



Cook Martin Poulson P.C.

CERTIFIED PUBLIC ACCOUNTANTS

**2020 EMERGENCY
RELIEF FOR
EMPLOYERS CALLED
“PAYCHECK
PROTECTION
PLAN”
CREATED BY THE
CARES ACT**

PAYCHECK PROTECTION PLAN UNDER THE CARES ACT

- On March 27, 2020, President Trump signed Coronavirus Aid, Relief, and Economic Security Act (CARES Act), aimed at **providing financial relief for American businesses** in response to the economic fallout from the fast-developing coronavirus (COVID-19) pandemic.
- The measure provides **direct financial aid to American families** by providing payroll and operating expense support for small businesses, and loan assistance.
- ***NOTE Guidance given following is based on the most current information at the time. All guidance should be reaffirmed based on additional guidance coming!***



WHAT BUSINESSES QUALIFY FOR THE PAYCHECK PROTECTION PROGRAM?

- Generally, any business in operation on **February 15, 2020** with no more than **500 employees** is eligible.
- This includes **small businesses**, as well as qualified nonprofit organizations, **sole proprietorships, independent contractors, and self-employed individuals**.
- A business in the accommodation and food services industry with more than one physical location qualifies if it employs no more than 500 employees at each location.
- For purposes of eligibility, the SBA's affiliate rules are waived for businesses in the hospitality and restaurant industries, franchises approved on the SBA's Franchise Directory, and small businesses that receive financing through the Small Business Investment Company program.



WHAT IS THE MAXIMUM LOAN AMOUNT THAT CAN BE RECEIVED

- A borrower can receive the lower of \$10 million or the product of **2.5 times the average total monthly payroll costs for the prior 12 months.**
- Seasonal employers will use the 12 -week period beginning February 15, 2019 or eligible seasonal employers can make an election to use March 1, 2019 to June 30, 2019.
- If the business was not in operation from February 15, 2019 to June 30, 2019, then the business will use the average monthly payroll from January 1, 2020 to February 29, 2020.
- **Self-employed borrowers will be eligible to borrow their average monthly income plus employee average monthly payroll costs.**



WHAT ARE “PAYROLL COSTS” TO CALCULATE ELIGIBLE LOAN AMOUNT

- Salary & wages
- Commissions or similar compensation
 - Cash times or equivalent
- Vacation, parental, family, medical, or sick leave;
- Severance pay
- Employer portion of group health coverage including;
 - Insurance premiums
- Employer portion of retirement contributions
- State unemployment insurance premiums paid by the employer



WHAT IS NOT “PAYROLL COSTS” TO CALCULATE ELIGIBLE LOAN AMOUNT

- Compensation of an employee whose principal place of residence is outside of the United States
- Compensation of an individual employee in excess of annual compensation of \$100,000
- Qualified sick and family leave wages for which as credit is allowed under the Families First Coronavirus Response Act
- Independent contractors **do not count as employees**
 - Independent contractors can apply for their own PPP loan so they do not count for purposed of a borrower’s PPP loan calculation



Paycheck Protection Plan
Worksheet to Compute Maximum Loan Amount
 Payroll Costs as defined under Section 1102

	Total Payroll Costs 12 months prior to loan application	Monthly Average
Payroll Costs Included;		
Gross Wages includes;		
Salaries and Wages (limited to \$100,000 per employee see below)	\$ 500,000	
Commissions		
Cash tips or equivalent		
Vacation, parental, family, medical or sick leave		
Allowance for dismissal or separation		
Total Gross Wages	\$ 500,000	
Group health care benefits, including insurance premiums		
Retirement benefits	5,000	
State or local tax assessed on compensation of employees	1,050	
Payments to a sole proprietor or independent contractor that is a wage, commission	50,525	
Net Income of a sole proprietor or independent contractor that is a wage or commission	-	
Total Included Payroll Costs	<u>\$ 556,575</u>	
Payroll Costs NOT Included;		
Gross Wages Not included; (Enter if included in above numbers only)		
Compensation of an individual employee in excess of \$100,000 annual salary as prorated for the covered period will not be included for the payroll cost.	25,000	
Any compensation of an employee whose principal place of residence is outside of the United States.	-	
Qualified sick leave wages for which a credit is allowed under section 7001 of the Family First Coronavirus Response Act.	5,000	
Total NOT Included Payroll Costs	<u>30,000</u>	
Total NET Payroll Costs	<u>\$ 526,575</u>	\$ 43,881.25
Total Loan Available @ 2.5 Times Average (Maximum Loan \$10 Million)		<u>\$ 109,703.13</u>



BORROWER REQUIREMENTS

- An eligible recipient must make a *good faith certification stating* ;
 - The applicant was in operation on February 15, 2020 and had employees for whom it paid salaries and payroll taxes or paid independent contractors, as reported on a Form 1099-MISC.
 - The **economic conditions make it necessary to obtain a loan to support ongoing operations**
 - The business **will use the funds to retain workers and maintain mortgage, lease and utility payments and that not more than 25% will be used for non -payroll costs.**



WHAT CAN A BUSINESS USE PROGRAM FUNDS FOR?

- Businesses can use funds from Program loans to cover expenses including:
 - **75 % Must be used for Payroll costs** , including compensation to employees; payments for vacation, parental, family, medical or sick leave; severance payments; payments required for group health care benefits (including insurance premiums), retirement benefits, and state and local employment taxes
 - **25% can be used for interest payments** on any mortgage obligations or other debt obligations incurred before February 15, 2020 (but not principal payments or prepayments of principal)
 - **Rental Payments**
 - **Utility Payments**



BORROWERS CAN QUALIFY FOR LOAN FORGIVENESS

- Borrowers are eligible for loan forgiveness if they used the loan proceeds for
 - *75% of the proceeds used for payroll costs*
 - Eligible payroll costs can not include annual compensation greater than \$100,000 for individual employees.
 - *25% used for rent payments, utility payments, or mortgage interest payments*
 - **8 weeks from inception date.**



BORROWERS CAN QUALIFY FOR LOAN FORGIVENESS CONTINUED

- The amount of loan forgiveness can be reduced if the employer reduces the number of employees as compared to the prior year,
 - If the employer reduces the number of FTEs from previous quarter then you reduce the forgivable debt by the % of reduction.
 - or if the employer reduces the pay of any employee by more than 25% as of the last calendar quarter .
 - Employers who re-hire workers previously laid off as a result of the COVID-19 crisis will not be penalized for having a reduced payroll for the beginning of the relevant period. Forgiveness may also include additional wages paid to tipped workers.



BORROWERS CAN QUALIFY FOR LOAN FORGIVENESS CONTINUED

- Borrowers must apply for loan forgiveness to their lenders by **submitting required documentation and will receive a decision within 60 days.**
- If a balance remains after the borrower receives loan forgiveness, the outstanding loan balance **maturity date of 2 years after the loan date will have an interest rate of 1%.**
- **No payment required for 6 months** following date of disbursement, however, interest will accrue during the six - month deferment.



Loan Forgiveness Amount Calculation for Paycheck Protection Plan Loans

Represents the maximum amount of a qualified borrower may be forgiven

Costs Incurred During the "Covered" Period (8 weeks following loan origination):		
Payroll Costs for the 8 Weeks Following Loan Origination	\$	85,000
Earnings from Self-Employment (if applicable)		
Rent		12,000
Utilities		1,500
Interest on Covered Mortgages (on real or personal property)		3,000
Tentative Loan Forgiveness (before required reductions)	\$	101,500
 LESS: Required Reductions in Loan Forgiveness:		
<i>Number of Employees:</i>		
Monthly Average Full Time Equivalent ("FTE") Employees for the Covered Period (8 weeks following origination of the covered loan)**	32	
<i>Borrower can choose either periods with the higher average of FTE employees</i>		
Monthly Average FTE's for the period February 15 to June 30, 2019 OR	28	
Monthly Average FTE's for the period January 1 to February 29, 2020**	29	
% Reduction	-10.34%	(10,500)
<i>Compensation Reduction:</i>		
Individual Employee Compensation Reduction in Excess of 25% Compared to the Most Recent Full Quarter Before Origination of Loan***		(2,000)
TOTAL LOAN FORGIVENESS	\$	89,000
BALANCE OF LOAN NOT FORGIVEN (if any)	\$	12,500

* For seasonal businesses, use the costs incurred during the period February 15, 2019 or, at the election of borrower, March 1 to June, 30, 2019.

** A reduction in FTE's between February 15th and April 27th, 2020 is disregarded if the reduction is eliminated by June 30, 2020 for purposes of the reduction in number of employees and/or compensation.

*** Compensation Reduction does not apply to any employee who, during any pay period in 2019, wages or salary at an annualized rate of pay in an amount of more than \$100,000.



TAXABILITY OF LOAN FORGIVENESS

- The amount of debt forgiven for a covered loan as part of the Paycheck Protection Program shall be **excluded from gross income under the CARES Act Section 1106(i)**
 - **TAXABILITY:** For purposes of the Internal Revenue Code of 1986, any amount which (but for this subsection) would be includible in gross income of the eligible recipient by reasons of forgiveness described in subsection (b) shall be excluded from gross income.



ELIGIBLE LENDERS FOR THE PAYCHECK PROTECTION PROGRAM

- To participate in the Paycheck Protection Program, lenders must be either SBA Qualified Lenders —those already deemed qualified under section 7(a) —
- or **Additional Lenders** —those insured depository institutions, insured credit unions, (most lenders will qualify) and other lenders that the Administrator and Secretary of the Treasury determine are qualified pursuant to paragraph (36) (together, Program Lenders).



WHAT POTENTIAL DOCUMENTS WILL A LENDER REQUIRE TO MAKE THE LOAN

- Documentation verifying the number of full - time equivalent employees on payroll and pay rates for pre - and post - covered periods, including payroll tax filings such as forms 941 reported to the IRS and state income, payroll, and unemployment insurance filings;
- Proof company paid group health insurance benefits
- Copies of company benefit plans and programs
- Retirement plan documents of company provided retirement payments



WHAT POTENTIAL DOCUMENTS WILL A LENDER REQUIRE TO MAKE THE LOAN FOR SOLE PROPRIETORS & INDEPENDENT CONTRACTORS

- Previously filed Sch Cs
- Payroll tax filings including forms 941 reported to the IRS and state income, payroll, and unemployment insurance filings;
- Forms 1099 - MISC received from other payors
- Financial Statements including a profit and loss for the previous 12 months prior to application date



WHAT DOCUMENTS MUST A LENDER REQUIRE TO OFFER A BORROWER LOAN FORGIVENESS

- As discussed above, loan forgiveness is available for 8 weeks of payroll costs, mortgage interest or rent payments, and utility payments. To be eligible to receive loan forgiveness, a borrower must submit a complete application to the lender containing the following required documents :
 - Documentation verifying the number of full - time equivalent employees on payroll as well as the dollar amounts of payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities for the 8 week period following this loan will be provided to the lender.
 - including payroll tax filings reported to the IRS
 - and state income,
 - payroll, and unemployment insurance filings;



WHAT DOCUMENTS MUST A LENDER REQUIRE TO OFFER A BORROWER LOAN FORGIVENESS CONTINUED

- Documentation such as cancelled checks verifying mortgage interest, lease, and utility payments;
- Certification from a representative of the recipient that
 - (a) the documentation presented is true and accurate in all material respects , and
 - (b) the amount for which forgiveness is requested was used to retain employees 75%, make interest payments on a covered mortgage obligation, make payments on a covered rent obligation or make covered utility payments 25%; and
 - I acknowledge that the lender will confirm the eligible loan amount using tax documents I have submitted. I affirm that these tax documents are identical to those submitted to the Internal Revenue Service



PPP LOAN TERMS AND CONDITIONS

- SBA guarantees 100% of loan so no risk to bank
- No collateral will be required
- No personal guarantees will be required
- Interest 1% APR
- Loan term 2 years with a 6 month payment deferral



AT COOK MARTIN POULSON WE ARE CONSTANTLY STRIVING TO MAKE A DIFFERENCE IN PEOPLES LIVES.

We would love to find additional ways to help you solve the problems that keep you awake at night. Please contact us at [801-252-5649](tel:801-252-5649) for our Salt Lake City professionals or [435-258-7405](tel:435-258-7405) for our Logan professionals.

If you would like further information please check out our resources page here:
<https://cookmartin.com/coronavirus/>

You can also join us again at one of these future webinars:

- March 31st, 11am MTN
- April 1st, 2pm MTN
- April 2nd, 12pm MTN
- April 3rd, 3pm MTN

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