

White Paper on the CORONAVIRUS RELIEF PACKAGE SUMMARY (as it pertains to small business and nonprofits)

SBA has streamlined the application process and reduced the administrative burden as of today. Start applying for the disaster relief loan or emergency \$10k relief grant here:

<https://covid19relief.sba.gov/>

PAYCHECK PROTECTION LOAN

- Small Business Administration Loans-\$349 billion authorized (pg31 lines 8-13, CARES ACT)
- Administration participation increased to 100% instead of existing 75-85%.
- Period covered: February 15, 2020 through June 30, 2020 ◦ “Payroll costs” includes wages, tips, leave pay (vacation, sick, parental, etc.), group health care benefits including insurance premiums, retirement benefit, and state or local taxes
- Applies to employees, and also expands coverage to sole proprietors, independent contractors, and self-employed individuals.
- Excludes any wages or other compensation in excess of \$100k per year, prorated for the covered period, some IRS taxes, and any employee whose principal place of residence is outside the United States
- Also excludes benefits (sick leave and FMLA) under phase 2.
- Eligibility expanded from just small businesses to any business concern, nonprofit organization, veterans organization or tribal business concern of less than 500 employees (FT and PT count).
- Maximum loan amount: payroll cost average per month during the prior 1 year period multiplied by 2.5 (seasonal businesses can use month average from Feb-June of 2019) ◦ Or \$10million (whichever is less).
- Allowable uses: payroll, group health care and leave benefits, mortgage interest (but no prepayment of principal), rent, utilities, and interest on any debts incurred prior to covered period.
- Pg. 21 Lines 4-13-delegated authority-a lender approved to make loans under this subsection shall be deemed to have been delegated by the Administrator to make and approve covered loans (additional lenders shall be approved w/ necessary qualifications-pg. 22 lines 4-11, CARES ACT).
- Minimal requirements. No personal guarantee. No collateral.

LOAN FORGIVNESS FOR PAYCHECK PROTECTION LOANS

- A separate section of the CARES Act calls for a portion of the aforementioned paycheck protection loans to be forgiven on a tax-free basis. The amount to be forgiven is the sum of the following payments made by the borrower during the 8-week period beginning on the date of the loan:
 - payroll costs (as defined above)

- mortgage interest,
 - rent,
 - certain utility payments.
- To seek forgiveness, a borrower must submit to the lender an application that includes documentation verifying the number of employees and pay rates, and cancelled checks showing mortgage, rent, or utility payments.
 - Loan forgiveness is reduced proportionally if employer reduces FTEs.
 - Loan forgiveness is reduced if employer reduces wages by more than 25%.
 - Employer can avoid reductions by bringing back employees and restore wages within 30 days and maintain through June 30.

DELAY OF PAYROLL REMITTANCE

- Delay payment of employer payroll taxes (social security) between now and 1/1/21
- 50 % due 12/31/21
- 50% due 12/31/22
- Does not apply to employers who have loans forgiven under Paycheck Protection Program

EMPLOYEE RETENTION CREDIT (ERC)

- Employers fully or partially shut down or with 50% drop in gross receipts in a quarter compared to last year
- Shutdown must apply to all aspects of nonprofit organization
- Refundable tax credit for 50% of the wages (including employers health plan expenses) by the employer up to \$10k per employee
- Employers with 100 or more employees applies to employees not providing services
- Employers with 100 or less employees applies to all employees paid during the eligible period.
- Employers are not eligible for ERC if they receive a Paycheck Protection Program Loan
- Allows for advanced payment of credit

SBA ECONOMIC INJURY DISASTER LOAN PROGRAM (EIDL)

- The CARES Act expands the SBA's Disaster Loan Program. The covered period for this section is January 31, 2020-December 31, 2020. In addition to current eligible entities, the following may receive SBA disaster loans:
- A business or nonprofit organization (including faith based) with 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; and
- Tribal small business concerns.
- The CARES Act makes the following additional changes to the SBA Disaster Loan program during the covered period for loans made in response to COVID-19:
 - Waives rules related to personal guarantees on advances and loans of \$200k or less for all applicants;
 - Waives minimum 1 year in business rule
 - Up to \$2 million working capital loan up to 30 year term; 3.75% interest for businesses; **2.75% for nonprofits**
 - Payments deferred up to 1 year.
 - Loan is based on credit score; no tax return needed.
 - No collateral for loans under \$25k.
 - **\$10k emergency grant that is issued within 3 days.** The advance can be used to maintain payroll, and is not required to be repaid, even if the borrower's request for a 7(b) loan is denied.
 - Effective Time Period: FEBRUARY 15, 2020 –JUNE 30, 2020
 - A loan made under the SBA's Disaster Loan Program on or after January 31, 2020, may be refinanced as part of a covered loan under this new program as soon as these new loans are made available. The CARES Act specifically allows SBA Disaster Loan recipients with economic injury disaster loans made since January 31, 2020 for purposes other than the permitted loan uses under this program to receive assistance under this program.

PAID SICK LEAVE AND FAMILY LEAVE PROVISIONS FROM FAMILIES FIRST ACT PHASE 2

- Employers with less than 500 employees are required to provide up to 10 weeks of paid FMLA leave if it involves a child sick or home from school because of Coronavirus.
- Leave paid is 2/3 regular pay at a maximum of \$200 per day and \$10k in the aggregate
- Paid FMLA is in addition to any leave the employer provides
- Payment for FMLA leave will be reimbursed by the federal government
- Businesses with less than 50 employees may be exempt under special circumstance.
- Paid leave is not available if employee can telework.

PHASE 3

- The CARES Act provides a few clarifications and makes modest changes to the Family Medical Leave Act provisions in the Phase 2 Families First relief package. Those changes include:

- Authority for the Office of Management and Budget (OMB) to exclude certain US government employers and executive branch employees for good cause from the expanded COVID-19 FMLA requirements; and
- A new rule for rehired employees under which “eligible employee” (defined as employed for at least the last 30 calendar days) includes someone who:
 - Was laid off by the employer March 1, 2020 or later,
 - Had worked for the employer for at least 30 days in the last 60 calendar days prior to the lay-off; and
 - Has been rehired by the employer; and
- Allows for advances on anticipated tax credits for employers’ paid family leave costs (the details/process for which will be worked out in instructions provided by the Department of Labor (DOL)), and provides penalty relief for failure to deposit tax amounts in anticipation of credits allowed under this section.

PAID SICK LEAVE

PHASE 2

- Employers with less than 500 employees are required to provide 10 days of paid sick leave if it is related to coronavirus
- Sick leave can be taken when ill, quarantined, to care for a sick or quarantined family member or a child from school closure
- Leave is paid at regular rate with maximum of \$511 per day if taking care of oneself or 2/3 rate with maximum of \$200 per day if caring for family member
- Payment up to the max will be reimbursed by the federal government.
- Leave is in addition to any other leave the employer may provide
- Businesses with less than 50 employees may be exempt under special circumstance.
- Paid sick leave is not available if an employee can telework.

PHASE 3

- Includes provisions intended to improve the ability of taxpayers to monetize the benefit of the recently-enacted sick and family leave credits. Specifically, the CARES Act allows employers to receive an advance tax credit from Treasury instead of having to be reimbursed on the back end. Also, it provides penalty relief for failure to deposit tax amounts in anticipation of credits allowed under this section.

- Treasury is currently in the process of scaling this to provide advances on future refundable tax credit so employers can afford to provide sick leave for employees.

This link provides a great tutorial for pursuing the loan programs:

https://www.uschamberfoundation.org/sites/default/files/C3_COVID_EmergencyLoanGuide.pdf

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3/30/2020