

## **CARES Act**

### **Paycheck Protection Program**

**“PPP”**

The Paycheck Protection Program (“PPP”) provides SBA loans to Small Businesses with a potential for some or all of the loan proceeds being forgiven. The purpose of the program is to help employers retain their employees at their current base pay.

1. Who Qualifies for the PPP Loans
    - A. An applicant that was in operation on February 15, 2020.
    - B. A “Qualifying Business” is a business
      - 1) With 500 or fewer employees, including affiliated businesses.

**OR**

    - 2) In an industry that has an *“employee-based size standard through the SBA”* that is higher than 500 employees.

**OR**

  - 3) Is a restaurant, hotel, or a business that falls within the North American Industry Classification System (NAICS) code 72, “Accommodation and Food Services” and each of your locations has 500 or fewer employees.
  - C. Tribal Businesses.
  - D. 501(c)(19) Veteran Organizations.
  - E. 501(c)(3) nonprofits, including religious organizations.
  - F. Independently owned franchises with under 500 employees who are approved by the SBA.
  - G. Independent Contractors, self-employed individuals and sole proprietors are eligible.
  - H. Businesses meeting one of the eligibility requirements above (A – F) and are able to certify their eligibility as defined in item 8 below.
2. Eligible Loan Amounts
  - A. The amount an eligible small business can borrow is up to 2 ½ times (250%) of their average monthly payroll expense. An employee’s payroll wages exceeding \$100,000 when annualized, will not factor into the calculation.
  - B. The maximum amount that can be borrowed is \$10,000,000.
3. How can I use the money and still be eligible for the loan forgiveness features?
  - A. Proceeds must be used to cover costs incurred during any 8-week period starting February 15, 2020 and ending June 30, 2020. The borrower can choose any 8-weeks they want to count toward the 8-week period. Covered costs include:
    - A. Salaries and/or commissions
    - B. Group health insurance and other healthcare costs

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- C. Payroll costs
  - D. Rent pursuant to a lease agreement executed before February 15, 2020.
  - E. Mortgage interest (excluding amounts prepaid) for mortgages entered into before February 15, 2020.
  - F. Utilities for service contracts entered into before February 15, 2020.
  - G. Transportation costs.
  - H. Other business interest incurred prior to February 15, 2020.
- B. If you keep all of your employees, the entire loan may be forgiven. If you lay off some of your employees, the forgiveness will be reduced by the percentage decrease in the number of employees. To qualify the business must maintain the same number of employees from February 15, 2020 through June 30, 2020 as either:
- A. The same period in 2019
- OR**
- B. The period January 1, 2020 through February 14, 2020.
- C. If your total payroll on workers making less than \$100,000 annually decreases by more than 25%, the amount of your loan forgiveness will be reduced by the same amount.
- D. If you have already laid off some of your employees, you can still have the entire amount of your loan forgiven if you rehire your employees by June 30, 2020.
- E. Note: Since the goal of the legislation is to keep employees employed at their current base pay, it is anticipated that when the final guidelines are published there will be a requirement that 75% of the proceeds must have been used to cover payroll costs.
4. The loan will be forgiven at the end of the designated 8-week period when you have met the requirements for loan forgiveness. The borrower will work with their lender to report and account for the eligible expenses and calculate the amount eligible for forgiveness.
5. If part, or all, of your loan is forgiven because you meet the requirements during the specified 8-week period, the interest associated with the forgiven loan will be waived.
6. The terms may vary from case to case. However, the maximum terms are:
- A. 2-year term
  - B. Maximum interest rate of 4%
  - C. Loan is 100% guaranteed by the SBA.
  - D. No loan fees
  - E. No collateral requirements
  - F. No personal guarantees are required

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- G. Loan payments will be deferred for at least six months and maybe up to one year starting with the origination date of the loan.
- 7. Amounts forgiven under the PPP will not be included as taxable income on your 2020 tax return.
- 8. Employers will be required to certify the following as a part of their loan application. Knowingly making false statements and representations to get a loan under this program is punishable by law.
  - A. The applicant was in operating on February 15, 2020.
  - B. Current economic uncertainty makes the loan necessary to support your ongoing operations.
  - C. The funds will be used to retain workers and maintain payroll or to make mortgage, lease and utility payments.
  - D. You have not and will not receive another loan under this program.
  - E. You will provide to the lender documentation that verifies the number of full-time equivalent employees on payroll and the dollar amounts of payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities for the eight week period covered by the terms of the loan.
  - F. Loan forgiveness will be provided for the sum of documented payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities.
  - G. All information you provide in your application and in the supporting documents and forms is true and accurate.
    - 1) Applicants that fraudulently apply for PPP Loans or misuse PPP loan funds will be directed to immediately repay such amounts. Further, if the borrowers knowingly use the funds for unauthorized purposes, you will be subject to additional liability, such as fraud charges. If one of the owners of the company (a shareholder, member or partner) misuses the funds, the SBA will have recourse against that individual for the unauthorized use.
    - 2) Knowingly making a false statement to obtain a guaranteed loan from the SBA is punishable under the law, including under 18 USC 1001 and 3571 by imprisonment of not more than five years and/or a fine of up to \$250,000; under 15YSC 645 by imprisonment of not more than two years and/or a fine of not more than \$5,000; and if submitted to a federally insured institution, under 18 USC 1014 by imprisonment of not more than thirty years and/or a fine of not more than \$1,000,000.
  - H) The tax documents provided are identical to those submitted to the IRS.