

Small Business Forgivable Loan Program Under the CARES Act & Other Relief

by Frank Pina, CPA, Managing Director

The Senate and House have passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act which is a stimulus package for the nation and includes several important opportunities for small businesses to receive assistance. The law was signed by the President on Friday, March 27, 2020.

In this legislation, there are several relief programs for businesses. In particular, the Paycheck Protection Program provides small businesses relief with potentially forgivable loans in an amount up to \$10 million to support payments for payroll costs as well as certain operation costs and expenses. Here are some highlights of the pending Paycheck Protection Program:

- **Who Is Eligible?**

Small businesses, nonprofit organizations and veterans' organizations. The organization must have fewer than 500 employees or if applicable, fewer than the size standard established by the Small Business Administration (SBA) for the industry in which the business operates.

The link below contains a table listing small business size standards matched to industries described in the North American Industry Classification System (NAICS), as modified by the Office of Management and Budget, effective January 1, 2017.

https://www.sba.gov/sites/default/files/2019-08/SBA%20Table%20of%20Size%20Standards_Effective%20Aug%2019%2C%202019_Rev.pdf

The term *employee* includes individuals employed on a full-time, part time, or other basis.

- **What Time Period is the Relief For?**

The covered period is 2/15/2020 to 6/30/2020 under the Act.

- **What are the Loans?**

Potentially forgivable loans in an amount up to \$10 million from qualifying institutions to the eligible businesses identified above. The amount of the loan is a function of the business' average total monthly payments for payroll costs incurred during the one-year period before the date on which the loan is made multiplied by 2.5, and the outstanding amount of a loan under subsection (b)(2) of 15 U.S.C. 636 (i.e. SBA Disaster Loans) that was made during the period beginning on 1/31/2020 and ending on the date the loans are made available to be refinanced under the covered loan. A different methodology is used for businesses that were not in operation during the period beginning on 2/15/19 and ending 6/30/19.

Separately, the link below contains information on the U.S. SBA Federal Disaster Loans for Businesses, Private Nonprofits, Homeowners and Renters:

<https://disasterloan.sba.gov/ela/Declarations/DeclarationDetails?declNumber=6063651&direct=false>

- **What Can the Loan be Used For?**

The proceeds of the loan may be used for (1) payroll costs; (2) costs related to the continuation of group healthcare benefits during periods of paid sick, medical or family leave, and insurance premiums; (3) employee salaries, commissions or similar compensations; (4) mortgage interest; (5) rent; (6) utilities; and (7) interest on any other debt obligations that were incurred before February 15, 2020.

- **How Can I Apply for the Loan?**

The loans will be administered through local SBA lenders and “additional lenders determined by the [SBA] and Secretary of the Treasury to have the necessary qualifications to process, close, disburse and service loans made with the guarantee of the [SBA].” The legislation provides delegated authority to lenders to make borrower eligibility determinations.

An eligible recipient must make a good faith certification (i) that the uncertainty of the current economic conditions necessitates the loan request to support operations; (ii) acknowledging that funds will be used to retain workers and maintain payroll, to make mortgage payments, lease payments and utility payments; (iii) that the recipient does not have an application pending for a loan for the same purpose and duplicative of amounts applied for or received under covered loan; and (iv) during the period beginning on 2/15/20 and ending on 12/31/20, that the recipient has not received a loan for the same purpose and duplicative of amounts applied for or received under a covered loan.

- **How is the Loan Forgiven?**

A recipient shall be eligible for forgiveness of indebtedness on a covered loan in an amount equal to the sum of the following costs incurred and payments made during the 8-week period beginning on the date of origination of the loan: (a) payroll costs; (b) payments of interest on any covered mortgage obligation; (c) payments on any covered rent obligation; and (d) covered utility payments. The amount of forgiveness may not exceed the principal amount of the loan. Furthermore, forgiveness is reduced proportionally by any reduction in employees and/or a reduction in wages more than 25%. To obtain forgiveness, a recipient must submit an application directly to the lender verifying compliance.

- **What Should Businesses Do Now?**

Consequently, businesses should contact their local bank as soon as possible and verify they are an SBA lender and what the bank’s process will be for issuing these loans. Since the authority is delegated to the bank, different banks may have different processes. You should contact your regular bank where you have an existing relationship, as this may move the process faster.

In addition, businesses should gather their payroll and operation expenses from 2/15/2019 through 6/30/2019 to justify their request for relief.

Finally, to the extent it is sustainable, businesses should avoid laying off employees and instead take steps to maintain employees on their payroll as this program is passed and implemented.

Pennsylvania Resources

The COVID-19 Working Capital Access (CWCA) Program is administered by the Pennsylvania Industrial Development Authority (PIDA) and provides critical working capital financing to small businesses located within the Commonwealth that are adversely impacted by the COVID-19 outbreak. Maximum loan amount is \$100,000. See link below for details.

<https://dced.pa.gov/download/covid19-working-capital-access-guidelines/?wpdmdl=93648>

New Jersey Resources

New Jersey passed legislation that will help many New Jersey businesses through grants and loans administered by the NJEDA. See details here:

<https://www.njeda.com/Press-Room/News-Articles/Press-Releases/NJEDA-Announces-New-Initiatives-to-Support-Busines>

Federal Paid Sick Leave and Emergency FMLA Update

The US Department of Labor announced the effective date of the Federal Paid Sick Leave and Emergency FMLA will be April 1, 2020. Here is a link to the required posting from the DOL:

https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf

and the FAQs about posting:

<https://www.dol.gov/agencies/whd/pandemic/ffcra-poster-questions>.

Additionally, Mercadien's [Business Sustainability Checklist for Organizations During Crisis](#) and our [Coronavirus Resource Guide for Business Owners](#) are useful tools created to help businesses navigate through market disruption and these unforeseen circumstances we are in today. We will continue to publish useful content on our LinkedIn page and website. You can also sign up to receive our publications through email by visiting this page – <https://www.mercadien.com/contact/>. In the meantime, feel free to contact me at fpina@mercadien.com or 609-689-2319 with any questions you may have on this subject.

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