



PAYCHECK PROTECTION PROGRAM

April 6, 2020



Background

Three major pieces of legislation to date

Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020

Signed in to law March 6, 2020

\$8.3 Billion of emergency funding – public health funding, vaccine development, etc.

Families First Coronavirus Response Act (FFCRA)

Signed into law March 18, 2020

Free coronavirus testing, 14-day paid leave for American workers affected by the pandemic, and increased funding for SNAP

Coronavirus Aid, Relief, and Economic Security (CARES) Act – March 27, 2020



Coronavirus Aid, Relief, and Economic Security (CARES) Act

Wide ranging legislation

- **\$2.2 Trillion Stimulus Package**

Individual Tax Relief

Business Tax Relief

Health Care System Support

Economic Stabilization Fund

Relief fund for state and local governments

Additional appropriations

One Hundred Sixteenth Congress
of the
United States of America

AT THE SECOND SESSION
*Begun and held at the City of Washington on Friday,
the third day of January, two thousand and twenty*

An Act

To amend the Internal Revenue Code of 1986 to repeal the excise tax on high cost employer-sponsored health coverage.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coronavirus Aid, Relief, and Economic Security Act" or the "CARES Act".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:



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The banner features a background image of a plowed field with rows of furrows leading towards a line of trees under a clear sky. The text "KNOWLEDGE EXCHANGE" is overlaid in large, white, bold, sans-serif capital letters.

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Paycheck Protection Program

Title I of the CARES Act is called Keeping American Workers Paid and Employed Act

Makes changes to several Small Business Administration (SBA) loan programs

Centerpiece is the Paycheck Protection Program - \$350 billion

It is a guaranteed loan with an option for debt forgiveness

Who is eligible?

Generally, any business with fewer than 500 employees

Must certify impact from COVID-19 and use funds to retain workers or pay other fixed costs (rent, mortgage interest, utilities)

Agriculture is specifically included, excluded for certain other SBA loans.



Three parts to figure out

- How much of a **loan** are you eligible for?
- What can/will you use the money for?
- How much *could* be forgiven?

Keep your goal in mind.



PPP: Eligible Amount

Maximum amount

- Lesser of 2.5x average monthly payroll for previous year or \$10 million
- Seasonal employers – MAY USE 2.5x average monthly payroll for the period February 15, 2019 through June 30, 2019.

Calculating Payroll

- Salary and wages, leave, health insurance, retirement, payroll taxes
- Provisions for Sole Proprietors and Self-Employed



PPP: Eligible Amount

EXCLUSIONS

- Total compensation above \$100K to an individual employee
- Compensation to workers whose primary residence is outside of the United States
- Wages for family or sick leave receiving FFCRA credits (cannot double-dip)



PPP: Uses of Funds

What can loan proceeds be used for

- Payroll costs, including health insurance – 75% must be here
- Rent - obligations existing before Feb. 15, 2020
- Mortgage interest – obligations existing before Feb. 15, 2020
- Utilities

Some clarification needed between law and program details



Paycheck Protection Program

Terms – for loans made until June 30, 2020

- No collateral
- No fees
- No personal guarantee
- No prepayment penalty
- Deferred payments (minimum six months, up to 12 months)
- 2 year term – 100% guaranteed by SBA
- 1% interest rate



PPP: Can it be forgiven?

Here's what we know so far: more SBA guidance will be coming

Amounts must be spent on eligible expenses in the 8 weeks immediately after loan closing

At least 75% of the loan proceeds must be spent on payroll costs

Forgiveness will be reduced by:

- Reduction in FTEs or number of employees compared to prior year
- 25%+ reduction in salary
- HOWEVER, no reduction if employer returns to prior year staffing and salary levels by June 30

Debt forgiveness non-taxable



EXPECTED Documentation Needed for Application – Additions to Loan Amount

Payroll and expense reports for the appropriate time period, including the following:

- Gross wages, salary, tips, commissions or similar compensation
- Paid vacation, parental, family, medical or sick leave
- Severance pay paid
- Group health care expenses, including insurance premiums
- Retirement benefits paid
- Taxes based on payroll expense
- Net earnings from self employment



EXPECTED Documentation Needed for Application – Reductions to Loan Amount

Details needed for adjustments to payroll:

- Compensation paid to individual employees in excess of an annual salary of \$100,000, prorated for the covered period.
- **Payments to employees whose principal place of residence is outside of the United States (H2A, H2B, J1, etc)**
- Sick / Family leave wages covered by Families First Coronavirus Response Act (if you have or intend to apply for tax credits)



Helpful Forms to Collect

- Form **940**, **943** (2019 annual) or/and **941** (for all quarters of 2019)
- Form **W-3** for 2019
- **State** Payroll tax returns
- List of employees
 - whose **compensation exceeded \$100,000** and the amount
 - whose **permanent residence is outside the US**, and the amount
- Cost of **health care premiums** paid *by the employer*
- **Retirement benefits** paid *by the employer*
- **K-1s** for partners (or guaranteed payment amounts if 2019 return not yet filed)
- Schedule **C or F** for sole proprietors (or Profit & Loss if return not yet filed)



Documentation needed for Estimating Loan Forgiveness

For the 8-week period following the loan origination date:

- Projected gross payroll expense, including Wages & Salary, Group Health Insurance expense, Retirement contributions (Employer share), Payroll tax
 - Projected FICA, Medicare & Fed. Withholding for above
 - > **These amounts might not be included in forgiveness**
- Projected interest expense on mortgages in place prior to February 15, 2020
- Projected rent expense for rental agreements in place prior to February 15, 2020
- Projected Utility Payments



Documentation Needed for Estimating Potential REDUCTION of Loan Forgiveness:

- Expected Full Time Equivalent (FTE) Employees during covered period
- Recorded FTE's February 15 – June 30, 2019
- Recorded FTE's January 1 – February 29, 2020 (non-seasonal employers only)
- Any expected reduction in wages / salary paid during the covered period

Note: Final guidance has not been issued to define FTE / employee for this aspect of loan forgiveness.



Considerations

- **It's a loan** (with the potential for some forgiveness)
- You're eligible to **borrow 2 ½ months (10-ish weeks)** of payroll costs
- You have **8 weeks** from closing to spend eligible amounts **on eligible expenses**
- Eligible amounts must be spent by **June 30**
- Are you this kind of "seasonal"?
- Final guidance **has not been issued** on
 - Forgiveness
 - Definition of FTEs/employees



QUESTIONS?

