

The *Coronavirus Aid, Relief and Economic Security Act* or CARES Act provides emergency assistance to businesses and individuals affected by the 2020 Coronavirus pandemic. The Law contains relief provisions through 1) small business loans 2) changes to the IRS code, and 3) other provisions for individuals and specific businesses. The following provides an overview of three loan programs stemming from the CARES Act.

### Small Business Loans

- 1) The **Paycheck Protection Program**, or **PPP**, is designed for businesses with no more than 500 employees, sole-proprietors, independent contractors, and other self-employed individuals. The Small Business Administration (SBA) will administer this program, which is available until June 30, 2020. PPP loans are fully guaranteed and can be forgiven. Beginning April 3, 2020, small businesses and sole proprietorships may apply for a PPP loan. Starting April 10, 2020, independent contractors and self-employed individuals can apply.

#### Highlights of the PPP:

- Maximum amount of a PPP loan is the lesser of 2.5 times the average monthly payroll costs for the prior year (2019) or \$10 million.
- Payroll costs include:
  - Salary, wages, commissions or tips (capped at \$100,000 on an annualized basis for each employee);
  - Employee benefits including vacation, various types of leave, group health care premiums and retirement benefits;
  - State and local taxes assessed on compensation; and
  - For a sole proprietor or independent contractor: wages, commissions, income, or net earnings from self-employment, capped at \$100,000 on an annualized basis for each employee.
- In addition to payroll costs, PPP loans can be used to pay interest on mortgage obligations incurred before February 15, 2020; rent payments for leases in existence before February 15, 2020; and utilities, for which service began before February 15, 2020.
- Businesses must have been operational on February 15, 2020.
- No personal guarantees or collateral are required for a PPP loan.
- The interest rate on a PPP loan will not exceed 4%.
- The Act provides that a PPP loan will have a maximum maturity of up to 10 years from the date the borrower applies for loan forgiveness, however, a two-year maturity has been deemed sufficient due to the anticipated abatement of the economic disruption caused by the virus well before the two year maturity date.
- The loan can be forgiven if, during the eight week period beginning on the date of origination, the loan proceeds are used for the following:
  - Payroll costs, which include salaries, wages, commissions, cash tips or equivalents; paid vacation; parental, family, medical or sick leave; dismissal or separation allowance; payments required for the provision of group health care benefits, including insurance premiums; and state and local taxes assessed on the compensation of employees.
  - Interest on mortgage obligations incurred in the ordinary course of business.
  - Rent payments for which agreements were in place before February 15, 2020.
  - Utility payments for services that began before February 15, 2020.
- No more than 25% of the loan forgiveness amount may be attributable to nonpayroll costs to ensure the appropriated funds are directed toward payroll protection.
- Amount of forgiveness can be reduced proportionally by the following:
  - Reduction of full-time equivalent employees (FTE) retained during the 8 week forgiveness period compared to either:
    - average number of FTEs from February 15, 2019 – June 30, 2019, or
    - average number of FTEs from January 1, 2020 – February 29, 2020
      - The average number of FTEs is calculated for each pay period in a given month.
  - Reduction of employee compensation in excess of 25% compared to prior year compensation.
- If employees are rehired by June 30, 2020, the reduction will not apply.
- Certain documentation will be required for loan forgiveness.
- Loans forgiven are not eligible for the payroll tax deferral or refundable employee retention tax credits.
- Contact your current lender to see if they are a third-party, private SBA lender.

### Items needed to apply for a PPP loan

- Completed SBA Form 2483, Paycheck Protection Program Application Form (attached).
  - Payroll documentation such as payroll processor records, payroll tax filings, or Form 1099-MISC, or income and expenses from a sole proprietorship.
  - Good faith certification that economic uncertainty makes the loan necessary to support your ongoing operations and that funds will be used to retain workers and maintain payroll or make mortgage, lease or utility payments.
- 2) **Economic Injury Disaster Loan, or EIDL**, is a working capital loan offered through the SBA. Qualifying businesses can receive up to \$2 million in working capital based on their economic injury due to COVID-19. This includes sole-proprietors, independent contractors and other self-employed individuals. These loans cannot be forgiven.

### Details of the EIDL

- Applies to small businesses with no more than 500 employees.
  - Applicant's credit score can be used to approve the loan.
  - Personal guarantees will not be required for loans under \$200,000.
  - The interest rate will be 3.75% for small businesses and 2.75% for nonprofits. Maturity will not exceed 30 years.
  - Loans are to be used for working capital, payroll and other expenses. They cannot be used for expansion or to replace lost profits.
  - The SBA may grant an advance of \$10,000 after the application is completed. The grant is not required to be repaid even if the applicant does not obtain a loan. The advance must be used for payroll, paid leave, supply costs, mortgage or lease payments, or debt obligations that cannot be met due to the loss of revenue.
  - This loan is available exclusively through the SBA and can be applied for electronically or through the mail.
- 3) **Coronavirus Economic Stabilization Act of 2020 (CESA)** created a loan program specifically intended to support programs or facilities created by the Board of Governors of the Federal Reserve System. Businesses eligible to apply for relief under CESA include:

- Air carriers
- Businesses critical to maintaining national security
- U.S. Businesses not otherwise receiving adequate economic relief under other provisions of the CARES Act

### Details of the loans available through CESA include:

- Loan maturities not to exceed five years.
- Provide loan guarantees to businesses of all sizes in industries affected by the coronavirus pandemic
- Must demonstrate losses resulting from the pandemic.
- Some terms and conditions include:
  - Prohibition of stock buybacks until a year after date of loan or the loan is paid in full.
  - Prohibition of dividends and other capital distributions until a year after date of the loan or the loan is paid in full.
  - Retention of 90% of their employment levels from March 24, 2020 through September 30, 2020.
  - Limitations regarding executive compensation.