



CARES Act - Paycheck Protection Program (SBA 7(a) Loan Program)

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On March 31, we published a summary of the SBA Loan Programs under the CARES act that describes Paycheck Protection Program (PPP) in greater detail.

The CARES Act (the "Act") includes the creation of a new Small Business Administration (SBA) 7(a) loan program called the Paycheck Protection Program (PPP). As drafted, PPP would enable small businesses to borrow from SBA authorized lenders to offset payroll costs and other expenses during the emergency created by the Coronavirus disease (COVID-19) pandemic. The PPP loan program period (called the "covered period") will be from 2/15/20 through 6/30/20, unless extended. The following are the highlights of the legislation:

For Small Business Borrowers:

- "Payroll Costs" as defined in the Act are:
 - Salaries and wages
 - Cash tips
 - Vacation, parental, FMLA, sick leave payments
 - Dismissal/separation allowances
 - Group health benefits, including insurance premiums
 - Retirement benefits
 - State/local compensation taxes
 - Sole proprietor/independent contractor income up to \$100,000 in 1 year, prorated (with some qualifications and exceptions)
- In general, any business concern, non-profit, veteran's organization, or tribal concern with 500 employees or fewer are eligible. That is over and above businesses that are already eligible under current SBA guidelines.
- Accommodation (hotel and RV park) businesses and Food Service businesses with multiple locations are eligible so long as there are not greater than 500 employees per location.

- Accommodation and Food Service businesses also are not subject to current affiliation rules, where borrowers may be excluded due to affiliate entities.
- Maximum Loan Amount = lesser of (i) Average of total monthly payroll costs for prior year multiplied by a factor of 2.5 plus any Economic Injury Disaster Loan proceeds received and (ii) \$10,000,000.
- Proceeds may be used for payroll and group health costs, salaries and commissions, mortgage payments, rent payments, utilities, and interest on other debt.
- Loans are non-recourse (except for misuse of proceeds), and during the covered period no personal guaranty or collateral may be required for the loan.
- Standard "credit elsewhere" restrictions will be waived.
- 10-year maximum maturity and 4% maximum interest rate.
- Minimum 6 months payment deferral, up to a total of 1 year.
- Borrowers will receive loan forgiveness for payroll costs, mortgage payments, rent and utilities paid during the first 8-weeks of the loan (subject to reduction based on employment figures).
- Forgiven debt will be treated as "cancelled indebtedness" but will not be taxable as gross income.

For Lenders:

- 100% SBA participation, rather than standard 75%/85% guarantees under typical 7(a) loans.
- At funding, SBA will reimburse Lenders:
 - 5% of loan amounts up to \$350,000
 - 3% of loan amounts between \$350,000 and \$2,000,000
 - 1% of loan amounts over \$2,000,000
- Express Loan maximum amounts are increased from \$350,000 to \$1,000,000.
- Forgiveness amounts will be treated similar to SBA purchases under the guarantee program.
- Forgiveness may not exceed loan principal amount.
- Borrowers request forgiveness of Lenders, and Lenders have 60 days to confirm.
- Lenders held harmless by Act for all forgiveness decision making.

Please note: This alert contains general, condensed summaries of actual legal matters, statutes and opinions for information purposes. It is not meant to be and should not be construed as legal advice. Readers with particular needs on specific issues should retain the services of competent counsel.

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