

Brief Summary of the Coronavirus Aid, Relief, and Economic Security (CARES) Act

The Coronavirus Aid, Relief, and Economic Security (CARES) Act allocated \$350 billion to help small businesses keep workers employed amid the pandemic and economic downturn. Known as the **Paycheck Protection Program**, the initiative provides 100% federally guaranteed loans to small businesses.

1. The **Act expands the Small Business Administration (SBA's) 7(a)** Loan Program to extend credit to small businesses (including sole proprietors and self-employed individuals), 501(c)(3) nonprofits, and certain veterans' organizations and tribal businesses).
2. These loans have many **advantages over typical loans** because the Act provides that the borrower does not need to provide collateral nor guarantee the loan, and all payments can be deferred for six months to one year. There are no loan fees to the borrower and a portion of the loan may be forgiven. Any portion that is not forgiven will be payable over 10 years at a maximum interest rate of 4%. The amount you may be able to borrow is determined based on a formula tied to the borrower's payroll and cannot exceed \$10,000,000.
3. Generally, these loans **are available to businesses with 500 employees or fewer**, although certain businesses with more than 500 employees may qualify if (i) there are no more than 500 employees in any one location, and (ii) the borrower is engaged in certain dining or hospitality businesses.
4. **Proceeds of the loan must be used for** (i) **payroll** (including salaries, paid sick or medical leave, and health insurance premiums), (ii) **interest on mortgage** payments, (iii) **rent** payments, (iv) **utility** payments, and (v) **interest** on other debt obligations incurred before February 15, 2020. Borrowers must certify that the current economic conditions make the loan necessary and that they will use the funds for the approved purposes listed above.
5. These **loans are attractive** not just because **of their loan terms** (which are very forgiving) but also because a **portion of the loan may be forgiven**. In addition, the amount forgiven will NOT be taxed as income to the borrower.
6. The **forgivable portion of the loan is the amount the borrower spends in the eight weeks after the loan is disbursed** on: payroll costs, interest on qualified mortgage debt, qualified rent or lease payments, and utilities.
7. The **forgivable amount will be reduced to the extent that the borrower has decreased its compensation and/or head count**. For purposes of calculating forgivable payroll costs, amounts paid to employees earning more than \$100,000 per year are excluded. To encourage employers to re-hire workers they previously laid off, reductions in compensation and head count that are rectified before June 30, 2020, may be excused.

Eligibility

- A small business with fewer than 500 employees
- A small business that otherwise meets the SBA's size standard
- A 501(c)(3) with fewer than 500 employees
- An individual who operates as a sole proprietor
- An individual who operates as an independent contractor
- An individual who is self-employed who regularly carries on any trade or business
- A Tribal business concern that meets the SBA size standard
- A 501(c)(19) Veterans Organization that meets the SBA size standard In addition, some special rules may make you eligible:
- If you are in the accommodation and food services sector (NAICS 72), the SOD-employee rule is applied on a per physical location basis
- If you are operating as a franchise or receive financial assistance from an approved Small Business Investment Company, the normal affiliation rules do not apply

Important: The SOD-employee threshold includes all employees: full-time part-time and any other status.

How Much Can Employers Borrow?

1. Loans can be up to **two-and-one-half (2.5x) the borrower's average monthly payroll costs**, not to exceed \$10 million.
2. For **businesses not operational in 2019**: Maximum loan = 2.5 multiplied by average total monthly payroll costs incurred for January and February 2020.
3. Seasonal Employers
 - a. Maximum loan = **2.5 multiplied by average total monthly payroll costs for the 12-week** period beginning February 15, 2019 or March 1, 2019 (to be determined by loan recipient) and ending June 30, 2019.

How to calculate average monthly payroll costs:

1. Sum of included less excluded = payroll costs.
 - a. **Included Payroll Costs**
 - i. **Employers**
 - a. Salary, wage, commission, or similar compensation.
 - b. Payment of cash tip or equivalent
 - c. Payment for vacation, parental, family, medical, or sick leave
 - d. Allowance for dismissal or separation
 - e. Payment required for provisions of group health care benefits,

including insurance premiums.

- f. Payment of any retirement benefit
- g. Payment of state of local tax assessed on the compensation of the employee

ii. Sole Proprietors, independent Contractors and Self-Employed individuals

- a. The sum of payments of any compensation to or income of a sole proprietor or independent contractor that is a wage, commission, income, net earnings from self-employment, or similar compensation and that is in an amount that is not more than \$100,000 in one year, as pro-rated for the covered period.

b. Excluded Payroll Costs

- 1. Compensation of an individual employee in excess of an annual salary of \$100,000, as prorated for the period February 15, to June 30, 2020
- 2. Payroll tax.es, railroad retirement tax.es, and income tax.es
- 3. Any compensation of an employee whose principal place of residence is outside of the United States
- 4. Qualified sick leave wages for which a credit is allowed under section 7001 of the Families First Coronavirus Response Act (Public Law 116-5 127); or qualified family leave wages for which a credit is allowed under section 7003 of the Families First Coronavirus Response Act
- 5. **Will this loan be forgiven?**

Borrowers are eligible to have their loans forgiven.

How Much?

A borrower is eligible for loan **forgiveness equal to the amount the borrower spent on the following items during the 8-week period beginning on the date of the origination of the loan:**

- i. Payroll costs (using the same definition of payroll costs used to determine eligibility)
- ii. Interest on the mortgage obligation incurred in the ordinary course of business
- iii. Rent on a leasing agreement
- iv. Payments on utilities (electricity, gas, water, transportation, telephone, or internet)
- v. For borrowers with tipped employees, additional wages paid to those employees

MORE INFORMATION WILL SOON BE AVAILABLE AT www.sba.gov