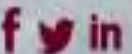


*Learn how
the CARES Act
affects you*

Webinar 2
Small Business Incentives
Under the CARES Act:
Will it Help My Business?

Tuesday, April 7, 2020
12:00 noon – 1:00 p.m. Central

- *Neal Newman*, Professor of Law
- *William Byrnes*, Executive Professor of Law
- *William Henning* (Moderator), Executive Professor of Law



CARES ACT FREE WEBINAR SERIES

April 6, 7 and 13 • 12 NOON • Register at TAMULawAnswers.info



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SCHOOL OF LAW

Small Business Incentives Under the CARES Act: Will it Help My Business?

April 7, 2020

TAMU Law CARES Act Webinar Series

Moderator

William Henning

Executive Professor of Law

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Presenter

Neal F. Newman

Professor of Law

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Presenter

William Byrnes

Executive Professor

International Financial Law

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FINANCIAL INSTITUTION:



COVERAGE

500 or fewer employees



- **“Paycheck Protection Plan” Overview**
- **Paycheck Protection Plan’s Structure**
- **How the payment amount to Small Businesses is calculated**
- **Does the Money have to be repaid?**
- **Time line for the Program’s Launch**
- **What Small Businesses Can/Should do Right now**

DIVISION A TITLE I – (Coronavirus Security Act (CARES Act))

– Keeping American Workers Paid and Employed

“Paycheck Protection Program”- OVERVIEW

- Some \$349 billion approved for Small Businesses
- Gov’t guaranteed loans of up to \$10 million per business
- Small Business Qualification? = *500 (employees or less)*
- To cover payroll and payroll related expenses
- **Covered Period** –(February 15, 2020 – June 30, 2020)
- **Loans are forgiven** IF Business uses money to cover payroll and payroll related expenses.

THE PROGRAM'S STRUCTURE



Federally Backed

Current SBA Lenders
(app. 800 currently)
more to be added



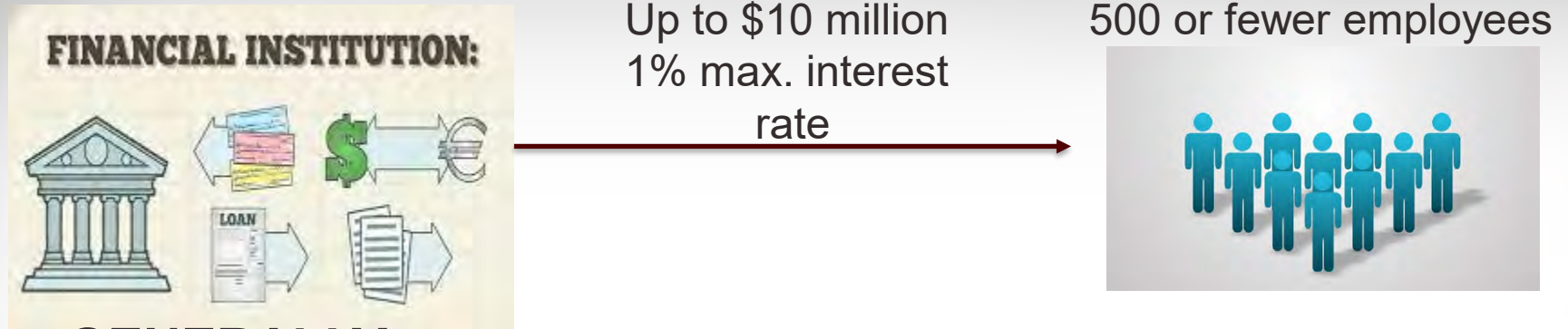
500 or fewer employees



Up to \$10 million
1% max. interest
rate



HOW IS THE LOAN AMOUNT CALCULATED?



GENERALLY:

- 2.5 times the company's average monthly **payroll costs** during the prior 12 months.
- **PLUS** - Outstanding loan amount made under the Economic Injury Disaster Loan (EIDL) Program between **1/1/2020 and 4/3/2020**.
- **BUT** – Loans are capped at \$10 million per business.

DOES THE MONEY HAVE TO BE PAID BACK?



Up to \$10 million
1% max. interest
rate

500 or fewer employees



- Deferral granted for 6 months.
- Loan Term = 2 years – 1% interest rate.
- **BUT** - loans forgiven IF used for **payroll** and **payroll related expenses**.
- **ALSO** - small business does not have to report the forgiven loan as income –(*if used for qualifying expenses*).
- **BUT** – Amount forgiven will be reduced for -1) any employee cuts; or 2) any reduction in wages
- Employer has until **6/30/2020** to hire back laid off or cut employees.

WHAT ARE THE SPECIFIC COSTS THAT WILL QUALIFY FOR LOAN FORGIVENESS?

500 or fewer employees

FINANCIAL INSTITUTION:



Up to \$10 million
1% max. interest
rate



INCLUDES

- Salaries/wages/commissions
- paid leave
- severance payments
- group health benefits **75%**
- retirement benefits
- state and local payroll taxes

- Mortgage interest
- Rent/Lease Payments **25%**
- Utilities

EXCLUDES

- Individual compensation > \$100k –(pro-rated for the Covered Period)
- Certain Federal Taxes
- Compensation for non U.S. residents
- Sick and Family Leave wages for which credit is allowed under the Families First Act

WHAT IS THE TIME LINE FOR THE PROGRAM'S LAUNCH?



Up to \$10 million
1% max. interest
rate

500 or fewer employees



- CARES ACT signed into law 3/27/2020
- Final Interim Rules Released 4/2/2020
- Program Launched 4/3/2020



Paycheck Protection Program

Coronavirus Relief Options

sba.gov



SBA Express Bridge Loans



EIDL Loan Advance –

\$10K Grant

Up to \$2 million

3.75%



SBA Debt Relief

**Work with Lender Regarding
Documentation
For each**

WHAT SMALL BUSINESSES CAN DO/SHOULD DO RIGHT NOW



Up to \$10 million
1% max. interest
rate

500 or fewer employees



- Go to [SBA.gov](https://www.sba.gov) and apply for EIDL –(first \$10,000 is a grant)
- Contact your Bank – Apply for Paycheck Protection Loan
- Sit down & Assess all options/strategies – Short-term and long-term
- Stay in the Fight – this too shall pass.



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SCHOOL OF LAW

PASS TO PROFESSOR BYRNES



TEXAS A&M
UNIVERSITY.

HOW ARE THINGS GOING SO FAR?



500 or fewer employees



Up to \$10 million
1% max. interest
rate

- “Like building an airplane while trying to fly it.”
- Bottle Necks
- Eligibility Issues —(some banks won’t lend if you aren’t a pre-existing customer)
- Banks trying to ramp up and get up to speed.

MORE REGARDING ELIGIBLE LOAN RECIPIENTS



500 or fewer employees

Up to \$10 million
1% max. interest
rate



- Non-profits
- Veterans' Organizations
- Tribal Businesses
- **Employees** –(includes full-time, part-time, and those employed on other basis)
- Can have more than 500 employees if dictated by personnel standards for that industry.
- Special Rules for **hospitality & dining** industries – Employee limits would be by location for these businesses.

MORE REGARDING ELIGIBLE LOAN RECIPIENTS



500 or fewer employees



Up to \$10 million
1% max. interest
rate

- Sole proprietors
- Independent Contractors
- “Gig”—workers
(Uber/Lyft drivers, for example)
- Eligible Self-employed individuals -(as defined in
COVID-19 Bill)

Wages, commissions
Income, net earnings
from self-employment
or similar compensation

MORE REGARDING HOW LOAN AMOUNT IS CALCULATED



500 or fewer employees



Up to \$10 million
1% max. interest
rate

- If business is less than a year old and there is no prior period comparison.
- **THEN** – maximum loan amount = 2.5 times avg. total monthly payroll from **(1/1/2020 – 2/29/2020)**.
- **PLUS** – any outstanding amount from SBA Disaster Loan Program.
- **AGAIN** – Loan capped at \$10 million for any one business.

WHAT ABOUT LOAN VERIFICATION?



Up to \$10 million
1% max. interest
rate

500 or fewer employees



- Very few borrower requirements:
- Good Faith Certification that:
 - Loan is needed to continue operations during COVID 19 emergency.
 - Funds will be used to retain workers and maintain payroll, mortgage, lease, and utility payments
 - No pending applications during this program for same purpose.

WHAT ARE THE SPECIFIC COSTS THAT WILL QUALIFY FOR LOAN FORGIVENESS?

500 or fewer employees

FINANCIAL INSTITUTION:



Up to \$10 million
1% max. interest
rate



INCLUDES

- Salaries/wages/commissions
- paid leave
- severance payments
- group health benefits **75%**
- retirement benefits
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EXCLUDES

- Individual compensation > \$100k –(pro-rated for the Covered Period)
- Certain Federal Taxes
- Compensation for non U.S. residents
- Sick and Family Leave wages for which credit is allowed under the Families First Act

A REDUCTION IN FULL LOAN FORGIVENESS – HOW EXACTLY IS THAT CALCULATED?



Up to \$10 million
1% max. interest
rate

500 or fewer employees



THE REDUCTION FORMULA IF EMPLOYER CUTS EMPLOYEES

1. Take the maximum \$\$ amount eligible for forgiveness.
2. Multiply that number by fraction as follows:

Avg. Number of Emp. per month during **Covered Period** – **(2/15/20 – 6/30/20)**

Avg. Number of Emp. per month during same period
prior year – **(2/15/19 – 6/30/19)**

OR

A REDUCTION IN FULL LOAN FORGIVENESS – HOW EXACTLY IS THAT CALCULATED?



500 or fewer employees

Up to \$10 million
1% max. interest
rate



THE REDUCTION FORMULA **IF EMPLOYER CUTS EMPLOYEES**

1. Take the maximum amount eligible for forgiveness.
2. Multiply that number by fraction as follows:

Avg. Number of Emp. per month during **Covered Period** – **(2/15/20 – 6/30/20)**

Avg. Number of Emp. per month from
– **(1/1/20 – 2/29/20)**

BORROWER'S CHOICE

EXAMPLE



Up to \$10 million
1% max. interest
rate

500 or fewer employees



ACE Consulting, Inc. received a \$500,000 loan under the Paycheck Protection Program. ACE plans on using and will use all \$500,000 on payroll and payroll related expenses. Ace had 100 employees on its payroll during the period 2/15/19 – 6/30/19. But currently, ACE only has 90 employees on its payroll from 2/15/2020 to present.

Presently ACE has no plans to hire any more employees.

EXAMPLE



Up to \$10 million
1% max. interest
rate

500 or fewer employees



REDUCTION CALCULATION

$$\begin{array}{rcl} \$500,000 & * & \frac{\text{Avg. Number of Employees During Covered Period} - (2/15/20 - 6/30/20)}{\text{Avg. Number of Employees during same period prior year} - (2/15/19 - 6/30/19)} \\ & & \frac{90}{100} \end{array}$$

$$=$$

$$(.9) * \$500,000 = \$450,000$$

\$450,000 – (amount eligible for forgiveness)

A REDUCTION IN FULL LOAN FORGIVENESS – HOW EXACTLY IS THAT CALCULATED?



500 or fewer employees

Up to \$10 million
1% max. interest
rate



THE REDUCTION FORMULA FOR **Wages**

Compare wages employer paid in the prior qtr. to wages being paid in the Covered Period –(2/15/20 – 6/30/20)

Any wage cuts GREATER than 25% are not eligible for loan forgiveness



OTHER ASPECTS OF THE “Keeping American Workers Paid and Employed” Act





500 or fewer employees

Up to \$10 million
1% max. interest
rate



ENTREPRENEURIAL ASSISTANCE

- \$265 Million for grants to SBA resource partners, including Small Business Development Centers and Women's Business Centers to offer counseling and training.
- \$10 Million for Minority Business Development Agency to provide these services through Minority Business Centers and Minority Chambers of Commerce



500 or fewer employees

Up to \$10 million
1% max. interest
rate



EMERGENCY EIDL GRANTS

- **EMERGENCY EIDL GRANTS**
- **SMALL BUSINESS DEBT RELIEF**

PROCESSING FEES FOR LENDERS



500 or fewer employees



Up to \$10 million
1% max. interest
rate

- 5% for loans of \$350,000 or less.
- 3% for loans more than \$350,000 and less than \$2,000,000
- 2% for loans not less than \$2 million and up to \$10 million

FEES PAID TO THOSE ASSISTING THE BORROWER



500 or fewer employees



Up to \$10 million
1% max. interest
rate

- 1% for loans of \$350,000 or less.
- .5% for loans more than \$350,000 and less than \$2,000,000
- .25% for loans not less than \$2 million and up to \$10 million.

These fees are to come out of the amount paid to the Lenders



SOME DEFINITIONS

“Small Business” Concern
Veterans’ Organization
Tribal Business



Definition of a “Small Business Concern”

FINANCIAL INSTITUTION:



500 or fewer employees

Up to \$10 million
1% max. interest
rate



SBA defines a U.S. small business concern as:

- Organized for profit
- Has a place of business in the U.S
- Operates primarily within the U.S. or makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor
- Is independently owned and operated
- Is not dominant in its field on a national basis

The business may be a sole proprietorship, partnership, corporation, or any other legal form. In determining what constitutes a small business, the definition will vary to reflect industry differences, such as size standards.

Veterans' Organization



500 or fewer employees



Up to \$10 million
1% max. interest
rate

- To qualify for the disabled veterans' business program, your business must:
- Be a Small Business
- Be at least 51% owned and controlled by one or more service-disabled veterans
- Have one or more service-disabled veterans manage day-to-day operations and also make long-term decisions
- Eligible veterans must have a service-connected disability
- You can view the full eligibility requirements in Title 13 Part 125 Subpart B of the Code of Federal Regulations (CFR).

Tribal Business



Up to \$10 million
1% max. interest
rate

500 or fewer employees



What is a tribally owned business? – any business concern that is at least 51% owned by an Indian tribe.

Indian tribe means any Indian tribe, band, nation or other organized group or community of Indians, including any ANC, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians or is recognized as such by the State in which the tribe, band, nation or community resides

13 CFR 124.3



There are
approximately
30.2 million small
businesses in the
United States.



From Gabriel Eckstein to All Panelists:

11:58 AM

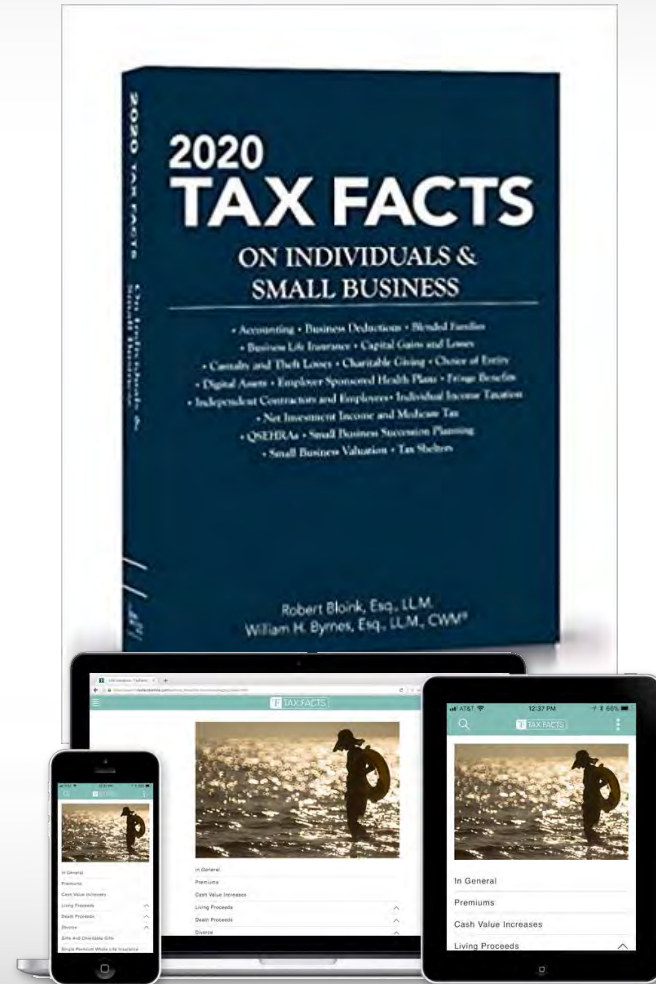
<https://www.dropbox.com/sh/6nr96kimv2kuaf9/AAB3kmlOjLUfmV7pGJpD8KfNa?dl=0>

Part 2 CARES Act Impact on Payroll

Delay of Tax Payments & Employee Retention Tax Credit



Professor William Byrnes
Wealth & Risk Management
Curriculum



Delay Social Security Tax Payment - 1 Includes

- ☐ Employer's Portion of Social Security Tax (6.2%)
- ☐ Soc Security Wage Base = \$137,700
- ☐ Annual Soc Security maximum = \$8,537.40

Does Not Include

- ☐ Employee's Portion of Social Security tax (6.2%)
- ☐ Medicare Tax (2.9%)
- ☐ Employee's Federal Tax
- ☐ Unemployment Tax (FUTA = 6% of first \$7,000)

Delay Social Security Tax Payment - 2

☐ Payroll Taxes Normally Due?

- ❖ Monthly For Small Business

- ❖ Biweekly For Large Business

☐ CARES Act Deferral Time Period?

- ❖ Half by December 31, 2021

- ❖ Half by December 31, 2022

Delay Social Security Tax Payment - 3

❑ Considerations

- ❖ CARES Requires “Economic Hardship” b/c of Covid-19 but the IRS will “Presume” such Hardship
- ❖ Cannot “Double Dip” with Paycheck Protection Program Prof. Newman covered. One or the Other.
- ❖ May Offset Employer Tax Credits Owed by U.S. Treasury for Covid-19 Paid Sick Leave and Paid Family Leave, \$-for-\$ Against Payroll Taxes Owed U.S. Treasury

Employee Retention Tax Credit - 1

□ What Is It?

- ❖ Employer Collects Tax Credit Immediately to Enhance Cash Flow by Offsetting Employer's Social Security Payroll Tax Obligation (6.2%)
- ❖ \$5,000 tax credit per employee
- ❖ Tax credit calculated at 50% of W-2 wages and contributions to medical
- ❖ Employee's wages cannot exceed previous month before Covid-19

Employee Retention Tax Credit - 2

❑ Which Employers Qualify for the Tax Credit?

- ❖ Operations Fully or Partially Suspended because of a Government-Order
- ❖ Business' Gross Receipts, by Quarter, Less than 50% of Last Year
- ❖ Credit Stops When Gross Receipts Rebound to 80%

Employee Retention Tax Credit - 3

☐ Wages Tax Base?

- ❖ Small (up to 100 employees)
- ❖ Large (more than 100 employees)

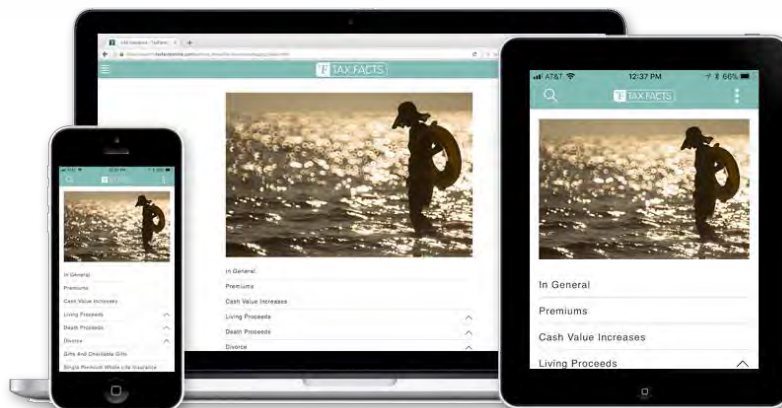
☐ Interact with SBA Loans?

- ❖ The Credit Can Not Be Used By Employer With an SBA Paycheck Protection Loan (no Double Dipping)



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Questions and Answers for Small Business



T TAX FACTS



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NEED ADDITIONAL ASSISTANCE? The Tarrant County Bar Association offers free advice on “LegalLine”

LegalLine is a community service program offered twice a month by the Tarrant County Bar Association. Volunteer attorneys from the Tarrant County Bar Association offer free advice to Tarrant County residents on the 2nd and 4th Thursday of every month from 5–7pm.

As part of the Tarrant County Bar Association’s commitment to the public, local lawyers volunteer two hours of their time to answer questions covering a broad range of topics.

Anyone interested can sign up for an appointment time at tarrantbar.org

