



B&C

**CARES Act -
Paycheck
Protection
Program (PPP)**

General Overview and Eligibility



- A **100% federally guaranteed loan program** (no credit risk to participating banks). An objective of the program: if employers maintain their payroll, the loans are forgiven. There will be no SBA fees. Loans will be available through June 30, 2020.
- General criteria for PPP eligible businesses and entities:
 - Businesses and entities in operation on February 15, 2020
 - Small business concerns, 501(c)(3)/501(c)(19) non-profit organizations, individuals operating as sole proprietorships, or as independent contractors, eligible self-employed individuals, Tribal business concerns, if they employ not more than the greater of:
 - 500 employees (**determined by physical location**)
 - If applicable, the SBA size standard in number of employees for the industry (NAICS code)



PPP Loan Size and Allowable Uses

- Loan size determination
 - Maximum loan is the average monthly Payroll Costs incurred during the 12-month period pre-funding multiplied by 2.5 *(250%)
 - Max loan amount of \$10,000,000
- Allowable Use of PPP proceeds:
 - Eligible Payroll Costs (as noted below)
 - Payments of interest on any mortgage obligation (which shall not include any prepayment of, or payment of, principal)
 - Rent (including rent under lease agreement)
 - Utilities
 - Interest on any other debt obligation incurred before the covered period

***Special rules exist for seasonal employers and businesses not in existence beginning 2/15/2019 and ending on 6/30/2019.**



Eligible and Ineligible Payroll Costs

- **Eligible Payroll Costs**
 - Compensation – Wages, salaries, commissions, payment of cash tips or equivalents
 - Paid time off – Vacation, parental, sick, medical or family leave
 - Allowance for dismissal or separation
 - Payments required for the provision of group health benefits, including insurance premiums
 - Payment of any retirement benefits
 - Payment of state or local tax assessed on the compensation of employees
- **Ineligible Payroll Costs**
 - Employee/owner wages in excess of \$100,000
 - Taxes imposed or withheld under FICA or Railroad Retirement and IRS Chapter 24 (income tax at source)
 - Compensation of employees whose principal residence is outside of the United States
 - Qualified sick and family leave for which a credit is allowed under Section 7001 and 7003 of the Families First Coronavirus Response Act



Loan Terms and Requirements

- Eligible recipients applying for a covered loan must make a good faith certification that the uncertainty of the current situation makes the loan request necessary to support ongoing operations, that the funds will be used to retain workers, and maintain payroll or make mortgage payments, lease payments and utility payments; during the period beginning on February 15, 2020 and ending on December 31, 2020, the eligible recipient does not have an application pending for the same purpose or duplicative amounts applied or received under a covered loan.
- Covered Loans used for an authorized purpose
 - **No Guarantee** – No personal guarantee is required
 - **No Collateral Requirement**
 - **Nonrecourse** – The SBA has no recourse against any individual shareholder, member or partner for nonpayment
 - **No Fees** – The SBA will not collect a fee from the recipient of a covered loan
 - **Complete payment deferment relief** of principal, interest and fees for a period of not less than 6 months and not more than 1 year
 - For amounts not forgiven, the maximum loan term is 10 years, the maximum rate is 4%, zero loan fees and no prepayment fees



Loan Forgiveness

- **Forgiveness Amount**
 - Calculated as the sum, during the 8-week period beginning on the covered loan origination date, of the following:
 - Payroll Costs (previously defined)
 - Payments of interest on any covered mortgage obligation
 - Rent (including rent under lease agreements in force before 2/15/20)
 - Covered utility payment
- **Reduction of Loan Forgiveness**
 - The amount of loan forgiveness may be reduced if there is a reduction in FTE's compared to the average FTE's employed per month for the period:
 - Beginning 2/15/19 and ending 6/30/19, or
 - Beginning 1/1/20 and ending 2/29/20
- **Loan Forgiveness Application**
 - Loan forgiveness applications provided to the lender will be subject to documentation requirements on verifying FTE payroll and pay rates and documentation supporting other costs and expenses included in the calculation(s)
- Any forgiveness is **excluded** from taxable income



Comments & Observations



- The banks will be inundated with requests and are not currently geared-up for this program, which was not anticipated
- The broad eligibility for businesses, straight-forward underwriting (100% federal guarantee) and need, will drive PPP demand and will make this an operational challenge for the banks
- Assuming a business can provide the good faith certification application requirement, we see no downside to participating as, some level of (tax free) forgiveness appears inherent in the program
- We suggest contacting your bank – or another SBA certified lender – as soon as possible
- For companies currently in shut-down or has furloughed employees – including those that have reduced employment levels under the NYS “Essential Business” restrictions – planning rehire dates in conjunction with the PPP loan origination date will be critical to maximizing any tax-free Forgiveness





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Thank you!

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