

Press Release

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Small Business Owner's Guide to Relief Programs in the CARES Act

Introduction – On March 27th, Congress passed a historic bi-partisan \$2 Trillion relief bill known as the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The bill addresses support for small businesses, support for individuals and families, aid to the airline industry, relief for larger companies, funding for hospitals, and funding for states and local governments combatting the pandemic. This document will focus on provisions that provide liquidity to small businesses.

DISCLAIMER: This document is not authorized guidance from the federal government. It has been written after reading the bill and several legislative summaries from various legal groups. This should be used as a guide to better understand the relief funding available to small businesses only.

Relief Targeted to Small Businesses

The CARES Act makes available \$377 Billion in funding for small business relief:

- \$350 billion in SBA loans for payroll, operating expenses, and monthly debt obligations
- \$10 billion for Economic Injury Grants
- \$17 billion for the federal government to pay 6 months of principal, interest, and fees on existing SBA loans

SBA Loans –

The CARES Act creates a new loan program called the Paycheck Protection Loan administered through the SBA for small business relief due to COVID-19. This program is modeled after the SBA 7(a) program with 100% guarantee (normally 75%), and loans can be applied for through any SBA approved lender. These loans do not require collateral and have guaranteed forgiveness of 8 weeks of payroll costs as long as the business keeps their staff employed the covered loan period. A loan made under the SBA's disaster assistance program on or after January 31st of 2020 may be refinanced in a Paycheck Protection Loan once the loans are available. The covered period of these loans is February 15, 2020 to June 30, 2020.

Paycheck Protection Loan Eligibility –

Any for profit business, 501(c)(3) non-profit, veteran's organization, or Tribal business is eligible for this new loan program as long as it employs no more than 500 employees (this includes part-time employees and independent contractors).

If you are in dining or hospitality and have more than one physical location, as long as each location employs fewer than 500 employees and is assigned to the "accommodation and food services" sector of the NAICS, you are eligible for a loan.

Sole proprietors, independent contractors, and eligible self-employed individuals as defined in the Families First Act, are also eligible subject to some documentation requirements.

Paycheck Protection Loan Eligibility, Borrower Requirements, and Permissible Uses –

The maximum loan amount will be the lesser of:

- 8 weeks of the average weekly payroll cost incurred in the one-year period prior to when the loan is made *PLUS* the outstanding amount of a loan made under the SBA's Disaster Assistance Loans Program between January 31, 2020 and the start date of this new loan.
 - For seasonal employers, it is the average weekly payroll cost for the 12 weeks beginning on February 15, 2019 or from March 1, 2019 to June 30, 2019.
- For eligible loan recipients that were not in business between February 15, 2019 to June 30, 2019, it is 8 weeks of the average weekly payroll cost from January 1, 2020 to February 29, 2020 *PLUS* the outstanding amount of a loan made under the SBA's Disaster Assistance Loans Program between January 31, 2020 and the start date of this new loan.
- \$10 million

To obtain a loan, the borrower must certify:

- The loan is needed to continue operations during the COVID-19 emergency
- Funds will be used to retain workers and maintain payroll or make mortgage, lease, and utility payments
- The application does not have any other application pending under this program for the same purpose
- From February 15, 2020 until December 31, 2020 the applicant has not received duplicative amounts under the program.

If you already laid off staff due to the COVID-19 emergency, you are still eligible for this program. You just need to bring back all laid off staff onto your payroll.

Permissible uses of the funds are:

- Payrolls costs. This includes salary, wages, commission, cash, paid leave, severance payments, payment for group health benefits, including insurance premiums, retirement benefits, state and local payroll taxes, and compensation to sole proprietors or independent contractors (including commission-based compensation) up to \$100,000 in 1 year, prorated for the covered period.
 - EXCLUDED: Individual employee compensation above \$100,000 per year, prorated for the covered period, certain federal taxes, pay to employees whose primary residence is outside the U.S., and sick and family leave wages for which credit is allowed under the Families First Act.
- Payments of interest on mortgage obligations
- Rent/lease agreement payments
- Utilities
- Interest on any other debt obligation incurred before the covered period

Deferment and Loan Forgiveness –

All loans have a guaranteed deferment of principal, interest, and fees for at least 6 months but no more than a year.

Loans are forgiven and excluded from gross income for the amount equal to payroll costs, interest payments on mortgages, rent, and utilities incurred during the covered period up to the loan's principal amount.

Employers with tipped employees may receive additional forgiveness for additional wages paid to those employees during the covered period.

The forgiveness amount WILL BE REDUCED for any employee cuts or reduction in wages.

How to apply for the program-

Apply through any existing SBA approved lender (additional lenders may be approved by Treasury and SBA to expedite access)

Expansion of SBA Disaster Loan Program –

The CARES Act also expands the existing SBA Disaster Loan program for COVID-19. The covered period of this expansion is January 31, 2020 to December 31, 2020. In addition to those currently eligible, the following now may receive SBA disaster loans:

- A business with 500 or fewer employees
- All non-profits, including 501(c)(6)s, with fewer than 500 or fewer employees
- Sole proprietorships, with or without employees, and independent contractors
- Cooperatives with 500 or fewer employees
- ESOPs with 500 or fewer employees
- Tribal Small Businesses

In addition, the CARES Act makes the following changes for loans in response to COVID-19:

- Waives rules related to personal guarantees on advances and loans of \$200,000 or less for all applicants;
- Waives the "1 year in business prior to the disaster" requirement (except the business must have been in operation on January 31, 2020);
- Waives the requirement that an applicant be unable to find credit elsewhere; and
- Allows lenders to approve applicants based solely on credit scores (no tax return submission required) or "alternative appropriate methods to determine an applicant's ability to repay."

Emergency Economic Injury Grants –

The stimulus includes \$10 billion in funding for a provision to provide an advance of \$10,000 to small businesses and nonprofits that apply for an SBA economic injury disaster loan (EIDL) within three days of applying for the loan. The EIDL grant does not need to be repaid, even if the grantee is subsequently denied an EIDL, and may be used to provide paid sick leave to employees, maintain payroll, meet increased production costs due to supply chain disruptions, or pay business obligations, including debts that cannot be repaid due to lost revenue, rent, and mortgage payments.

If an entity receives an Emergency Economic Injury Grant, the amount will be reduced from any loan forgiveness under the Paycheck Protection Loan Program described above.

SBA Loan Subsidies –

For loans in the SBA Business Loan Program (including the Community Advantage Pilot Program, but excluding the new Paycheck Protection Loan program described above), loans guaranteed under Title V of the Small Business Investment Act, or loans made by an intermediary to a small business using loans or grants received under the SBA's Microloan

program, the SBA must pay all principal, interest, and any associated fees owed in a regular servicing status for a 6 month period beginning with the next payment due.

This includes existing loans, loans in deferment, and loans originated in the 6-month period following the enactment of this law. For loans in deferment, the 6-month period begins with the next payment due after deferment.

Tax Provisions –

NOTE: Entities that take a Paycheck Protection Loan are NOT eligible for the Employee Retention Credit or the Deferment of Payroll Taxes under the CARES Act.

Employee Retention Credit –

The CARES Act Establishes a one-year only refundable tax credit for 50% of the payroll taxes on the first \$10,000 of wages per employee (including the value of health plan benefits). To qualify, an employer must meet one of the following requirements:

- Been fully or partially shutdown due to orders from a government entity limiting commerce, travel, or group meetings
- Have a year-over-year (comparing calendar quarters) reduction in gross receipts of at least 50%. The business then will receive a quarterly credit until their year-over-year gross receipts exceed 80% of the previous year

For business with fewer than 100 employees, they may claim a credit on all employees. For businesses with more than 100 employees, they may only claim the credit on employees unable to work due to COVID-19 causes.

Delay of Employer Payroll Taxes –

The CARES Act allows employers to defer their portion of Social Security taxes (6.2%) for tax year 2020. It also allows self-employed individual to defer 50% of their self-employment taxes. The deferred amount will be paid over the next two years, with 50% due on December 31, 2021, and 50% due on December 31, 2022.