxes assessed on compensation of employees.

What are eligible non-payroll costs? (Bucket B)

Generally speaking, non-payroll costs consist of payments of interest on mortgage obligations (on real or personal property) incurred before February 15, 2020, rent payments on leases dated before February 15, 2020, and utility payments under service agreements dated before February 15, 2020.



Step 1: Track Eligible Costs in 2 Buckets

**To Calculate Maximum Allowable Expenses:
Divide bucket A (Eligible Payroll Costs) by .75**

Add Buckets A&B together:

- If Less than Maximum Allowable Expenses move on to Headcount Reduction Component
- If more than Maximum Allowable Expenses reduce Total Allowable Expenses (Bucket B – Eligible Non-Payroll Costs) to Maximum Allowable Expenses

Eligible Non-Payroll Costs are limited to 25% of loan amount forgiven



Step 1: Considerations

Using Cash Basis vs Accrual Basis

CARES Act Language:

1. “costs incurred **and** payments made during the covered period” for these expense inputs.

Question: Does the word “and” in the Act’s sentence mean one or the other or both must be present to satisfy the requirement?

2. “any payment” precedes interest, rent or utility payments in CARES act

Question: Can a business pay delinquent expenses? There is no reference to scheduled, monthly or in the normal course of business when describing the non-payroll costs.



Step 1: Considerations

What is Included in Rent?

Interim Final Rule #3

1. “business rent payments” Example references “the warehouse where you store business equipment or the vehicle you use to perform your business”

Question: Are rent payments only for amounts on leased premises?

2. No reference to scheduled, monthly or in the normal course of business when describing the non-payroll costs

Question: Can business pre-pay expenses? There is no reference to scheduled, monthly or in the normal course of business when describing the non-payroll costs



Step 1: Considerations

What is Included in Utilities and Interest?

Interim Final Rule #3

1. Example references "the cost of electricity in the warehouse you rent or gas you use driving your business vehicle"

Question: Are fuel payments for delivery vehicle fleets eligible?

1. "Payments of interest on mortgage obligations on real or personal property"

Question: Why does guidance not include word "tangible" before personal property?



Step 2: Headcount Reduction Adjustment

Formula based: reduction in the total number of average full-time equivalent employees (FTEs)

The average # of FTEs for the 8 week period divided by (at the borrower's election) either the

- Average # of FTEs from 2-15-19 through 6-30-19
- Average # of FTEs from 1-1-20 through 02-29-20



Step 2: Consideration

When calculating part-time employees as FTE:

Is calculation based upon 40 hour standard work week or 30 hour ACA work week?

**** Note** – The credit cannot be increased in the scenario where additional workers were hired.



Step 3: Salary Reduction Adjustment

The loan forgiveness amount will be further reduced for any reduction in total salary or wages for an employee who earns less than 75% of the total salary and wages earned during the most recent quarter such that, if you decrease an employee's payroll by more than 25%, each \$ above 25% will reduce the loan forgiveness amount.

****Note** - Reductions in excess of 25% for employees with annual salaries of \$100K or more during 2019 are excluded (no proration or cap)

Step 3: Considerations

A quarter is 13 weeks, an 8 week
assessment = 61%

Even if I pay at the same pay rate, we
won't hit 75%?

Loan Forgiveness Calculation



Example: Potential Payroll Protection Program Loan Calculation

**** Note ****
This worksheet is to assist in completing the Paycheck Protection Program Borrower Application Form. It is designed to use calendar year 2019 amounts to estimate the potential loan amount.

A	Compensation (Per W-3 Box 5)		\$ 2,500,000
	Add Back: Compensation items not included above (Section 125 plans)		\$ 100,000
	Less: Employees in excess of \$100,000		
	Kahn	(156,000)	
	Litwin	(156,000)	
	Renza	(156,000)	
	Total		(468,000)
	Number of employees in Excess of \$100,000	3	
	Add back: Employees capped at \$100,000		300,000
	Eligible EMPLOYER PAID Benefits:		
B	401K matching contributions for 2019		200,000
C	Profit Sharing Contribution (paid in 2019)		300,000
D	State and local taxes assessed on compensation (RI Illustrated below from quarterly Form TX-17)		
	JDF		5,000
	ES		3,000
	Total eligible Health Insurance paid for 2019	750,000	
	Less: EE paid amounts	(250,000)	500,000
			3,440,000
	12 month average for 2019		286,667
	Multiplied x 2.5		\$ 716,667

Loan Forgiveness Calculation – Potential Forgiveness Amount

Payroll Costs (Bucket A)				Amount
Compensation (all)				\$ 400,000
	Gross payroll for Those employees with payroll in excess of \$15,384 during 8 week period	Cap of \$100,000 Annual Salary during 8 week period	Adjustment Required	
Less: Employees in excess of \$100,000				
Kahn	24,000	15,384	(8,616)	
Litwin	24,000	15,384	(8,616)	
Renza	24,000	15,384	(8,616)	
Total	72,000	46,152	(25,848)	(25,848)
State and local taxes assessed on compensation				10,000
401K Matching Contributions/Profit sharing				65,000
Health and Dental Insurance				80,000
Total Payroll Costs			72.97%	529,152
Non - Payroll Costs (Bucket B)				
Mortgage Interest:	Date of Loan Origination			
Building Loan	11/2015			5,000
Auto Loan	11/2018			1,000
Rent Obligations				
	Date of Lease Origination			
Building	11/2006			150,000
Truck	11/2018			2,000
Trailer	11/2018			2,000
Equipment	11/2020			4,000
Utilities				
	Date of Service Agreement			
Electric	11/2006			5,000
Gas	11/2006			3,000
Water	11/2006			2,000
Telephone	11/2017			2,000
Internet	11/2017			20,000
Total Non-Payroll Costs			27.03%	196,000
Total Allowable Costs Incurred				725,152
Maximum Allowable Expenses				705,536
75% of bucket A - Payroll Costs				
Eligible Forgiveness Amount				\$ 705,536

Loan Forgiveness Calculation – Headcount and Salary Reduction Forgiveness Amount

HEADCOUNT REDUCTION TO FORGIVENESS AMOUNT					
Employee Headcount Reduction	Hours worked	ACA Work Week	Amount		
Monthly average of FTE for the 8 Week period	13,500	30	56	Numerator	
Monthly average FTE's 2-15-19 to 6-30-19	36,000	30	62	Revisit formula for pay periods	
Monthly average FTE's 1-1-20 to 2-29-20	15,000	30	58	Revisit formula for pay periods	
Denominator			58		
Reduction Percentage				96.43%	
Potential Loan Forgiveness Amount				\$ 680,336	
SALARY REDUCTION TO FORGIVENESS AMOUNT					
Employees who made less than \$100,000 during 2019	Most recent qtr. worked March 31, 2020	Factor	8 Week Compensation	Adjustment Required	
A	16,000	12,000	13,000	-	
B	22,000	16,500	15,500	(1,000)	
C	18,000	13,500	4,000	(9,500)	
Actual Loan Forgiveness Amount				\$ 669,836	
Original Loan Amount				\$ 716,667	
Loan Balance to be repaid				\$ 46,831	

Reduction for the Forgiveness Amount – 2 Components

A Reduction based on reduction in number of employees

Total eligible
forgiveness amount

X

Average # of FTE EE's per
month for the covered period
(8 Weeks after loan
disbursement)

3 Options at election of
Borrower

Average # of FTE EE's from the period 2-15-
19 through 6-30-19

Average # of FTE EE's from the period 1-1-
20 through 2-29-20

Seasonal ER's Only - Average # of FTE EE's
from the period 2-15-19 through 6-30-19

Note - Can not increase the credit!

B Reduction for wages paid

The loan forgiveness amount will be further reduced for any reduction in total salary or wages for an EE that is in excess of 25% of the total salary and wages of the EE during the most recent quarter.

In other words, if you decrease a salary EE's payroll by more than 25%, each \$ above 25% will reduce the loan forgiveness amount.

Note - Reductions in excess of 25% for EE's with annual salary's of \$100K or more are excluded (no proration or cap)



PPP FAQs

But I've already laid off my EEs or instituted drastic salary reductions, what can I do?

Don't worry, the CARES Act included relief provisions for employers who have laid off employees and/or reduced wages as long as you rehire employees by June 30, 2020.

The CARES Act did not detail how such relief would work. The SBA has 30 days from the date of enactment to issue official guidance in regard to loan forgiveness and relief.

We expect guidance to be released sooner, rather than later given the number of applicants who will be applying.

PPP Loan Provision

- **Collateral** – This a nonrecourse loan unless the loan proceeds are determined to have been used for unauthorized expenditures.
- **Guarantee** – No personal guarantees are required.
- **Interest Rate and Term** – Interest will be at 1% and repaid over a 2 year term.
- **Payment deferral** – First payment required will be deferred for 6 months upon loan conversion.
- **Fees** – The SBA will not collect any fees for loans made under this program.



Create A Due Diligence File

- A copy of your application
- Copies of any supporting documentation you provided to the bank
- Copies of your PPP borrowing amount calculation (including all payroll related reports)
- A copy of any correspondence with your bank as to the submission and acceptance of the application
- A timestamped print out of all official relevant laws/guidelines in effect on the date you submitted your application (remember things are changing daily)
- Memo discussing your organization's reasons why it took a PPP loan
- Rinse, Wash and Repeat for Forgiveness!



COVID-19 INSURANCE IMPACT

APRIL 21, 2020



STARKWEATHER & SHEPLEY
INSURANCE BROKERAGE INC.

Agenda



Changing Business Environment



Key Coverage Discussion



Business Interruption Insurance Update/ Filing a Claim



Insurance Premium Cash-Flow Management



STARKWEATHER & SHEPLEY
INSURANCE BROKERAGE INC.

Changing Business Environment



STARKWEATHER & SHEPLEY
INSURANCE BROKERAGE INC.

Changing Business Environment

- Key Operational Changes
 - New Operations or Products
 - Remote Workforces
 - Layoffs and Furloughs



STARKWEATHER & SHEPLEY
INSURANCE BROKERAGE INC.

Changing Business Environment

- Risk Management Planning
 - Emergency Response/ Preparedness
 - Communication Strategy
 - Employee Training
 - Changes in operations
 - Does that lead to greater exposure to liability?
 - New contractual agreements
 - Have you discussed the impact of your insurance program?



STARKWEATHER & SHEPLEY
INSURANCE BROKERAGE INC.

Key Coverage Discussion

Employment Practices Liability

Directors & Officers

Cyber Liability

Workers Compensation



STARKWEATHER & SHEPLEY
INSURANCE BROKERAGE INC.

Directors and Officers Liability

- Policy can potentially respond to claims for the management response, or lack thereof, to the virus.

Employment Practices Liability

- Designed to respond to workplace bullying, discrimination and harassment.

Workers Compensation

- Rhode Island Governor Gina Raimondo announced that healthcare workers in Rhode Island who contract coronavirus can now be eligible for workers' compensation.

Cyber Liability

- Hackers around the globe are exploiting the hysteria surrounding the virus.
- Malicious “COVID-19” emails with links and attached documents.



STARKWEATHER & SHEPLEY
INSURANCE BROKERAGE INC.



BUSINESS INCOME INSURANCE UPDATE

Based upon the policy language, most insurers have taken the position that claims related to COVID19 are not covered and have issued denials. Their justification is that no physical damage to the property exists or because the policy expressly excluded coverage for viruses.

The current state of the law is not favorable in terms of recovery for business interruption coverage based upon policy terms and conditions. But, it is possible, that could change.

It is possible that we will see an expansion of coverage and businesses should take steps now in case that occurs. Documentation is key if something does change.

We have seen the President and some members of Congress ask insurers to cover COVID-19 losses under business interruption policies. Also, individual State legislators have taken up the conversation with proposed legislation for some coverage relief. No legislation has passed to date.



STARKWEATHER & SHEPLEY
INSURANCE BROKERAGE INC.

Should I Still File a Claim?



**Have a thoughtful discussion
with your broker.**



**It is unknown if Federal or
State programs will require a
denial from an insurer.**



**Starkweather is monitoring
various legislation and
coverage suits that could
impact coverage positions.**



**If in doubt, report the claim.
Only the insurer can accept or
deny the claim.**



STARKWEATHER & SHEPLEY
INSURANCE BROKERAGE INC.

Selective Insurance Announces COVID-19-Related Premium Credit For Personal And Business Auto Policies

BRANCHVILLE, N.J., April 13, 2020 /PRNewswire/ -- [Selective Insurance Company of America](#), the lead insurance company of Selective Insurance Group, Inc. (NASDAQ: SIGI), today announced that customers with personal and business auto insurance policies will receive a 15% premium credit for April and May related to the various COVID-19 shelter-in-place orders. The program, which is subject to expected regulatory approval, is part of the company's ongoing efforts to support its customers, employees, independent distribution partners, and the community in these uncertain times.



"At Selective, we understand the disruption of the COVID-19 pandemic and the related governmental directives. We are giving our personal and business auto policyholders – who have helped to flatten the curve by sheltering-in-place – premium credit for driving less," said John Marchioni, President and CEO.

For Our Customers

In addition to the premium credit, Selective is committed to working with each customer to provide COVID-19-related assistance. This includes individualized payment flexibility to help ensure they can maintain their insurance coverage, and the delay of policy cancellations, late payment notices, and late or reinstatement fees until May 31 or the timeframe determined by each customer's home state insurance commissioner. To assist business owners who are experiencing COVID-19-related changes in their operations and risk exposures – such as transitioning from solely brick and mortar operations to a delivery service, using their property differently, or an overall reduction in sales revenue – we are collaborating with them and their independent agents to make mid-term policy adjustments. We also are helping our customers mitigate related risks, including cyber attacks, by providing timely information for increased vigilance.



PHILADELPHIA
INSURANCE COMPANIES

A Member of the Tokio Marine Group

One Bala Plaza, Suite 100, Bala Cynwyd, Pennsylvania 19004
610.617.7900 • Fax 610.617.7940 • PHLY.com

TEMPORARY VEHICLE SUSPENSION AGREEMENT

Agreement made this _____ day of _____, 2020 by and between Philadelphia Indemnity Insurance Company ("PHLY") and _____ ("You", "Your" or "Insured"), sometimes referred to as "Parties".

WHEREAS, PHLY issued a Commercial Automobile Insurance policy to You:

WHEREAS, due to the COVID-19 outbreak and the adverse consequences to Your business, PHLY is willing to allow you to suspend Auto Liability Coverage and Collision Coverage for select vehicles covered by your policy based on the terms, warranties and conditions herein:

For consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

1. As of or prior to the date of this Agreement, You have taken vehicles identified in Addendum A out of service. Except for maintaining or testing covered "autos" on your property, the coverages indicated for the vehicles listed on Addendum A are suspended as of the vehicle suspension date indicated on Addendum A. Placing a vehicle on Addendum A does not alter comprehensive coverage (if the vehicle is currently covered for comprehensive) in any way.

INSURANCE PREMIUM CASH-FLOW MANAGEMENT



STARKWEATHER & SHEPLEY
INSURANCE BROKERAGE INC.

Insurance Premium Cash-Flow Management

- Paying Premium
- Discounts on Premium
- Change in Underwriting Exposures Mid-term
 - Payroll
 - Sales Figures
 - Inventory
- Workers Compensation
 - Payroll exposures reduction mid-term
 - Change in classification
 - Work from home
 - Furloughed employees payroll conversation



STARKWEATHER & SHEPLEY
INSURANCE BROKERAGE INC.



Your
Questions
Answered



?

Can you use a portion of your loan (i.e. for payroll after head count reduction) and give back and/or pay interest on rest?

?

My business is prohibited from working (Dentist), should PPP be disbursed prior to working?



?

Is the forgiveness of the loan accounted for "below the line" as a non-operational extraordinary (unusual & infrequent) gain item?





?

As we move to reopening- How do you make policies that protect elderly or immune compromised employees during this pandemic without opening your company up to discrimination claims?

?

We now have received our PPE money, we need to recall our Furlough and laid off employees, problem is some of them do not want to come back, because they are making more from unemployment. What is my responsibility?



?

I've started to make a new product that is outside of the scope of my product of operations. Should I let my insurance carrier know of this change?



STARKWEATHER & SHEPLEY
INSURANCE BROKERAGE INC.



How do I make sure I maximize how much of my loan is forgiven?



Can a sole proprietor with no employees apply for PPP loan?



Is the loan forgiveness amount calculated only for eight weeks of payroll, rent and utilities support? Can it stretch further?



?

What do you think is the impact COVID-19 is going to have going back to business as usual. Is there an impact on my insurance renewals?

If someone does get COVID that is an employee, how do I handle that from a reporting standpoint?

?



STARKWEATHER & SHEPLEY
INSURANCE BROKERAGE INC.



?

Can we include monthly consulting fees paid to one employee who has chosen to be a 1099 employee rather than on payroll?

?

Can the employer's portion of SS & Medicare payments be used to calculate loan forgiveness



?

Any suggestions to deal with payroll costs for employees furloughed or laid off prior to the submission of PPP loan?



?

When does the meter start for the PPP?

After proceeds are received or when you bring the workers back after the governor has ok'd?

?

How to incentivize employees returning to work if they make more on unemployment?



?

Have they cleared up loan calculating regulations for self-employed & how do the self-employed calculate forgiveness?



?

Is the Employee portion of FICA and the Employer portion of FICA & FUTA both included as part of loan forgiveness amounts?

?

Because of business seasonality, can the loan be delayed until June?



?

Where can one find specific and detailed guidance from Treasury or the SBA as to the calculations supporting loan forgiveness??



?

Is there a penalty for not getting to 75% of the loan amount in Payroll?

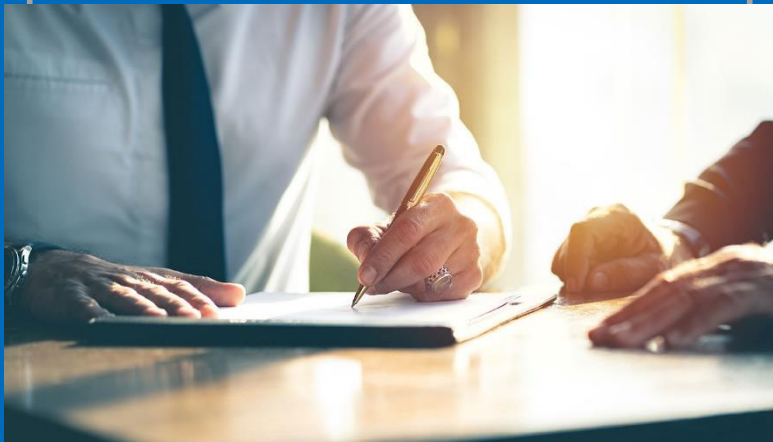
?

How should we handle planned departures for headcount? (e.g., someone gave notice and left - was not let go)



?

Suggestions to deal with payroll costs for employees furloughed or laid off prior to the submission of PPP loan





?

How will the calculation be affected by federal & restricted funds that also cover payroll costs during the period of time?

?

Will the program extend time frames for forgiveness from date of loan received to date of rehire?



?

Can PPP money be used to pay a higher wage, commission and/or sign on bonus during the 8 week period to current employees?

We're Here.

Anthony Mangiarelli, CPA, MST



amangiarelli@KahnLitwin.com



888-KLR-8557

Sean Cottrell



sean.cottrell@starshep.com



401-435-3600

KLR's Coronavirus Resource Center

KahnLitwin.com/coronavirus

Starkweather Resources

starshep.com/news/ss-corona-virus-info



STARKWEATHER & SHEPLEY
INSURANCE BROKERAGE INC.

