

PRACTICAL NEWS  
COVID-19 News Source

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## **PAYCHECK PROTECTION PROGRAM**

On March 27, 2020, President Trump signed the Coronavirus Aid, Relief, and Economic Security Act of 2020 into law, also known as the "CARES Act".

Title I of the CARES Act (the "Paycheck Protection Program") provides for the creation of a new line of federally-guaranteed small business loans ("Program Loans") administered by the Small Business Administration ("SBA") that will be available for the period of February 15, 2020 to June 30, 2020.

The Paycheck Protection Program is designed to provide a direct incentive for small businesses to keep their workers on the payroll.

The SBA will forgive Program Loans if all employees are kept on the payroll for eight weeks and at least 75% of the money is used for payroll and the balance for rent, mortgage interest, or utilities.

The Paycheck Protection Program will be available through June 30, 2020.

### **Who Can Apply**

In general, this program is for any small business with less than 500 employees (including sole proprietorships, independent contractors and self-employed persons), private non-profit organization or 501(c)(19) veterans organizations affected by coronavirus/COVID-19.

Businesses in certain industries may have more than 500 employees if they meet the SBA's size standards for those industries.

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Small businesses in the hospitality and food industry with more than one location could also be eligible at the store and location level if the store employs less than 500 workers. This means each store location could be eligible.

### **How to Apply**

You can apply through any existing SBA 7(a) lender or through any federally insured depository institution, federally insured credit union, and Farm Credit System institution that is participating. Other regulated lenders will be available to make these loans once they are approved and enrolled in the program. You should consult with your local lender as to whether it is participating in the program.

Starting April 3, 2020, small businesses and sole proprietorships can apply. Starting April 10, 2020, independent contractors and self-employed individuals can apply. The SBA is encouraging borrowers to apply as quickly as possible because there is a funding cap of \$349 Billion.

A sample application form can be accessed through the following link: <https://www.sba.gov/document/sba-form--paycheck-protection-program-ppp-sample-application-form>

### **How Much May Be Borrowed**

In general, the amount that may be borrowed under a Program Loan is the lesser of:

- The Borrower's average total monthly payments for payroll costs for the year prior to the loan date multiplied by 2.5
- and
- \$10 million

A Borrower can receive a Program Loan even if the Borrower has received an economic injury disaster loan ("EIDL") to the extent the EIDL loan was used for a purpose other than those permitted for Program Loans. EIDL loans may be refinanced with proceeds of Program Loans, in which case the maximum available Program Loan amount is increased by the amount of the EIDL loans being refinanced.

**At least 75% of the loan proceeds must be used for payroll costs.**

## Payroll Costs

- Salary, wages, commission, cash tips and similar compensation **(excluding FICA taxes and income taxes withheld from employees)**
- Payment for vacation, parental, family, medical, or sick leave (excluding qualified family and sick leave for which applicant may receive a credit under the *Families First Coronavirus Response Act*)
- Allowances for dismissal or separation
- Payments to provide group healthcare benefits (including insurance premiums)
- Payments for retirement benefits
- Payment of state or local taxes assessed on employee compensation
- Payroll costs do not include any compensation paid to an employee in excess of \$100,000- annually, prorated for the period February 15 to June 30, 2020”.

## Loan Details and Forgiveness

The loan will be forgiven if, during the 8-week period beginning on the date of the origination of the loan, at least 75% of the funds were used to pay payroll costs and the balance used for interest on mortgages, rent and utilities.

Forgiveness is based on the employer maintaining or quickly rehiring employees and maintaining salary levels. Forgiveness will be reduced if full-time headcount declines, or if salaries and wages decrease.

The Treasury Department has indicated that the loans will bear interest at a fixed rate of 1.00% per annum and will mature in two years. Loans may be prepaid without penalty.

- Loan payments will be deferred for six months.
- No collateral or personal guarantees are required.
- Neither the government nor lenders will charge small businesses any fees.

## Other Assistance

Under the CARES Act, all US States, Territories, and Tribes have been declared disaster areas following the economic impact of the COVID-19 pandemic, enabling small business owners to apply to the Administrator for economic injury disaster loans. For additional information concerning these programs see the following link: <https://www.sba.gov/disaster-assistance/coronavirus-covid-19>

## Additional Information

The U.S. Treasury Department has issued a fact sheet concerning the Paycheck Protection Program, which provides additional information and which is available through at the following link: <https://home.treasury.gov/system/files/136/PPP--Fact-Sheet.pdf>

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This notice contains information which is general in nature and based on sources which are believed to be authoritative. Specific applications would require consideration of all facts and circumstances by qualified professionals familiar with a taxpayer and therefore we (Phillips Nizer LLP) are not liable for the application of any information contained herein.

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