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CARES – Paycheck Protection Program Loan

- The Coronavirus Aid, Relief, and Economic Security (CARES) Act allocated \$349 billion to help small businesses keep workers employed.
- As of today, the SBA allocated funds are exhausted. However, there is discussion that Congress will approve additional funds to be issued.
- The program is administered through the SBA 7(a) Loan Program, and the government guarantees 100%.
- Loans may be up to 100% forgivable provided proceeds are used on qualified expenses such as payroll costs, payments of interest on a mortgage obligation, rent obligations, and utility payments.
- Only small businesses that employ less than 500 employees are eligible for the Paycheck Protection Program and SBA Loan Forgiveness (exceptions for restaurants and hotels).

CARES – Paycheck Protection Program Loan (cont.)

Eligibility –

- A small business with fewer than 500 employees (affiliation rules apply)
- 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

CARES – Paycheck Protection Program Loan (cont.)

Eligibility –

- 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 500-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

CARES – Paycheck Protection Program Loan (cont.)

An eligible recipient must make a good faith certification

- That the uncertainty of current economic conditions makes necessary the loan request to support the ongoing operations;
- Acknowledging that funds will be used to retain workers and maintain payrolls or make mortgage payments, lease payments and utility payments;
- That the eligible recipient does not have an application pending for a loan under this subsection for the same purpose and duplicative amounts applied for or received under covered loans; and
- During the period beginning on February 15, 2020 and ending December 31, 2020, that the recipient has not received amounts under this subsection for the same purpose and duplicative of amounts applied for or received under a covered loan.

CARES – Paycheck Protection Program Loan (cont.)

Loans are the lesser of \$10,000,000 or 2.5 X the average monthly payroll for 1 year preceding the date of the loan.

- Payroll costs are defined as:
 1. **For Employers:** The sum of payments of any compensation with respect to employees that is a:
 - salary, wage, commission, or similar compensation;
 - payment of cash tip or equivalent;
 - payment for vacation, parental, family, medical, or sick leave
 - allowance for dismissal or separation
 - payment required for the provisions of group health care benefits, including insurance premiums
 - payment of any retirement benefit
 - payment of state or local tax assessed on the compensation of the employee

CARES – Paycheck Protection Program Loan (cont.)

Loans are the lesser of \$10,000,000 or 2.5 X the average monthly payroll for 1 year preceding the date of the loan.

- Payroll costs are defined as:
 - **For Sole Proprietors, Independent Contractors, and Self-Employed Individuals:**
 - If you do not have employees, take 2019 IRS Form 1040 Schedule C, line 31 net profit
 - If you have employees, add payroll costs defined before to this amount.

CARES – Paycheck Protection Program Loan (cont.)

EXCLUDED Payroll Cost:

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. Employer Payroll taxes and railroad retirement taxes
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

CARES – Paycheck Protection Program Loan (cont.)

- 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
- 75% of Loan must be used for:
 - Payroll costs (using the same definition of payroll costs used to determine loan eligibility)
 - Or for self-employed: This is equal to the employee payroll costs + $8/52 \times \text{Net Profit from 2019 Sch C}$.

CARES – Paycheck Protection Program Loan (cont.)

- then no more than 25% can be used for:
 - Interest on the mortgage obligation incurred in the ordinary course of business (mortgages beginning before February 15, 2020)
 - Rent on a leasing agreement (Obligations in force prior to February 15, 2020)
 - Payments on utilities (electricity, gas, water, transportation, telephone, or internet)

CARES – Paycheck Protection Program Loan (cont.)

- The amount forgiven will be reduced proportionally by any reduction in full-time employees retained compared to an average FTE's in 1 of 2 prior periods (2/15/19-6/30/19 or 1/1/20-2/29/20) and reduced by the reduction in pay of any employee beyond 25% of their prior year compensation. Some exclusions apply.
- Need additional guidance as the above is not clear.
- To encourage employers to rehire any employees who have already been laid off due to the COVID-19 crisis, borrowers that re-hire workers previously laid off will not be penalized for having a reduced payroll at the beginning of the period.

CARES – Paycheck Protection Program Loan (cont.)

- Documentation will be required by Lenders to verify eligibility for forgiveness of the loan.
- Any loan amounts not forgiven at the end of one year is carried forward as an ongoing loan with terms of a max of two years, at max 1% interest. The 100% loan guarantee remains intact.

CARES – Paycheck Protection Program Loan (cont.)

The max loan calculation and forgiveness amounts can be determined as follows:

Average monthly payroll costs	\$100,000
Multiplier	<u>x 2.5</u>
Maximum loan available	\$250,000

Amount to be forgiven for qualified costs incurred 8 weeks following the origination of the loan:

Total Payroll Costs	\$200,000
Total rent, utilities (mortgage if applicable)	<u>30,000</u>
Maximum amount of loan to be forgiven	\$230,000

The remaining \$20,000 will convert to a long-term loan

Employee Considerations

Remote work

- Tracking hours
- “Curfew” on work after hours

Control Wages

- Reduce overtime
- Reduce hours/pay
- Non-exempt hourly
- Exempt salaried – CAUTION

CARES Act & Other Provisions

- Tax filing and tax payment deadline extended to July 15
- CARES Act other provisions
 - Qualified Improvement Property
 - Modifications for Net Operating losses – May need to amend prior year returns
 - Delay of payment of employer payroll taxes
 - Employee Retention Tax Credit

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