Smart loans make dollars and sense

Is your CPA reviewing loan agreements? **Interviewed by Steve Trusty**

Arranging the right kind of financing for your business can be crucial to the successful launch of an important new product, staff expansion, merger or acquisition. Having an experienced CPA review the loan documentation can protect your financial well-being.

"While an attorney should review the legal provisions of a loan document, a CPA, intimately aware of your specific financial situation, industry and economic concerns can help you fully understand how the agreement may affect both you and your business," says Steven M. Samuels, CPA and partner of business management at Berenfeld, Spritzer, Shechter & Sheer in Fort Lauderdale. "Special areas of concern that you need to know about can sometimes be hidden. Your CPA can help you evaluate the fine print and advise you accordingly."

Smart Business talked with Samuels for his insight on involving a CPA in analyzing loan agreements.

Steven M. Samuels, CPA
Partner – business management
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What are some areas in which your financial adviser should assist when analyzing a loan agreement?

The areas to look at include: terms of the agreement, collateral, restrictive covenants and technical default provisions, covenant compliance, restrictive cross-collateral and/or cross-guarantee provisions, personal guarantees, loan costs, use of proceeds provisions, financial statement requirements, and periodic data required by the lender.

Doesn't the lender set these conditions?

They may well be included in the document that is presented, but certain of these items may be negotiable. If the lender considers you a good risk, they are most likely not going to want to lose the deal. Even if the lender insists on certain provisions, it is important for you to know how they affect you and your business and what you need to do to minimize the likelihood of the loan going into technical default.

How can the CPA help with the general terms of the agreement?

He or she can advise on their competitiveness. Is the interest rate the lowest available in the marketplace and appropriately based on your company's risk tolerance and market conditions (variable prime, LIBOR, etc.)? Is the amount of collateral required reasonable?

What about covenants?

You need to be aware of financial or nonfinancial covenants. For example, the lender may restrict distributions to your shareholders, borrowings from other lenders or require compliance with certain financial ratios. Violations of any of these or other loan provisions may put the company in technical loan default. You should be aware of how closely the covenants are being monitored for compliance. Are they too restrictive or even obtainable? Is the company in violation at the loan's inception or likely to fall out of compliance in the near future? Your CPA can help you understand these questions and assist you in evaluating the restrictions and their impact on your company, as well as your company's ability to meet the requirements, *before* the loan is executed. He or she can also set up guidelines to help you self-monitor loan compliance.

What about cross-collateral, cross-guarantee and personal-guarantee provisions?

If your loan contains any of these provisions, your CPA can help you determine if they are necessary. Ideally you will want these provisions to be removed or moderated. You will most likely want to limit or remove any requests that will put your personal assets at risk for a business loan. You may also want to protect yourself from your partners' indemnification.

How can your CPA assist in the loan costs?

Your lender may ask for closing costs, commitment fees and/or periodic loan administration fees. An experienced CPA will be able to advise you as to what is reasonable and customary given your industry, loan amount and financial position.

Another cost area is that of documentary stamps. Obtaining the right advice on where you physically sign the agreement can by itself pay for the cost of having your CPA review all of the loan documents before anything is finalized.

Why are reporting requirements important?

It is imperative that you are fully aware of the frequency and information the lender is requiring during the life of the loan. Perhaps the reporting level can be downgraded to a less costly one. Failure to comply with one or more provisions of your loan may put you in technical default. You can be subject to a range of penalties if your loan becomes past due or noncompliant, including but not limited to: the lender's right to 'call' the loan, making it immediately due and payable, or charging excessive late payment penalties if full payment is demanded and not made.

By allowing a CPA to help you negotiate any loan agreement, you can alleviate unnecessary financial burdens and ensure that it makes sense for your business needs.

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