



## PAYCHECK PROTECTION PROGRAM LOANS

The CARES Act was signed into law on Friday, March 27, 2020. As part of the CARES Act, \$350 billion is dedicated to small businesses in order for them to retain employees in a time when most of the country is operating in a limited capacity. Businesses may be eligible for up to 2.5 times their 2019 average monthly payroll costs not to exceed \$10 million in the form of a Paycheck Protection Program Loan via the SBA 7(a) Program. While the SBA has not released the details regarding the loan, the following cover the information contained in the bill.

### SBA Loan Eligibility

The following businesses and entities are eligible for Paycheck Protection Loans:

- Businesses and entities must have been in operation on February 15, 2020.
- Small business concerns, as well as any business concern, a 501(c)(3) nonprofit organization, a 501(c)(19) veterans organization, or Tribal business concern described in section 31(b)(2)(C) that has fewer than 500 employees, or the applicable size standard in number of employees for the North American Industry Classification System (NAICS) industry as provided by SBA, if higher.
- Individuals who operate a sole proprietorship or as an independent contractor and eligible self-employed individuals.
- Any business concern that employs not more than 500 employees per physical location of the business concern and that is assigned a NAICS code beginning with 72, for which the affiliation rules are waived.
- Affiliation rules are also waived for any business concern operating as a franchise that is assigned a franchise identifier code by the Administration, and company that receives funding through a Small Business Investment Company.

### SBA Loan Terms

Depending on your business's situation, the loan size will be calculated in different ways (see below). The maximum loan size is always **\$10 million**.

- **If you were in business February 15, 2019 – June 30, 2019:** Your max loan is equal to 250 percent of your average monthly payroll costs during that time period. If your business employs seasonal workers, you can opt to choose March 1, 2019 as your time period start date.
- **If you were not in business between February 15, 2019 – June 30, 2019:** Your max loan is equal to 250 percent of your average monthly payroll costs between January 1, 2020 and February 29, 2020.

**If you took out an Economic Injury Disaster Loan (EIDL) between February 15, 2020 and June 30, 2020** and you want to refinance that loan into a PPP loan, you would add the outstanding loan amount to the payroll sum.

Eligible Payroll Costs Include:

- Compensation (salary, wage, commission, or similar compensation, payment of cash tip or equivalent)
- Payment for vacation, parental, family, medical, or sick leave
- Allowance for dismissal or separation
- Payment required for the provisions of group health care benefits, including insurance premiums
- Payment of any retirement benefit
- Payment of State or local tax assessed on the compensation of employees

Payroll Costs NOT Eligible:

- Employee/owner compensation over \$100,000
- Taxes imposed or withheld under chapters 21, 22, and 24 of the IRS code
- Compensation of employees whose principal place of residence is outside of the U.S.
- Qualified sick and family leave for which a credit is allowed under sections 7001 and 7003 of the *Families First Coronavirus Response Act*

**Allowable Uses of Loan Proceeds**

During the covered period, Paycheck Protection Plan loans can be used for the following:

- Payroll costs (as noted above)
- Costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums
- Employee salaries, commissions, or similar compensations (see exclusions above)
- Payments of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a mortgage obligation)
- Rent (including rent under a lease agreement)
- Utilities
- Interest on any other debt obligations that were incurred before the covered period

**Forgiveness**

Forgiveness on a covered loan is equal to the sum of the following payroll costs incurred during the covered period compared to the previous year or time period, proportionate to maintaining employees and wages (excluding compensation over \$100,000):

- Payroll costs **plus** any payment of interest on any covered mortgage obligation (not including any prepayment or payment of principal on a covered mortgage obligation) **plus** any payment on any covered rent obligation **plus** and any covered utility payment.

You must apply through your lender for forgiveness on your loan. In this application, you must include:

- Documentation verifying the number of employees on payroll and pay rates, including IRS payroll tax filings and State income, payroll and unemployment insurance filings.
- Documentation verifying payments on covered mortgage obligations, lease obligations, and utilities.
- Certification from a representative of your business or organization that is authorized to certify that the documentation provided is true and that the amount that is being forgiven was used in accordance with the program's guidelines for use.

Any loan amounts not forgiven are carried forward as an ongoing loan with max terms of 10 years, at a maximum interest rate of 4%. Principal and interest will continue to be deferred, for a total of 6 months to a year after disbursement of the loan. The clock does not start again.

### **Certification**

An eligible recipient receiving loan forgiveness under this section shall make a good faith certification that the uncertainty of current economic conditions justifies the loan request to support the ongoing operations of the borrower, and acknowledges that funds will be used to retain workers and maintain payroll.

### **Prohibition On Forgiveness Without Documentation**

No eligible recipient shall receive forgiveness under this section without submitting to the lender that originated the covered 7(a) loan the documentation required under the Forgiveness section above.

### **Decision**

Not later than 15 days after the date on which a lender receives an application for loan forgiveness under this section from an eligible recipient, the lender shall issue a decision on the application.

### **Taxability**

Canceled indebtedness under this section shall be excluded from gross income for purposes of the Internal Revenue Code of 1986.

