Exclusive Webinar for NBWA Members

Making The Paycheck Protection Program Loan & The CARES Act Work For You

JGS CPA
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National Beer Wholesalers Association

Gary Cassiello, CPA, ABV
R.J. Martucci, CPA
Making The Paycheck Protection Program & The CARES Act Work For You
Our Firm

• JGS, CPA, PC was founded in 1932

• Full service firm: Accounting, tax and advisory

• We pride ourselves on planning

• We have our own internal succession plan

• Clients spanning three and four generations
Consulting Services for Beer Distributors

Financial Statement Management
- Benchmarking cost-per-case
- Profit margin analysis
- Bank covenant management
- Compensation formulas

Mergers & Acquisition / Succession Planning
- Budgeting & Projections
- Due diligence and benchmarking a target
- Integration with estate planning
- Valuation services

Fraud
- Prevention
- Internal Control review
- Detection
Our experience

- More than 85 years of experience
  - 50 years in beer distribution industry

- Retained by our first beer distributorship in 1970
  - They are still a client today.

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Memberships/Affiliations

New York State Beer Wholesalers Association

National Beer Wholesalers Association

Brewers Association
Gary J. Cassiello, CPA, ABV, CFF

• Shareholder/Partner with the firm since 1987

• Certifications in business valuation and forensic accounting

• Specialties include acquisition, consolidation and family transfers

• Bachelor of Science degree in accounting from Fordham University
R.J. Martucci, CPA

- Shareholder/Partner and has been with the firm since 2011
- Works with beer distributors and craft beer manufacturers
- Specializes in internal control and process improvements
- Bachelor of Science degree in accounting from Susquehanna University
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Today’s Agenda

PPP Loans and Forgiveness
• General Information
• Eligibility
• Eligible Costs for Forgiveness
• Reductions in Forgiveness
• Time Frames
• Taxability

Other CARES Act Benefits
• Payroll Tax Relief & Credits
• Businesses with Net Operating Losses
• Business Interest Expense Limitations
• Qualified Improvement Property

Other Tax Benefits Beer Distributors Should Consider

Resources

Q&A
The CARES Act

• The Coronavirus Aid, Relief, and Economic Security Act (CARES)
  • passed by Congress with overwhelming bipartisan support.
  • signed into law by President Trump on March 27\textsuperscript{th}, 2020.
  • includes over $2 trillion of economic relief to protect Americans from the public health and economic impacts of COVID-19.
PPP Loan Forgiveness Eligibility

• Tell the story of your business.
• Communicate how many customers were closed when you applied for the loan.
• The goal of the PPP Loan was to keep people employed.
• If your business depends on tourism or if you have major event venues, talk about it.
• Talk about supply chain disruptions, losses from stale beer, additional costs for PPE, bonuses or additional compensation.
• The loan forgiveness will be considered taxable income.
What is PPP Loan Forgiveness?

• Paycheck Protection Program loans are “forgivable” based upon the amounts spent in the “covered period” (8 or 24 weeks after receipt of the loan proceeds) and subject to proper documentation on:
  • Payroll Costs
  • Rent and Lease Payments
  • Utility Costs
  • Certain Interest Payments
PPP Loan Forgiveness Extension signed June 5

Triples to 24 weeks (not beyond 12-31-2020) - defined time for covered disbursements to be paid

• 75% payroll requirement reduced to 60%
Payroll Costs for PPP

• Salaries, wages, commissions.
• Vacation, family, medical, or sick leave.
• Group health care benefits.
• Retirement benefits.
• State and local employment taxes.
Important Note!

- Maximum compensation is based on the lower of the 8 or 24 week amount above or:
  - For sole proprietors and partner compensation is calculated based upon 2019 net earnings from self-employment.
  - For S-Corp owners, compensation is based upon 2019’s cash compensation and retirement benefits and does not include health insurance.
  - For C-Corp owners, it is the same as for S-Corp owners but health insurance is included.
Maximum Compensation

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<tr>
<td>C-Corp Owners</td>
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<td>$20,833*</td>
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<td>$20,833</td>
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</table>

*This is based on what we know at the time of this presentation.*
Important Details to Remember

• At least 60% of the loan amount must be used for payroll and benefits costs to qualify for 100% loan forgiveness.

• The other 40% can be used for documented rent or lease payments, mortgage interest on real and personal property and utilities including “transportation”.

• The deadline for reinstating workers is:
  • Earliest date of your application or
  • The end of your 24 or 8 week period.
Forgiveness Application

• SBA.gov website
  • Application - Forms 3508 and 3508 EZ
  • Application instructions
  • FAQ guidance
Reductions of Expected Forgiveness Amounts

• No reductions if all proceeds are used for forgivable purposes and employee (FTE) headcount are kept the same and compensation levels are not reduced by more than 25% of Q1 2020 compensation.
Full Time Equivalent (FTE) Calculation

• Anyone hired as full-time or normally averaging 40 hours per week treated as one FTE.

• Variable or part time hours worked by employees (not to exceed the full time level) are summed, divided by 40, rounded to nearest 10\textsuperscript{th}.

• Simplified method assigns a 1 to full time employees, .5 to employees working fewer hours.
FTE “Safe Harbors”

• No reduction in the number of employees or the average paid hours between Jan 1, 2020 and the end of the covered period.

• If you were unable to operate between Feb 15, 2020 and the end of the covered period due to guidelines established between March 1, 2020 and December 31, 2020 related to certain aspects of COVID-19.

• Average non-owners FTE’s from Feb 15 to April 26, 2020 are equal to or more than the average non-owners FTE’s at Feb 15, 2020. If less than Feb 15, 2020 you have until the earlier of Dec 31, 2020 or the date of the application submission to make up the deficit.

• Assuming no “safe harbors” are met, forgiveness is reduced in the proportion to the number of non-owner FTE’s in the covered period divided by the lower of FTE’s in:
  • Feb 15, 2019 to June 30, 2019 or
  • Jan 1, 2020 to Feb 29, 2020
What information is needed?

**Data currently available**

- 2019 detailed employee compensation to determine average FTE for each employee
  - Table 1 for employees paid less than $100,000 annualized in EACH pay period
  - Table 2 for employees paid at annualized rate of more than $100,000 in ANY period in 2019
- Feb 15, 2020-April 26, 2020 FTE to determine if borrower qualifies for the FTE Reduction Safe Harbor
What information is needed? (continued)

Future data once the loan disbursement date is known
- Covered period payments
- FTE after April 26
- Safe Harbor data testing
Other important information

Time Frame

• Payment on loans begin 10 months after the covered period, for most borrowers the loan will be repaid in 2 years at 1% interest.
• The lender has 60 days to make a determination as to forgiveness.
• The borrower has 30 days to appeal the bank’s decision with the SBA.
• The SBA has 90 days to pay the lender the forgiveness amount.
• The borrower must maintain records for 6 years after the loan is forgiven or paid in full.
Other important information (continued)

• Extension of application for PPP funds to August 8, 2020.
• Possible reversal of the IRS position to have PPP forgiveness reduce deductible expenses.
• It is important to note, there is a difference in how this is handled for GAAP financials and taxes. *(contact us to discuss this further).*
Payroll Tax Relief & Credits
COVID-19 Payroll Tax Relief Credits & Deferral

• Families First Coronavirus Response Act (FFCRA) provides 100% of the funds needed by employers with fewer than 500 employees to pay federally mandated emergency leave to employees caring for themselves or others for COVID-19 reasons.

• CARES Act provides partial assistance to employers who continue to pay employees instead of sending them to the unemployment system.

• This assistance is delivered through the existing system used by employers to deposit federal payroll taxes.
FFCRA Emergency Sick Leave Payroll Tax Credit

- Employer has fewer than 500 employees per entity
- Pays employees up to 80 hours of paid sick leave for COVID-19 related self-care or care of others, additional 10 weeks available in special circumstances.
- Credit limited to lesser of 100% or two-thirds of employee’s regular pay or daily rate of $511/$200 *depending on reason for leave*
- PPP loan forgiveness will not include wages/expenses for required sick/family leave under FFCRA and the loan proceeds may not be used for wages/expenses for required FFCRA sick/family leave for which a tax credit is allowed.
- This tax credit also includes the Eligible Employer’s share of Medicare tax imposed on those wages and its allocable cost of maintaining health insurance coverage for the employee during the sick leave period (qualified health plan expenses).
CARES Payroll Tax Deferral

• Employer of any size can defer payment of employer Social Security (6.2%) beginning March 27, 2020, and ending December 31, 2020
• 50% must be paid by December 31, 2021, with remainder due by December 31, 2022.
CARES Employee Retention Credit

• Eligible employer is one that has had:
  – Operations fully or partially suspended due to COVID-19 related government order during the calendar quarter; or
  – Gross receipts for the 2020 quarter decline more than 50% when compared to the same 2019 quarter (eligibility continues through the 2020 quarter in which gross receipts are less than 80% of gross receipts in the same 2019 quarter)

• For employers with greater than 100 employees, tax credit is 50% of wages up to $10,000 paid to employees who are NOT performing service (max credit of $5,000 per employee)
CARES Employee Retention Credit

• For employers with 100 or fewer employees, tax credit is 50% of wages up to $10,000 paid to any and all employees (max credit of $5,000 per employee)

• Employer is not eligible for the tax credit if it receives an SBA loan under the Paycheck Protection Program

• Apply for this credit using form 7200
Businesses with Net Operating Losses
Relief for Businesses with NOLs

- CARES Act provides tax relief to taxpayers with net operating losses (NOLs) from a business:
  - NOLs arising in tax years beginning after December 31, 2017, and before January 1, 2021 may be carried back to each of the five tax years preceding the tax year of such loss.
NOLs and NOL Carrybacks

• Tax Cuts and Jobs Act of 2017 (TCJA), NOLs generally ended carry back claims.
• TCJA limited NOL absorption to 80% of taxable income.
• CARES Act allows taxpayers to now apply an NOL deduction equal to 100% of taxable income. For certain tax years, with adjustments beginning in 2021.
Claiming NOLs

Taxpayers with net operating losses under the CARES Act have options:

• Waive the carryback period in the case of a net operating loss arising in a taxable year beginning after December 31, 2017, and before January 1, 2021

• Disregard certain amounts of foreign income subject to transition tax that would normally have been included as income during the five-year carryback period.

• Waive a carryback period, reduce a carryback period, or revoke an election to waive a carryback period for a taxable year that began before January 1, 2018, and ended after December 31, 2017.

• Corporations can file Form 4466 to claim a refund of 2020 estimated tax payments if they have overpaid.
Six-month Extension Available to File NOL Forms

• Forms 1045 and 1139 are used to carryback a net operating loss from any taxable year that began during calendar year 2018 and that ended on or before June 30, 2019.

• After the due date for 1045 and 1139, amended tax returns must be filed to claim the carryback and refund.
Business Interest Expense Limitations
Business Interest Deductions

- CARES Act modifies IRC Section 163(j), which affects many types of businesses, including corporations, and was substantially modified by the TCJA in 2017.
Business Interest Deductions (continued)

• CARES Act increases the ATI limitation
  – from 30% to 50%
  – but only for tax years that begin in 2019 or 2020.
Business Interest Expense Deductions (continued)

• With a possible economic downturn in 2020, many taxpayers could have greater ATI in 2019 than 2020.
• An election to use 2019 ATI in lieu of 2020 ATI generally allows more interest expense to be deducted in 2020 than otherwise would be permitted.
• Additional interest expense deduction may give rise to, or increase, an NOL, which now be carried back to offset the taxable income of five prior tax years.
Qualified Improvement Property
Correction of the “Retail Glitch”

Clarifies Qualified Improvement Property (QIP) placed in service after 12/31/17 is treated as 15-year property and eligible for bonus depreciation

– Taxpayers with QIP in 2018 that filed their 2018 return treating the assets as bonus-ineligible 39-year property consider amending.

– C corporation taxpayers that amend 2018 might generate NOLs to carry back five years to years when the tax rates were 35%.

  • Alternatively, taxpayers may file Form 3115 with their 2019 return to claim depreciation as a favorable Section 481(a) adjustment.

– Taxpayers with QIP placed in service during 2019 can claim bonus depreciation prospectively on their 2019 return

  • Corporate taxpayers consider filing Form 4466 for quick refund of 2019 overpaid estimated taxes.
Correction of the “Retail Glitch” (continued)

Cost segregation studies can provide a supportable breakdown between eligible and ineligible costs

– QIP includes improvements a taxpayer makes to an interior portion of an existing building that is nonresidential real property (residential rental property is excluded).
Steps Companies Should Take
1 - Assess Eligibility

Identify payroll relief options:
• 500 or 100 employee count limitations.
• Employee requested leave regarding paid sick leave and FMLA mandates.
• Has employer experienced a full or partial suspension of business due to governmental order.
• Does employer meet the initial reduction in gross receipts test.
• Monitor subsequent quarters for reduced gross receipts test.
• Does SBA loan activity affect eligibility?
2 - Quantify Tax Relief

• Review posted payroll and hours to identify employees and wages eligible for credits.
• Identify to what extent an employee may not be providing services.
• Identify qualified payments related to the Employee Retention, Emergency Sick Leave and Emergency FMLA credits.
• Calculate Employee Retention, Emergency Sick Leave and Emergency FMLA credits on a pay-period basis.
3 - Recover Cash

• Determine the amount of reduced payroll tax remittance for eligible credits and employer Social Security tax deferral.

• Prepare IRS Form 7200 to request an advanced refund of eligible credits.

• Prepare current or amended Forms 941 to include credit amounts or initiate refund claims.
4 - Document

• Retain supporting documentation for
  – Credits
  – Deductions
  – Deferrals
  – Forgiveness
Resources

• Visit SBA.Gov for updates to
  • Payroll Protection Program loans - PPP
  • Economic Injury Disaster Loans - EIDL
  • SBA loans

• Visit IRS.Gov for updates to:
  • tax law changes
  • federal credits
  • federal deductions
Other Tax Benefits Beer Distributors Should Consider
Other tax considerations

• Cost Segregation Analysis
• Section 179D
• Research & Development Credits
• Alternative Fuel Credits
Questions?
Contact us

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