

CARES Act – Paycheck Protection Program - Q&A

- 1. I heard there is a program to assist small businesses like mine with less than 500 employees that have been adversely affected by the COVID-19 outbreak, where the business can borrow money to be used for certain purposes and it may be forgiven in whole or in part. Is that correct and what expenses could I pay with the loan funds?**

Yes, there is a new SBA program being set up which could permit you to borrow money to pay certain amounts of payroll, rent, mortgage interest, health benefits, and interest on other loans. However, not all of the proceeds used to pay each of these items will necessarily be forgiven.

- 2. If I borrow the money what is the effect?**

You will have a loan that will either be forgiven in part, or in full, if you use the funds for eligible uses during the 8 week period after the loan is originated. If the loan is only forgiven in part, you will have a long term low interest loan, or you can pay it back, in whole or in part, with the funds you do not use. There is no prepayment penalty.

- 3. Why would I not borrow the money?**

There could be many reasons: you are unsure of your business' viability after June 30; you do not want your business saddled with a loan (if not forgiven in whole or in part); you are not sure of the timing of receipt of the funds; you do not think you will need the money to support ongoing operations of your business at this time; making some or all of your employees whole or hiring them back is not a priority at this time; etc.

- 4. Does this program apply to non-profits? Yes**

- 5. How much can I borrow?**

The loan amount calculation is the lesser of:

\$10 million; or 2.5 times your average total monthly payroll costs incurred during a certain applicable period subject to certain exclusions.

6. What are the other loan terms?

The loans do not require collateral, a personal guarantee or the payment of any application fees. Repayment obligations will be non-recourse to principals of the business if the loan funds are used for the permitted purposes. There will be no prepayment penalty. Interest will be charged at a rate of up to 4%, which interest is initially deferred and may ultimately be forgiven.

7. How much will be forgiven?

The amount of forgiveness will depend on a number of factors, but basically you can be forgiven in an amount equal to the total of the following costs you incur and pay for the 8 week period after the loan is originated:

payroll costs + interest payments on mortgages + rent + utility payments

But that **total may be reduced** by certain factors, if applicable. One is a fraction based on the how many fewer full time employees you have during the coronavirus crisis (February 15 to June 30, 2020) than you had for a certain period in 2019 or 2020. The other is a dollar for dollar reduction in an amount equal to certain employees' reduced compensation during the 8 week period after the loan origination relative to their same compensation in the previous calendar quarter.

8. Should I immediately hire everyone back and make everyone whole?

This is a very complicated question that needs to be answered in connection with the answers to question number 3 above and an examination of the underlying reasons for why you would be applying for the loan.

9. If I'm trying to help my employees, are there other considerations I should factor in before deciding whether or not hire them back?

Yes, there are many. They include: (a) what paid benefits they may be entitled to under the Families First Coronavirus Response Act; (b) whether or not the employees would make more by not working since the CARES Act adds \$600 per week to the unemployment benefit they will already receive; and (c) what other costs are associated with rehiring the

employees, such as workers' compensation premiums and payroll service fees.

10. If I want to hire people back and make those certain employees whole, by when must I do that?

June 30, 2020.

11. If so how do I do it? All at one time or can I spread it out?

That is a cash flow decision, but you should have everything paid by the June 30, 2020 deadline.

12. How can I maximize forgiveness?

To maximize forgiveness, you should disburse the borrowed funds only for the purposes listed above and improve any factors that would reduce forgiveness mentioned in the previous paragraph; e.g. on or before June 30, 2020 restore the number of your employees to the level that existed on February 15, 2020 and reimburse employees who make less than \$100,000 per year for compensation they did not receive since February 15, 2020.

13. What if the loan is not forgiven?

The loan balance will be due and payable on a term of up to 10 years, with an interest rate of 4%. More information is coming from the government on the administration of unforgiven loans.

14. When will I get the loan proceeds?

The timing is not yet clear. It will depend on how quickly the loans are being processed and the borrowers get the applications submitted. We have been told by one SBA lender that it could be 30 days before they are ready to accept applications. But there are things you can be doing to be prepared to file an application, such as obtaining the form and gathering the information required to complete it.

15. Can I borrow from my line of credit to handle all this and pay down the line of credit or loan the money to my company and pay myself back when I get the loan?

Yes you can, although this is not specifically addressed in the CARES Act. The only related condition/restriction is that the borrower has not made another application under this program and has not already received duplicative amounts under this program from February 15, 2020 to December 31, 2020.

16. Do I have to use my existing bank or can I do this deal with the new bank? If I use another bank do I have to tell my existing bank?

All SBA lenders are automatically cleared for this program. Others may be added. Interested borrowers should reach out to their existing bank first to see if they are an approved lender and proceed with their application through them, if possible. If you are considering using another bank, please note that your existing loan documents may have language restricting loans from other lenders. These paycheck protection loans are unsecured, so it is important to check existing loan documents as only secured loans may be restricted. Even with restrictions in place, this may also be looked upon favorably by lenders as the loans will keep their clients/borrowers in business through this time, so lenders may be willing to relax existing restrictions on further borrowing.