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Thomas Jefferson defined *rightful liberty* as “unobstructed action according to our will within limits drawn around us by the equal rights of others—I do not add ‘within the limits of the law,’ because law is often but the tyrant’s will, and always so when it violates the right of an individual.”

Update

Coronavirus Assistance – Paycheck Protection Program (PPP)

Convert the PPP Loan to a Grant Time is Running Out

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What to Do with Laid-Off Employees Who Refuse to Return to Work

The SBA issued guidance on laid-off employees who refuse to be rehired or come back to work but, we are still waiting to receive guidance on details surrounding PPP Loan forgiveness.

First, by June 30, 2020, **you must have the same number of employees, working the same hours with the same wages, as you had as of January 31, 2020 listed on your PPP Loan Application.**

However, if an employee refuses to come back to work, such employee(s) will be excluded from the computations to convert the PPP Loan to a Grant. For example, if you had 7 Employees as of January 31 and laid off 3 and only 2 came back, you MAY be able to exclude the 1 that DID NOT come back, e.g., instead of needing 7 Employees by June 30th, you would only need 6.

You need to put the offer to return to work in writing and document, in writing, that an Employee will not return. The Employee needs to be advised that if they fail to return to work, they “may find themselves ineligible to continue receiving unemployment benefits.” Also, they must come back under the same terms, i.e., **you cannot reduce their hours and compensation.** You may also hire a new employee to replace an employee that refuses to come back.

Loan Forgiveness Guidance – Convert the PPP Loan to a Grant

We are still waiting for guidance concerning the use of the PPP loan proceeds and how much of it will be forgiven or converted to a grant. What we do know is that **for the eight (8) weeks, beginning from the date the loan is received**, 75% of the PPP Loan must be used for payroll and the remaining 25% for rents/mortgages and utilities. In addition, we also know that because of the negative publicity—certain public companies and wealthy private universities took advantage of the program—**the computations required to convert the Loan to a Grant are not yet set in place and will be highly scrutinized.**

When we applied for the PPP Loan for existing small businesses with a payroll, we took the Gross Payroll for 2019 and the related Employer’s Medicare and Social Security Taxes, for wages up to \$100,000 per person, plus payments to Independent Contractors, supported by Forms 1099-MISC; then we divided the total of those amounts by 12 months and multiplied by 2.5 to arrive at the Loan Amount. Because of this computation, **it is possible that some small businesses may fall short of the 75% requirement without making some adjustments.**

First, it is our understanding that the Employer Medicare and Social Security Taxes; and, the payments to Independent Contractors over the 8-weeks from the date of the PPP Loan are not to be included in the computation to determine the 75% requirement. Accordingly, you should make your computations based upon your Gross Payroll to determine if there is a potential shortfall.

Each business owner should make sure they pay themselves a gross salary over the 8-week period of \$8,333 (\$100,000 divided by 12) per month paid twice. The open question is, will the two-month payment of \$16,666 (\$8,333 per month times 2) be counted; or, will they base the computation on 52-weeks (\$1,923 per week) or \$15,384 for the specific 8-weeks? Pay yourself \$8,333 per month but, count only \$15,384 for purposes of determining what you need to do to meet the 75% requirement.

In addition, **do not put your spouse or other family members on the payroll unless they were on the payroll in 2019 and through January 31, 2020.** Also, **do not give raises to family members unless similar raises are given to your other employees.** You do not want to be accused of trying to defraud the SBA. In addition, it is quite possible that the spouse of the owner may be included in the \$100,000 per person annual compensation, thereby negating his or her gross wages for purposes of the 75% requirement.

If you determine you have a shortfall—your gross wages will be less than 75% of the PPP Loan for the 8-week period—**consider giving your normal yearend raises and bonuses early.**

As for the 25% available to pay rents or mortgage payments, and utilities, such agreements must be in place before February 15, 2020. Just make sure you pay for these items twice over the 8-week period, even if the second payment(s) is/are actually due at the end of the month or on the first day of the following month after the 8-week period ends. At this point, Utilities may only include electric, water & sewer.

Do not wait until the last minute... 8-weeks from the date of the PPP Loan will go quickly... make sure you can convert the Loan to a Grant!

Stay Tuned for More Information

Please visit our website (www.jeffersoniangroup.com) often to keep informed through our Blogs and Free Newsletters. **SIGN UP NOW, so you never miss important updates!**

Best of luck and stay safe,

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