Inside the CARES Act: COVID-19 Loan Forgiveness Relief—a Section 1106 Primer

Section 1106 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act provides loan forgiveness for certain qualifying Small Business Administration (SBA) loans. A “covered loan” is a loan added under new Section 7(a)(36) of the Small Business Act, which was added by the CARES Act itself. In addition to being a “covered loan,” the loan must be for a “covered period,” which is defined as the first eight weeks following the original of a covered loan.

CARES Act Loan Forgiveness

Specifically, the following items of indebtedness listed below are forgiven if they are made during the covered period. Additionally, the forgiveness may possibly be excluded from gross income. However, the amount forgiven cannot exceed the principal amount of the loan. The items include:
Payroll costs
Interest payments on covered mortgages
Rent
Utility payments

The amount forgiven will be reduced if the business has had employee layoffs or reductions to employee salaries and wages.

**Forgiveness Reduction Formula for Employee Layoffs**

This formula can only *reduce* the amount forgiven and *cannot increase it*. Employers with seasonal laborers are given a slightly different formula to determine the average number of employees.

The reduction formula for employee salaries and wages is simpler and the amount forgiven is reduced by the amount of any reduction in salary or wages of any employee during the covered period, which is in excess of 25% of total salary and wages for the most recent quarter for that employee. For purposes of this formula, employees earning over $100,000 per year are excluded.

If an employer rehires the employees or raises salaries and wages back to their prior level by June 30, 2020, the reduction formula above does *not* consider such reductions.

**Applying for CARES Act Loan Forgiveness**

Businesses who want to apply for loan forgiveness under this program need to submit supporting documentation to their lender, including proof of verification of employees, proof of utility payments, rent, and other documents to substantiate
their expenses. The lender must provide a decision within 60 days of receiving the application and supporting documentation. If approved, the SBA Administrator must remit payment (plus interest) to the lender within 90 days.

Any amount forgiven under the CARES Act that would ordinarily be includible as gross income to the borrower for federal tax purposes is excluded from gross income.

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