

Coronavirus Aid, Relief, And Economic Security Act Paycheck Protection Loans (“CARES Loans”)

March 27, 2020

This client alert is a summary of certain provisions of the CARES Act legislation in its current form at the time of this alert's publication.

CARES Loan Overview

- \$350 billion available for SBA guaranteed payroll loans for small businesses.
- CARES Loans are available from Feb. 15, 2020 to June 30, 2020 (“Covered Period”) or until funding is exhausted.
- No collateral or personal guarantees are required to obtain a CARES Loan.
- Borrowers can obtain up to 2.5 times their monthly payroll costs.
- Capped interest rate at 4%, up to 1-year payment deferment and principal loan forgiveness.

1. Who may obtain a CARES Loan?

- a. Eligible borrowers include any business entity or nonprofit organization with 500 (or less) employees; **or**
- b. Businesses with over 500 employees and multiple locations, so long as there is 500 or fewer employees **per physical location** and fall within the NAICS Sector 72, i.e., accommodation and food services sector; **and**
- c. Sole proprietors, independent contractors, and eligible self-employed individuals.

2. How much is available under a CARES Loan?

- a. The lesser of 2.5 times average total monthly Payroll Costs **or** \$10 million.
- b. What constitute Payroll Costs?
 - i. Any compensation paid to employees, sole proprietors or independent contractors for salaries, wages, commissions, or similar compensation (including cash tip or equivalents);
 - ii. Payments for vacation, parental, family, medical, or sick leave;
 - iii. Payments for benefits, such as group health care benefits (including insurance premiums) and any retirement benefits; **and**
 - iv. Payment of State or local taxes assessed on the compensation of employees.
- c. Exclusions from Payroll Costs are:
 - i. Compensation of an individual employee in excess of an annual salary of \$100,000, prorated for the Covered Period;
 - ii. Certain Federal taxes imposed or withheld under chapters 21, 22, or 24 of the Internal Revenue Code during the covered period;
 - iii. Any compensation of an employee who resides outside the U.S.

3. How can CARES Loans proceeds be used?

Businesses may use the CARES Loan proceeds for:

- a. Payroll Costs subject to the exclusions detailed above.
- b. Certain mortgage, rent payments and utilities; **and**
- c. Interest on any other debt obligations incurred before the Covered Period.

4. What are the benefits of the CARES Loan?

- a. **Payment Deferment up to 1 year** – for businesses operating on February 15, 2020.
- b. **Loan Forgiveness** – CARES Loans qualify for loan forgiveness (and are excluded from “discharge of indebtedness” income) up to the Principal Amount so long as the proceeds are used during the Covered Period and for the following:
 - i. Payroll Costs;
 - ii. Interest payments on certain loan obligations;
 - iii. Covered rent obligations and utility payments.
- c. **Limitation on Forgiveness** – forgiven amounts are reduced by any reduction in employees or wages when compared to those used in calculating the loan amount.

If you would like to discuss whether your business qualifies for the CARES Loan, obtain additional information, or engage our services to assist you, please call as soon as possible, as funding and time to file are both limited.