

# Planning for the CARES Act: The Paycheck Protection Program

On March 27, 2020 the House of Representatives passed a \$2.2 trillion economic stimulus package (“The Bill”) in response to the coronavirus pandemic. The Bill had been passed by the Senate the previous day. The Coronavirus Aid, Relief, and Economic Security Act, (“CARES Act” or “The Act”) contains various provisions for individuals, businesses, and the unemployed. We have summarized the provisions of The Act that relate to the Paycheck Protection Program (“PPP”) below:

## Employees

- Available to eligible entities (as defined) with 500 or fewer employees
  - Number of employees is subject to certain rules regarding affiliates based on the rules defined by the Small Business Administration (“SBA”)
  - Generally speaking, this will significantly limit the ability of VC/PE-backed companies to avail themselves of this program to the extent the VC/PE fund controls multiple companies and the aggregate headcount exceeds 500
  - There could also be limitations for operating businesses that are under common control or ownership
  - Waivers are available for certain industries (principally restaurant, food service, hospitality, etc.)
- Payment of any retirement benefit
- Payment of any state or local tax assessed on compensation
- Wages in excess of \$100k for an employee are excluded from the calculation
  - For example, if an employee makes \$110k per year, only \$100k can be included in the calculation
- Approved banks will begin accepting applications under this program beginning Friday, April 3, 2020
  - Loans under this program are available from the date of CARES Act until June 30, 2020, up to an aggregate of \$349 billion
- PPP loans may generally be used to pay interest on mortgages, rent, utilities, employee salaries, payroll costs, costs related to continued healthcare benefits during the leave, and interest on debt that was incurred prior to February 15, 2020

## Loan Amounts, Requirements, & Terms

- Amount available to borrow is generally equal to 2.5 times the borrower’s monthly payroll costs (up to \$10 million) as defined
  - Average monthly payroll costs calculation should generally be performed over the 12-month period prior to the closing of the loan
  - The following costs are considered to be “payroll costs”:
    - Salary, wages, tips, or commissions
    - Payments for vacation, sick, parental, family or medical leave
    - Allowance for dismissal or separation
    - Payment required for the provisions of group healthcare benefits, including insurance premiums
- The Act waives a number of SBA lending requirements, including the requirement that credit not be available elsewhere, requirement for collateral, and the requirement for a personal guarantee
- Terms of the loan are interest at 1% per annum, with a two-year loan period
  - Loan also includes a provision for the deferral of payments for six months
- Borrowers must certify that the loan is needed for ongoing operations due to the uncertainty of current economic conditions
  - The loan will be used to retain workers and maintain payroll or make mortgage, lease, and utility payments


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## Loan Forgiveness

- Borrower can request loan forgiveness in an amount not to exceed the sum of payroll costs, interest on mortgages (excluding prepayments and payment of principal), rents and utilities during the 8-week period beginning on the date when the loan originated through June 30, 2020
- Amount of forgiveness can't exceed the principal of the loan
  - Amount of forgiveness will be reduced by
    - The percentage of full-time employees laid off during the covered period as compared to the business' prior employment levels and
    - The amount each employee's salary or wages was reduced more than 25% during the covered period (disregarded if employees re-hired by June 30, 2020)
  - "Employee" is defined as anyone who did not receive wages or salary at an annualized rate of pay during any single pay period of more than \$100k in 2019
  - To obtain loan forgiveness, borrowers must submit an application to the lender servicing the loan, with applicable documentation
    - Must also certify that the forgiveness will be used to retain employees, make interest payments on mortgages or pay rents and utilities, and any other documentation the SBA determines necessary
  - Loan forgiveness is excluded from taxable income
- Entities should consider a cost benefit analysis comparing the amounts available under the PPP to the payroll tax credit and payroll tax deferral programs because if the PPP loan is taken, the entity is not eligible for the payroll tax programs of the CARES Act.

## How We Can Help

CBIZ & MHM can assist clients to navigate through the application process, review calculations associated with the application and provide advice; however, independence restrictions must be considered for attest clients.

We will continue to monitor for updates related to the COVID-19 pandemic. For more information about the impact the COVID-19 virus is having on businesses, please visit our [COVID-19 Resource Center](#). You can also contact your engagement team with any questions.



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