

The COVID-19 Impact

Part II

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Biography



Kevin P. O'Leary, CPA – Managing Director

Kevin began his career with Marvin and Company in 1999 and became a Director in 2010. He was named Managing Director effective January 1, 2019. Kevin has nearly 20 years experience in non-profit, manufacturing and ERISA plan audits as well as corporate and personal income tax. He is also involved in the Firm's tax department dealing with tax compliance, Form 990 issues and assisting non-profits in obtaining exempt status. Kevin also oversees the firm's business development and marketing initiative, which includes budgeting, marketing goals and scheduling of events and participation.

Outline

- Quick recap of last week's webinar
 - Things impacting business
 - New payroll credits that were part of CARES act
- EIDL Program
- PPP Program

Impacts on business

- Section 163(j) increased to 50% for 2019 and 2020. Partnerships aren't allowed to go back to 2019. Impacts companies with average gross receipts for three past tax years of \$26m and above.
- Companies can also use their 2019 tax EBIDTA as base year for calculating 2020 limitation.

Impacts on business

- NOL Carryback – TCJA of 2018 negated the ability to carryback NOL's, but the CARES act allows companies that generated losses in 2018, 2019 and 2020 to carryback 5 years and have an unlimited carryforward related to them and the 80% taxable income limitation is also waived for losses created during 2018, 2019 and 2020.

Impacts on business

- **Technical Correction to Qualified Improvement Property**
- The CARES Act contains a technical correction to a drafting error in the Tax Cuts and Jobs Act that required qualified improvement property (QIP) to be depreciated over 39 years, rendering such property ineligible for bonus depreciation.
- With the technical correction applying retroactively to 2018, QIP is now 15-year property and eligible for 100% bonus depreciation.
- Taxpayers that placed QIP into service in 2019 can claim 100% bonus depreciation prospectively on their 2019 return and should consider whether they can file Form 4466 to quickly recover overpayments of 2019 estimated taxes.

Impacts on business

- **Technical Correction to Qualified Improvement Property**
- As defined by Code Sec. 168(e)(6) and Reg. §1.168(b)-1(a)(5), qualified improvement property is broadly defined as an internal improvement to **nonresidential** real property, but does not include improvements related to elevators and escalators, the internal structural framework, or an enlargement of the building. The improvement must be placed in service after the date the improved building is first placed in service.
- The statutory TCJA language enacted by Congress, however, inadvertently failed to assign the 15-year recovery period. Without a technical correction qualified improvement property placed in service after 2017 is depreciated as 39-year nonresidential real property.

Impacts on business

- QIP and NOL – work with your accountant to scan prior year returns to see if anything qualified as QIP that you may now take bonus depreciation on and maybe you can accelerate some depreciation, generate an NOL and then carryback to free up cash flow.
- For partnerships and S Corps, it might take some work amending business and personal returns but the returns might be substantial.

Impacts on business

- **Payroll Tax Credit for Retaining Employees During COVID-19 Crisis:**

- An employer can claim a refundable payroll tax credit for 50 percent of wages paid during the Coronavirus (COVID-19) crisis if (1) business operations were suspended due to a COVID-19-related shut-down order, **or** (2) gross receipts declined by more than 50 percent as compared to the same quarter in the prior year. For eligible employers with 100 or fewer full-time employees, all employee wages qualify for this employee retention credit. For eligible employers with more than 100 full-time employees, only wages paid to employees when they are not providing services due to the COVID-19-related circumstances will qualify. The credit applies to the first \$10,000 of compensation (including health benefits) paid to an eligible employee from March 13, 2020, through December 31, 2020.
- Available all quarters of 2020 until a quarter exceeds 80% of gross receipts from that same quarter for 2019.

Impacts on business

- **Employer Tax Credits for Paid Sick Leave and Family Leave:**
- Eligible employers may receive a refundable payroll credit for required paid sick leave or family leave paid to an employee who cannot work due to coronavirus (COVID-19). The sick leave credit is for leave paid to an employee who is quarantined, has been advised to self-quarantine, has coronavirus symptoms and is seeking a medical diagnosis, or is caring for someone with coronavirus or for a child whose school or care facility is closed or whose care provider is unavailable. The family leave credit is for leave paid to an employee who is caring for a child whose school or care facility is closed, or whose care provider is unavailable. The credits have per-day and maximum dollar limits for each employee. The credits are available for wages paid for the period that begins on April 1, 2020, and ends on December 31, 2020.

Impacts on business

Employer Payroll Tax Payments Delayed

- Employers and self-employed individuals can defer payment of the **employer's share** of the Social Security tax that they otherwise are responsible for paying on wages or self-employment income. The deferral applies to affected taxes normally required to be paid from March 27, 2020, through December 31, 2020. The deferred tax must be paid over the following two years, with half to be paid by December 31, 2021, and the other half to be paid by December 31, 2022.

EIDL Program

- This is a loan program – **no forgiveness available (other than \$10k advance)**
- Can be used in conjunction with PPP
- Available to small businesses and all 501c organizations
- May qualify up to \$2m but will be based on:
 - Size, type of business and its financial resources.
- You'll receive \$10,000 in 72 hours, then will be approved or denied – regardless, will not be required to pay that back.
- 3.75% for small businesses, 2.75% for tax-exempt
- Terms up to 30%
- SBA *can* defer payments up to 12 months

EIDL Program

- Money can be used for:
 - Payroll
 - Rent
 - AP
 - Other things that could've been paid if not for disaster
- Loans are not intended to replace lost sales or expansion
- Can apply right on SBA website

Paycheck Protection Program

Stimulus SBA Loan and Forgiveness Program (“Paycheck Protection Program”)

- As part of the new stimulus package, \$349 billion is earmarked to assist small businesses with loans. The loans will be administered through the SBA 7a loan program *via qualified commercial lenders* and pertain to companies that have seen business decline as a result of COVID-19. The objective is to help businesses impacted to ease payroll/overhead burden and bring back workers who may have already been laid off. The program can be retroactive to February 15, 2020, to help bring workers who may have already been laid off back onto payroll. The loan covers the period from February 15 to June 30, 2020.

Paycheck Protection Program

- Who qualifies?
 - All businesses that have less than 500 **employees (you must count them all)**
 - Must have been in business as of 2/15/2020 and had employees or independent contractors who received salary
 - For tax exempt entities - 501(c)3 and 501(c)19 organizations only

Paycheck Protection Program

How is the Maximum Loan Calculated?

- The maximum loan is calculated based on the following calculation, if you were in business during 2/15/2019 – 6/30/2019:
 - Average total monthly payments for **payroll costs** incurred during the 1 year period before the date the loan was made** (except that if applicant is seasonal employer, then average total monthly payments for payroll for the 12 week period of 2/15/2019 or 3/1/2019 and ending 6/30/2019)
 - Multiplied by 2.5 plus
 - The outstanding amount of a loan already made by 1/31/2020 from a previous program under the “Business Loans Program Account” SBA title V Act of 2020 or \$10,000,000

Paycheck Protection Program

- Payroll costs include:
 - GROSS Salary, wage, commissions
 - Cash tips or equivalent
 - Payment for vacation, family, medical or sick leave
 - Payment required for group health care benefits (including insurance premiums)
 - Retirement benefits paid
- Payroll costs don't include:
 - Compensation of anyone making more than \$100k
 - Compensation to someone whose principal place of residence is outside the US
 - Wages where credits were taken elsewhere
 - FUTA and Workers Compensation

Paycheck Protection Program

- What period to use to calculate the loan amount:
 - Initial reports said 12 months preceding the loan origination date.
 - Application states 2019.
- Assuming that 2019 maybe better:
 - Layoffs started in February and March 2020
 - 2019 is completed and have completed records and 941 reports to help reconcile

Paycheck Protection Program

- Example:
 - 5 employees making \$75,000 salary each
 - 1 employee making \$160,000 salary
 - 1 employee started August 1st with annual salary of \$120,000
 - Annual ER benefits costs = \$36,000 (\$3k/mo)
 - Annual Retirement match = \$12,000 (\$1k/mo)

Paycheck Protection Program

- Calculating monthly payroll costs:
 - 5 employees at \$75k = \$375,000
 - 1 employee capped at \$100,000
 - Total = \$475,000/12 = 39,583
 - Plus monthly comp of new hire = \$8,333
 - Total average monthly wage = \$47,916
 - Plus HI monthly of \$3k plus retirement monthly of \$1k
- Total payroll costs per month = \$51,916

Paycheck Protection Program

- Total payroll costs = \$51,916
- Multiply by 2.5 = \$129,790
- Available to request for loan = \$129,790

- Now – what can the money be spent on.
We will review that and then discuss how the potential forgiveness.

Paycheck Protection Program

- **What can money be spent on:**
 - Payroll costs (same definition as what was used for calculating the loan amount)
 - Interest on mortgage obligations – not to include any prepayment of mortgage principal
 - Rent
 - Utilities
 - Interest on any debt occurred before covered period

Paycheck Protection Program

- If the loans are used only to fund the above detailed costs during an eight week period after the origination date of the loan, they would be **available** for conversion to grant/forgiveness. These loans are also considered non-recourse and guarantees have been waived. Any amounts not used for permitted costs are considered guaranteed by the owners of the businesses and paid back within ~~10 years using an interest rate of not more than 4%~~ 2 years at 1% (repayment deferred 6-12 months).
- Under new guidance from CARES act the forgiveness of debt would be non-taxable

Paycheck Protection Program

- Two ways to lose “forgiveness”
 - **Full time equivalents (FTE’s) decrease**
 - Numerator – either 12 months of 2019 or 12 months preceding loan origination (whatever you picked to calculate loan amount)
 - Denominator can be:
 - Average FTEs per month from 2/15/2019 – 6/30/19 or
 - Average FTEs per month from 1/1/20 – 02/29/20
 - Different denominator for seasonal employers
 - **Reduction of wages greater than 25%***
- *You must calculate under both methods.*

Paycheck Protection Program

- Continuing on from slide 21:
 - **Example #1** – Loan was for \$129,790 and was received May 1st.
 - Your 8 week period would be May 1st – June 30th
 - During that period you spent \$110,000 on allowable costs (see slide #22).
 - You keep your FTE's the same as the test period you selected (see slide 24) **AND**
 - Your monthly payroll costs were at least 75% of what they were during the first full quarter close before covered period.

Paycheck Protection Program

- Continuing Example #1
 - Because you didn't have any exceptions to head count or payroll costs your result would be:
 - Loan forgiveness = \$110,000
 - Debt = \$19,790

Paycheck Protection Program

- Continuing on from slide 21:
 - **Example #2** – Loan was for \$129,790 and was received May 1st.
 - Your 8 week period would be May 1st – June 30th
 - During that period you spent \$110,000 on allowable costs (see slide #22).
 - You decided to only bring back 3 of the \$75k employees.
 - You decided to reduce two of those \$75k employees to \$52,500 (30% decrease)
 - You reduced your comp from \$160,000 to \$90,000

Paycheck Protection Program

- Continuing Example #2: Available for forgiveness = \$110,000
- FTE count went from 7 to 5 – equates to a 28.5% reduction = **\$31,350**.
- Employees making \$75,000 could be reduced by 25% with no impact = \$18,750
- You reduced them \$22,500
- $\$22,500 - \$18,750 = 3,750 \times 2 = \mathbf{\$7,500}$
- Decrease of \$160k comp is NA because that employee was over \$100k during 2019.

Paycheck Protection Program

- Continuing Example #2:

– Available forgiveness	= \$110,000
– Less FTE decrease	= (\$31,350)
– Less Payroll decrease	= <u>(\$7,500)</u>
– Amount forgiven	= <u>\$71,150</u>

• Original proceeds	= <u>\$129,790</u>
• Forgiven	= \$71,150
• New debt	= \$58,640

Paycheck Protection Program

- Continuing on from slide 21:
 - **Example #3** – Loan was for \$129,790 and was received May 1st.
 - Your 8 week period would be May 1st – June 30th
 - During that period you spent \$125,000 on allowable costs (see slide #22).
 - The makeup of those allowable costs were \$60,000 to rent, utilities and other allowed costs and \$65,000 to payroll costs.
 - Under the new guidance it appears that only 25% of the \$125,000 will be allowed to be forgiven for other costs ($\$125,000 \times 25\% = \$31,250$).

Paycheck Protection Program

- Continuing Example #3:
 - Your company spent \$60,000 on other allowable costs so \$28,750 will be added to debt bucket.
 - The amount that you paid for payroll costs of \$65,000 is now subject to the two reduction tests.
 - If you hired everyone back by June 30th and paid them at least 75% of their comparative period wage then this amount wouldn't be reduced any further.

Paycheck Protection Program

Homework:

1. Lenders will ask for good faith certification.
2. Study the application and review it to make sure everything is signed and initialed
3. Have your excel file with supporting documentation on how you came up with your numbers.
4. Have your supporting 941/940 reports available to attach to the excel file.
5. If you have guaranteed payments on your calculation schedule have a copy of the applicable K-1's available (front page should be fine)

Paycheck Protection Program

- Great video with Barry Melancon, President of AICPA
- <https://www.youtube.com/watch?v=-bhFvqPMWTE&feature=youtu.be>
- More information from SBA
- <https://www.sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources>

Payroll Protection Program

- More great information from the AICPA:
- https://www.youtube.com/watch?v=dounAvE4BDY&feature=youtu.be&j=269729&sfmc_sub=109822123&l=2078HTML&u=8847728&mid=7306387&jb=118&utm_medium=email&SubscriberID=109822123&utm_source=NewsUp_A20Mar225&Site=aicpa&LinkID=8847728&utm_campaign=Newsupdate&cid=email:NewsUp_A20Mar225:Newsupdate:video:aicpa&SendID=269729&utm_content=Special

Payroll Protection Program

- Hot off the press
- <https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf>
- It also states that if loan documentation has already been submitted based on previous guidance the application stands as filed but if not submitted should be changed.

NYS Shared Work Program

- Employers can reduce time and supplement with Unemployment
- Won't equal previous total compensation but allows to keep skilled workers on board.
- Will increase your future UI rate
- <https://www.labor.ny.gov/formsdocs/ui/SW1.5.pdf>

Non-profits

- Much of what we talked about today also impacts non-profits, especially 501(c)3 organizations.
- Attached is an article from BDO on other issues that might impact NFP
- <https://www.bdo.com/blogs/nonprofit-standard/march-2020/coronavirus-strikes-nonprofits>

Non-profits

- Some 501(c) organizations can take advantage of the lessor credits but only 501(c)3 organizations can take advantage of the paycheck protection program
- Recently American Society of Association Executives requested \$25billion in relief for other non-profits especially entities like associations considering the amount of events that were cancelled.

Non-profits

- Another item hot off the press from OASAS recently dealing with potential FEMA funding for service providers.

http://sachspolicy.com/wp-content/uploads/2020/03/Notification_1029341.pdf

PPP Considerations for Nonprofits

- The Paycheck Protection Program will provide critical financial support for many New York nonprofits during this emergency. However, a number of considerations should be taken into account before applying:
- If a reimbursement-based government contract covers a percentage of your payroll expense you may not be able to both receive reimbursement under your contract and loan forgiveness for same payroll expense. Foundation grant agreements may contain similar restrictions.
- Consider only applying for loans to fund uncovered staff or percentage of a staff person's salary, or contact your contract or grant administrator, or foundation representative, and ask for modification.

PPP Considerations for Nonprofits

- Whether to apply for a loan, and the loan amount requested, must be based on the particular circumstances of each organization, including the organization's updated revenue and expense projections and the organization's capacity to repay the loan in the event it is not forgiven.
- Review bylaws and governance practices to see if Board or Board committee authorization is required.
- Review pre-existing loan agreements to see if lender approval is required.
- There is a funding cap on this program. So if you believe PPP is right for your organization, consider applying early

What's next

- Cash collections and projections
- What do the next 60 days look like
- Communication with employees throughout
- Discussion with attorney before layoffs
- Taking advantage of programs we discussed
- Constant communication with bank especially if there are covenants

What's next

- Remote efficiency studies and following up
- Keeping company morale up
- Consistent message from management
- If you have financial statements – get in touch with your accountant early in year
- Learn something from this!

Warning

- If you are researching items that we have discussed today or really any tax related items, please make sure you note the date it was written because these things are changing daily and sometimes the Fed and State don't agree on things.
- Everything in these slides is from guidance provided through April 6th – so changes and hopefully more clarification will be coming I'm sure of it.

HR side of things

- In our first webinar, Myra Thorne, our HR Manager, talked a bit about different types of benefits that are available at this time.
- We have documented any questions and posted them to the Coronavirus Resources and Information page on our website.
- There are HR tools and publications posted on our website that will help as well.

NYS Paid Leave for COVID-19

Paid Sick Leave

Under this bill, NY employers are required to offer paid sick leave to their employees who are unable to work due to COVID-19 qualifying reasons. *Employees are entitled to their regular pay and job protection for the duration of this leave.* The duration of the leave is contingent to the size of the employer.

- Employers with less than \$1M in net income in 2019 and under 10 New York employees are not required to provide paid sick leave. Employees in this category should apply for Paid Family Leave and Disability Benefits.
- Employers with over \$1M in net income in 2019 and under 10 New York employees must provide at least 5 days of paid sick leave.
- Most employers with under 100 New York employees are required to provide 5 days of job-protected paid sick leave.
- Public employers of any size with New York employees are required to provide 14 days of job-protected paid sick leave.
- Private employers with 100 or more New York employees are required to provide 14 days of job-protected paid sick leave.
- <https://paidfamilyleave.ny.gov/covid19>

NYS Paid Leave for COVID-19

NY Paid Family Leave

The NYS PFL benefits are available for workers who are unable to work because they are either caring for a family member who has COVID-19 or a minor child under quarantine. This benefit is to be used once the employer paid sick leave is exhausted.

- This benefit offers up to 10 weeks of partial wage replacement as well as job protection.
- PFL insurance benefits cover up to 60% of an employee's pay, a maximum of \$840.70 per week.
- The 7-day waiting period is waived for COVID-19 qualifying reasons.
- Employees may apply for disability benefits to match full wages.
- <https://paidfamilyleave.ny.gov/if-your-minor-dependent-child-quarantined>

NYS Paid Leave for COVID-19

Temporary Disability Insurance

Workers who contract COVID-19 and are unable to work because of it may qualify for temporary disability benefits.

- After receiving full PFL benefit, the employee may receive disability benefits to match their full wages up to a maximum weekly disability benefit of \$2,043.92, for a total of \$2,884.62 per week.
- The 7-day waiting period is waived for COVID-19 qualifying reasons.
- <http://www.wcb.ny.gov/content/main/DistrictOffices/MainPage.jsp>

NYS Paid Leave for COVID-19

NYS Unemployment Insurance

This benefit provides individuals who lose their employment up to 39 weeks of partial wage replacement benefits.

- The one week waiting period is waived for job losses in conjunction with a COVID-19 closure.
- The CARES Act expanded the qualification requirements to include workers who would not typically qualify for unemployment benefits.
- The CARES Act also approved up to an additional \$600/week until 7/31/2020. (Payments begin 4/5/2020).
- Consider the Shared Work Program previously discussed to help retain your employees.
- <https://www.labor.ny.gov/home/>.

NYS Paid Leave for COVID-19

Workers Compensation

This benefit is for individuals who cannot work because they were exposed or they contracted COVID-19 in the workplace.

- This benefit provides partial wage replacement and medical care to the affected individual.
- The worker is entitled to a maximum of \$934.11 per week in addition to the cost of medical care.
- <http://www.wcb.ny.gov/content/main/TheBoard/COVID-19-FAQ.jsp>

Follow up

- We will summarize questions into a FAQ document that will be posted to our website.
- We are continuously updating the Marvin website as well as our social media pages.



www.marvincpa.com



<https://www.facebook.com/marvincpa>



<http://www.linkedin.com/company/marvin-and-company-p.c.>

<https://twitter.com/MarvinCoCPAs>

Thank you and stay healthy.

Thank you!

- Hopefully at some point soon we are all looking back at this and just happy it is behind us and somewhat back to normal, even if there is a new definition of normal.
- I'd like to thank everyone at Marvin for working through these crazy times and continuing to provide the best service we can to our clients while staying safe and healthy.

Special Thanks!

- Marvin has many medical practitioners as clients in all different fields and we thank them and all of our first responders for battling this day in and day out. Tax season is nothing compared to what they are dealing with on a daily basis, so thank you and please stay healthy and safe!

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