



PAYCHECK
PROTECTION
PROGRAM

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The Coronavirus Aid, Relief, and Economic Security Act, or “CARES Act” creates a Small Business Administration (“SBA”) loan program under Section 7(a) of the Small Business Act known as the Paycheck Protection Program (“PPP”) to provide critical relief to small businesses that have been negatively affected by the outbreak of COVID-19.

Any small business can be an “eligible recipient” of a PPP loan, including 501(c)(3) nonprofit organizations, 501(c)(19) veterans organizations, and tribal business concerns. The small business must either qualify under existing eligibility rules for an SBA loan or must have been operating as of February 15, 2020 and have 500 or fewer employees. For the purposes of calculating the 500 or fewer employee threshold, accommodation and food service companies assigned a North American Industry Classification System code beginning with 72 are measured on a per location basis.

The maximum amount of a PPP loan is the lesser of \$10 million or the amount obtained by multiplying the average total monthly payments for payroll costs during the 1-year period before the loan is made by 2.5. For example, if the loan was made on April 1, 2020, and average monthly payroll costs for the period April 1, 2019, to March 30, 2020, were \$1,000,000, the maximum loan amount would be \$2,500,000. For businesses that were not operational for the prior year, the average total monthly payments for payroll costs are measured from January 1, 2020 to February 29, 2020.

Payroll Costs

For the purposes of calculating eligible payroll costs, the following are included:

- Salaries, wages, commissions, or similar compensation;
- Cash tips or equivalent payments;
- Vacation, parental, family, medical, or sick leave;
- Dismissal or severance payments;
- Group health care benefits, including insurance premiums;
- Retirement benefits; and
- State and local taxes assessed on the employee’s compensation.

The following are excluded from the eligible payroll costs:

- Any compensation of an individual employee in excess of \$100,000 annually, as prorated for the period of February 15, 2020 to June 30, 2020;
- Payroll taxes, railroad retirement taxes, and income taxes;
- Any compensation of an employee who resides outside of the United States; and
- Sick leave wages for which a credit is allowed under the Families First Coronavirus Response Act.

Loan Purposes and Certification

Authorized purposes for the loan are:

- Payroll costs (payroll costs exceeding \$100,000 per annum, on a prorated basis, per employee is excluded);
- Costs related to group health care benefits, including insurance premiums;
- Payment of interest on mortgage obligations;
- Rent obligations;
- Utility payments; and
- Interest on any other debt obligations that were incurred before February 15, 2020.

Borrowers applying for a loan will have to make a good faith certification that: (i) the uncertainty of current economic conditions makes the loan request necessary to support ongoing operations; (ii) funds will be used for an authorized purpose; (iii) no duplicate loan applications have been filed; and (iv) during the period beginning on February 15, 2020 and ending on December 31, 2020, no loan has been received for a duplicative purpose.

Unlike standard Section 7(a) SBA loans, these loans will be 100% guaranteed by the SBA and will not require any collateral from the borrower. Further, if a business received an SBA Disaster Loan starting on January 31, 2020, it will be able to be refinanced as part of the new PPP loan.

Loan Forgiveness

Loan payments will be deferred for at least six (6) months and will be partially or completely forgiven (in an amount not to exceed the principal) to the extent that the loan proceeds were used for the above-authorized purposes during the eight (8) week period commencing on the date of the loan.

The amount of any loan forgiveness will be decreased by any reductions in employee compensation in excess of 25% or a reduction of the number of full-time employees from February 15, 2020 to June 30, 2020. However, if starting on February 15, 2020 and ending on April 26, 2020 there is a reduction of employee compensation or a reduction of the number of full-time employees, and such reductions are cured by June 30, 2020, the loan forgiveness reduction will be determined without regard for those decreased amounts. Meticulous accounting and complete and accurate recordkeeping will be critical for maximum loan forgiveness.

Any amount which would normally be included in gross income due to debt forgiveness will be excluded from gross income. Any loan amount not forgiven at the end of one year is carried forward as an ongoing loan with a maximum term of ten (10) years and a maximum interest rate of 4%.