

# Small Business Financial Relief Through the Paycheck Protection Program

The CARES Act provides \$350 billion to the Paycheck Protection Program to allow the Small Business Administration (SBA) to guarantee 100% loans (with interest rates not to exceed 4%) made by local SBA preferred lenders to help eligible “small” businesses pay costs such as:

- payroll costs;
- interest on real or personal property mortgage obligations in existence before February 15, 2020;
- interest payments on any other debt obligations that were incurred before February 15, 2020;
- rent; or
- utilities.

The “covered period” under the Paycheck Protection Program is from February 15, 2020, to June 30, 2020. Businesses (including, for-profit enterprises, nonprofit organizations, veteran organizations, sole proprietors, independent contractors, and other self-employed individuals) with fewer than 500 employees or meeting SBA alternative tests for “small business concerns” are eligible for the Paycheck Protection Program. Please refer to the [SBA Affiliation Rules](#) applicable to commonly controlled entities when counting employees for purposes of determining the number of employees of an applicant. Small businesses were permitted to begin submitting applications on April 3, 2020, for the SBA loans under the Paycheck Protection Program, while independent contractors and self-employed individuals may begin applying on April 10, 2020.

During the covered period, eligible businesses may receive up to 2.5 times their average monthly payroll costs subject to a \$10 million limitation. An applicant must acknowledge its understanding that the lender will calculate the eligible loan amount using the tax documents submitted by the applicant to the lender, and the applicant must certify that the tax documents are identical to those submitted to the IRS. The applicant will also be required to provide its lender with payroll documentation. “Payroll costs” include the following:

- salary, wages, commissions, or tips (capped at \$100,000 on an annualized basis for each employee);
- employee benefits including costs for vacation, parental, family, medical, or sick leave (excluding leave for which tax credits are due under the Families First Coronavirus Response Act (FFCRA)); allowance for separation or dismissal; payments required for the provisions of group health care benefits including insurance premiums; and payment of any retirement benefit; and
- state and local taxes assessed on compensation.

Certain payroll costs are excluded in calculating the maximum loan amount, including:

- individual employee compensation over \$100,000;
- the employer portion of FICA and income tax paid or withheld during the covered period;
- compensation for an employee with a principal residence outside the U.S.; and
- qualified sick leave or family leave wages for which a business will receive credit under the FFCRA.

Businesses receiving a loan through the Paycheck Protection Program are eligible for loan forgiveness (amount of forgiveness cannot exceed the principal amount of the loan) equal to the sum of the business’s costs during the eight weeks following the date of the loan’s origination for:

- payroll;
- rent based on obligation incurred before February 15, 2020;
- interest on real or personal property mortgage obligations in existence before February 15, 2020; or
- utilities based on obligation incurred before February 15, 2020.

Due to the likely high subscription volume expected, it is anticipated that no more than 25% of the forgiven amount may be used for non-payroll costs.

For further information on the Paycheck Protection Program, you may wish to review see [Small Business Administration Clarifies Many CARES Act Questions](#) and [Update on the Paycheck Protection Program](#). The SBA and Department of the Treasury have also provided guidance on the Paycheck Protection Program in the form of [FAQs](#).

*Our Chambliss team will continue to monitor the developments regarding the CARES Act. Please contact [Jim Catanzaro](#), [Justin Furrow](#), or your relationship attorney if you have questions or need additional information.*

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