

Understanding the Federal CARES Act Paycheck Protection Program

Deirdre M. Hartmann, CPA
Partner



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The CARES Act – Section 1102 of Cares Act Paycheck Protection Program

A \$349 billion federal small business loan program under Section 7(a) of the Small Business Act (SBA)

- Designed to provide short-term economic relief to eligible businesses and to incentivize employers to retain their employees on payroll, bring back employees who were laid off or furloughed and restore any salary and pay cuts.
 - Loans could be forgiven, if used for allowable purposes, and small businesses maintain their workforce
 - Forgiveness is non-taxable
 - SBA will register loans using the taxpayer identification number of the borrower within 15 days of the loan
 - SBA approved lenders will be deemed delegated authority to make and approve covered loans
 - Fees will be waived
 - No requirement to obtain credit elsewhere to apply
 - No personal guarantee shall be required
 - No collateral shall be required
 - No prepayment penalties will apply to any unforgiven amounts



The CARES Act – Key Definitions

- “Covered Loan” means a loan made under this program
- “Covered Period” means the period beginning 2/15-6/30/2020
- “Eligible self-employed individuals” as defined by Section 7002(b) of the Families First Act
 - (1) regularly carries on any trade or business within the meaning of section 1402 of such Code, and
 - (2) would be entitled to receive paid leave during the taxable year pursuant to the Emergency Paid Sick Leave Act if the individual were an employee of an employer (other than himself or herself).
- Nonprofits that is described in section 501(c)(3) or IRC and exempt from tax under 501(a)



Who is Eligible?

- *Must be in operation 2/15/2020, and had employee or independent contractors*
- These businesses must employ no more than the greater of:
 - ✓ 500 employees (includes FT, PT or other basis)
- Or
- ✓ Standard # of employees established by the SBA for the industry of business

- For profit businesses
- Nonprofit organizations
- Veterans Organizations
- Tribal business Businesses
- Sole Proprietors
- Independent Contractors
- Self-employed Individuals
 - Regularly conduct any trade or business within the meaning of Section 1402 of the IRS code
 - Entitled to receive paid leave pursuant to the Emergency Paid Sick Leave Act if the individual were an employee or an employer (other than self)
- Special rules apply to businesses in the food and accommodations industry and franchises



Loan Documentation Required for Self-Employed, Independent Contractor and Eligible Self-Employed individuals

- Payroll tax filings
- 1099 Miscellaneous
- Income and expenses



► QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19

An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to telework, because the employee:

- | | |
|---|---|
| <ol style="list-style-type: none">1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;2. has been advised by a health care provider to self-quarantine related to COVID-19;3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2); | <ol style="list-style-type: none">5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services. |
|---|---|



Payroll Costs

- **Includes**

- Paid to Employees

- Salaries, wages, commissions, tips, vacation, family, medical, sick, severance
- Group health care benefits, including insurance premiums
- Retirement benefits paid
- State or local employer payroll taxes

- Sum of payments of any compensation of a sole proprietor or independent contractor that is a wage, commission, income, net earnings from self employment that is not more than 100,000 in 1 year, as prorated for the covered period



Payroll Costs

- **Does Not Include**

- Compensation of an individual employee in excess of annual salary of \$100,000
- Taxes imposed by chapters 21, 22, or 24 of Internal Revenue Code (FICA, Railroad, or FWT)
- Compensation paid to an employee who is nonresident of the United States
- Qualified sick leave wages for which a credit is allowed under Families First Act
- Qualified family leave wages for which a credit is allowed under Families First Act



Maximum Loan Amount

- The maximum loan amount is the lesser of:
 - 2.5 times the average monthly payroll costs during the 1-year period before the date on which the loan is made,
 - *plus* the amount of any outstanding SBA Economic Injury Disaster Loan previously made between January 31, 2020 and ending on the date covered loans made available for refinance

OR

- \$10 million
- For new businesses, average payroll costs would be calculated for the period January 1, 2020 to February 29, 2020.

Refer to the [U.S. Treasury Paycheck Protection Program – Interim Final Rule PDF](#) for examples of how to calculate the loan amount and the latest information on the program.



Allowable Uses of Covered Loans

- Includes

- Payroll costs
- Costs related to group health care benefits paid during periods of paid sick, medical or family leave, and insurance premiums
- Interest on any mortgage obligation (Not principal payments)
- Rent
- Utilities
- Interest on any other debt obligations incurred prior to 2/15/2020
- Loan shall be non-recourse to the extent proceeds were used for allowable uses



Borrower Requirements

- Certification
 - Uncertainty of current economic conditions makes loan request necessary
 - Acknowledge funds will be used to retain workers, payroll, make mortgage, lease and utility payments
 - Eligible recipient does not have another application pending for a covered loan
 - Eligible recipient has not received another covered loan
 - Insert hyperlink to application https://www.sba.gov/sites/default/files/2020-03/Borrower%20Paycheck%20Protection%20Program%20Application_0.pdf



Loan Forgiveness Calculation

Step 1 Calculate allowable Costs



Definitions

- The 8-week period beginning on the origination date of the loan.
- Sum the following costs for the 8-week period
 - Payroll costs
 - Interest on covered mortgage obligation on real or personal property, incurred in the normal course of business, that is a mortgage incurred on or before 2/15/2020
 - Covered rent obligations, under a lease in force prior to 2/15/2020
 - Covered utility payment, means gas, electric, water, transportation, telephone or internet access prior in service before 2/15/2020



Loan Forgiveness Calculation

Step 2 Calculate Reduction based upon Number of Employees

Reduction based upon # of Employees

Calculate the

- Average FTE per month for the 8-week period beginning on the origination date of the loan
- Divided by
 - Average FTE employees per month from 2/15/2019-6/30/2019, or
 - Average FTE employees per month from 1/1/2020-2/29/2020



Loan Forgiveness Calculation

Step 3 Calculate Reduction Relating to Salary and Wages

Reduction based Reduction Relating to Salary and Wages

Employees described for this section is any employee who did not receive during any pay period during 2019 wages or salary at an annualized rate of pay in an amount more than 100K. Think rank and file employees

- Salaries and wages for each employee for the 8-week beginning on the period beginning the origination date of the loan
- Compare to the Salaries and wages for each employee for the most recent full quarter
- Any reduction per employee that exceeds 25% of a reduction will reduce loan forgiveness

Re-Hiring: You have until June 30, 2020 to restore your full-time employment and salary levels for any changes made between February 15, 2020 and April 26, 2020



Loan Forgiveness Application

Eligible recipient seeking loan forgiveness shall submit to the lender the following, Lender shall have 60 days after 8-week period to submit information to grant or deny forgiveness

- Documentation verifying the number of FTE employees on payroll and pay rates for the 8-week period
- Payroll tax filings, including state, and unemployment insurance filings
- Cancelled checks verifying covered mortgage obligations, covered leases, and covered utility payments
- Certification from representative that information is true and correct
- Any other documentation the Administrator determines necessary



What if you have another loan?



U.S. Small Business
Administration

- If you already obtained an Economic Injury Disaster Loans during the period beginning January 30, 2020, that loan may be refinanced as one of the paycheck protection program loans.
- The legislation also temporarily increases the maximum amount for an SBA Express loan from \$350,000 to \$1 million through December 31, 2020.
- Borrower must also certify that they are not receiving this assistance and duplicate funds for the same uses from another SBA program
- If you have an existing loan, the SBA made all deferments through December 31 automatic.



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Next Steps

1. Contact your local bank to see if it is an SBA approved lender.
2. Contact your payroll company for payroll costs reports.
3. Gather your other information and documents.
4. [Access the SBA Paycheck Program Site for additional information](#)



Resources

- [U.S. Treasury](#)
- [SBA Paycheck Protection Program](#)
- [U.S. Chamber of Commerce](#)
- [COVID-19 Economic Injury Disaster Loan Application](#)
- [President Trump Signs Historic Economic Relief into Law Factsheet](#)



SBA Economic Injury Disaster Loan Program

- The SBA's Economic Injury Disaster Loan program provides small businesses with low interest loans of up to \$2 million to help overcome the temporary loss of revenue they are experiencing due to the Coronavirus (COVID-19) pandemic. Refer to the links below for program information.
 - [SBA Coronavirus \(COVID-19\) Program Overview](#)
 - [SBA Disaster Loan Website](#)
 - [SBA Loan Application Checklist](#)
 - [SBA Funding Programs Disaster Assistance](#)



Thank You

Deirdre M. Hartmann, CPA

973-298-8500

dhartmann@Nisivoccia.com





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