

CARES Act Provides Payment Protection and Potential Loan Forgiveness to Small Businesses

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The federal government passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act on March 27, 2020. Title I of the CARES Act contains the Paycheck Protection Program and loan forgiveness provisions. These provisions are intended to provide financial assistance to eligible small businesses during these uncertain economic times. **This program is significant because, if spent properly, some or all of the loan will be forgiven.**

Paycheck Protection Program

- The Paycheck Protection Program provides for a new loan within the Small Business Administration's 7(a) loan program for eligible small businesses.
- The loans will be 100% guaranteed by the Small Business Administration and have an interest rate no higher than 4%.

- Eligible small businesses can use the loan to cover:
 - Payroll costs
 - 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
 - Payments of interest on any mortgage obligation
 - Rent
 - Utilities
 - Interest on any other debt obligations that were incurred before the covered period (i.e., February 15, 2020)

Eligibility

- To be eligible for the Paycheck Protection Program, among other things, the small business must employ less than 500 employees.
- This 500-employee threshold applies to the overall business; however, businesses in the accommodations and food services industries that have more than one physical location may be eligible for relief per location if the location employs less than 500 employees.

Loan Amounts

- The maximum loan amount will be the lesser of \$10 million or 2.5 times the average monthly payroll based on the prior year's payroll.
- Eligible small businesses applying for a loan under the program must make a good faith certification that the uncertainty of current economic conditions makes necessary the loan request to support the ongoing operations of the small business requesting assistance, among other things.

Loan Forgiveness

- The CARES Act also establishes a loan forgiveness mechanism that allows small businesses that maintain payroll continuity from February 15, 2020, through June 30, 2020, to request forgiveness on the Paycheck Protection loan.

- Small businesses may request forgiveness of the loan in an amount equal to the sum of the following costs incurred and payments made during the covered period:
 - Payroll costs
 - Any payment of interest on any covered mortgage obligation
 - Any payment on any covered rent obligation
 - Any covered utility payment
- The amount forgiven with respect to payroll will be reduced proportionally by any reduction in the employees retained by the small business compared to the prior year and reduced by the reduction in pay of any employee beyond 25% of their prior year compensation.
- The small business must affirmatively request loan forgiveness from the lender and work with the lender to provide documentation establishing that the small business maintained its payroll during the relevant period.
- Small businesses interested in applying for loan forgiveness are encouraged to consult with their lender to ascertain whether a particular expenditure will be eligible for loan forgiveness and any exceptions that may apply.

Small Businesses Are Encouraged to Inquire With a Small Business Administration 7(a) Lender

- There is \$350 billion allocated toward the Paycheck Protection Program, so small businesses are encouraged to apply as soon as practicable.

Authored By



Wm. Cary Wright

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