Paycheck Protection Loan Programs

The CARES Act

The CARES Act allows small businesses to receive forgivable loans of up to $10,000,000 to be used for payroll, rent, health benefits, retirement benefits, utilities and other expenses. This article summarizes the key provisions relating to the forgivable loan program, including the eligibility, use, and forgiveness requirements.

Eligible Borrowers

The CARES Act loan program covers any business, nonprofit organization, veterans' organization, or Tribal business that employs 500 or fewer employees. Some employers with more than 500 employees may also be eligible if they meet certain criteria. *Loans under this program do not require collateral or personal guarantees.*

Loan Application Maximum and Permissible Uses of Proceeds

- Maximum loan amount of $10,000,000.
- The loan amount is the lesser of:
  - 2.5 times the average total monthly payroll costs incurred over the past year (excluding any compensation over $100,000 for each employee who makes more than that amount on an annualized basis), or for seasonal employers, the average monthly payroll costs for the 12 weeks beginning on February 15, 2019, or from March 1, 2019 to June 30, 2019;
    - **PLUS** the outstanding amount of any loan made under the Small Business Administration's Disaster Loan Program between January 31, 2020 and the date on which such loan may be refinanced as part of this new program;

OR

- For businesses that were not in existence during the period from February 15, 2019 to June 30, 2019:
  - 2.5 times the average total monthly payroll payments from January 1, 2020 to February 29, 2020 (excluding any compensation over $100,000 for each employee who makes more than that amount on an annualized basis);
    - **PLUS** the outstanding amount of any loan made under the SBA's Disaster Loan Program between January 31, 2020 and the date on which such loan may be refinanced as part of this new program;

OR

$10,000,000

Small businesses may, in addition to uses already allowed under the SBA's Business Loan Program, use the loan proceeds for:

- **Payroll costs**
  - **<u>Payroll costs that *include*</u>**: Compensation to employees, such as salary, wages, and commissions; paid leave, such as vacation, parental, family, medical, or sick leave; severance payments; payment for group health benefits, including insurance premiums; retirement benefits; state and local payroll taxes; and compensation to sole proprietors or independent contractors (including commission-based compensation) up to $100,000 in one year, prorated for the period between February 15, 2020 and June 30, 2020
  - **<u>Payroll cost that *exclude*</u>**: Individual employee compensation above $100,000 per year, prorated for the covered period; certain federal taxes; compensation to employees whose principal place of residence is outside of the U.S.; and sick and family leave wages for which credit is allowed under the Families First Act
- **Rent and lease agreement payments**
- **Utilities**
- **Interest on any debt obligations incurred before February 15, 2020**.
- **Costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums**
- **Payments of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a mortgage obligation)**

Loan Forgiveness

Loans made under the program may qualify for the CARES Act's broad loan forgiveness provisions. Indebtedness is forgiven (and excluded from gross income) in an amount (not to exceed the principal amount of the loan) equal to the following costs incurred and payments made during the eight-week period beginning on the date of the loan:

  - Payroll costs, which include health insurance and retirement benefit payments
  - Interest payments on loans secured by a mortgage on real or personal property
  - Rent
  - Utility payments

The amount forgiven will be reduced based on (i) any employee terminations or (ii) reductions in salary or wages of any employee in excess of 25% during the eight-week period beginning on the date of the loan<u>. Borrowers should be aware that detailed accounting and accurate recordkeeping will be critical during this period in order to take advantage of these loan forgiveness provisions</u>.

The Treasury Department recent guidance let interested parties that everyone is getting the same type of loan. Everybody gets up to a 0.5% interest rate on their loan and will receive a six-month deferment. When written, Treasury said that the loans will be up to a maturity length of 10 years, but they provided additional guidance, and the maturity length it's going to be <u>two years for everyone</u>. There will be no prepayment penalties and no loan fees.