

## SPECIAL REPORT

# Coronavirus Aid, Relief, and Economic Security Act

On March 27, 2020, President Trump signed in law the Coronavirus, Aid, Relief and Economic Security Act (CARES Act). Among several other programs (information to come later), the CARES Act creates a new Business Loan Program (the program).

There is a lot of other information and specifics. Please see information on my Facebook page (Like and follow) or website to get more information.

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My firm will be helping with loan packages and compliance documents for a fixed fee to be determined when we talk and when more guidance comes out. The information you need also depends on the financial institution you use to apply for the loan.

**Small Business Interruption Loan:** From February 15<sup>th</sup> to June 30<sup>th</sup> of 2020 (the covered period), eligible businesses can apply, through most financial institutions, for a loan to keep them going.

**Who can get a Loan?** - most entities (C-Corporation, Limited Liability Company, Partnership, Sole Proprietor, DBA, non-profit, veterans associations) are eligible as long as:

- They were in operation on February 15, 2020;
- They had employees or independent contractors being paid, but no more than 500 employees (includes full-time, part-time, and those employed on other bases);
- Also, sole proprietors, independent contractors, and eligible self-employed individuals (as defined in Congress's last COVID-19 bill, the Families First Coronavirus Response Act (Families First Act)) are eligible for loan recipients, subject to some documentation requirements to substantiate eligibility.

**What is the Big Picture of the Loan?** – These loans are 100% federally backed and subject to certain conditions, forgivable (see below)

- No collateral or personal guarantee is required for a loan;
- The loan interest rate cannot exceed 4%;
- Any non-forgiven loan amounts will be paid off over a max of 10 years;
- There are zero loan or prepayment fees;
- Payments can be deferred for a maximum of 6 months;
- Additionally, the Gov't cannot go after any individual, shareholder, member, or partner for non-payment, unless they use the loan proceeds for unauthorized purposes (see discussion below of permitted uses);
- There are special rules for Franchise businesses and NAICS code 72 (Accommodation and Food Services) which allow for participation in the program.

What can the Loan be used for? The money received will be used to help pay operational costs such as:

- Payroll costs:
  - **Includes:** employees compensation - salaries, wages, commissions; paid 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 1 year, prorated for the covered period;
  - **Excludes:** 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 US; and sick and family leave wages for which credit is allowed under the Families First Act;
- Group health care benefits during periods of paid sick, medical, family leave, and insurance premiums;
- Salaries, commissions, or similar compensation;
- Payments of interest on mortgage obligations;
- Rent/lease agreement payments;
- Utilities; and
- Interest on any other debt obligations incurred before the covered period.

How much can I get? The maximum loan amount is \$10 million. However, there is a calculation involved: You get the lesser of:

**OR:**

- 2.5 times the average total monthly payroll costs for the one-year period before the loan is made (or for seasonal employers the average monthly payroll costs for the 12 weeks beginning February 15, 2019, OR from March 1, 2019 to June 30, 2019);
  - PLUS the outstanding amount of a loan made under the SBA's Disaster Loan Program between January 31, 2020 and the date on which that loan may be refinanced as part of this program;
- 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;
  - PLUS the outstanding amount of a loan made under the SBA's Disaster Loan Program between January 31, 2020 and the date on which that loan may be refinanced as part of this program;

What do I do to ensure I can qualify? You must include a good-faith certification that:

- The loan is needed to continue operations during the COVID-19 emergency;
- Funds will be used to keep workers and pay operational costs as previously defined;
- The applicant has no other application pending for the same purpose; and



- From February 15<sup>th</sup> to December 31<sup>st</sup>, 2020, the applicant has not received amounts under this program.

What's this I hear about loan forgiveness? First, forgiven amounts are not taxable. Second, there are currently no logistical specifics for this. The Gov't has until April 27, 2020 to issue further process regulations.

Indebtedness is forgiven in an amount (not to exceed the principal amount of the loan) equal to the following costs incurred and payments made during the covered period:

- Payroll costs;
- Interest payments on existing mortgages;
- Rent; and
- Utility payments.

The CARES Act clarifies that employers with tipped employees may receive forgiveness for additional wages paid to them. Also, emergency advances received under the expanded SBA Disaster Loan Program will be excluded from forgiveness amounts.

Forgiveness amounts will be reduced (but never increased) for any employee cuts or reductions in wages subject to a calculation. There are also rehire provisions and make up wage reductions that affect this calculation is done by June 30, 2020.

Alright, what do I have to prepare to get loan forgiveness? You must submit to your lender:

- Documentation verifying Full Time Employees on payroll and their pay rates;
- Documentation of covered payments (documents proving mortgage, rent, and utility payments);
- Certification from a business representative the documentation is true and correct and the forgiveness amounts requested were used to retain employees and make other forgiveness-eligible payments; and
- Any other documentation the required by the Gov't.

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