

CARES Act: Paycheck Protection Program Loan

In recent weeks, COVID-19 has emerged as a global pandemic as defined by the World Health Organization. With “social distancing” measures in place, many businesses have closed, and a record number of Americans have lost their jobs. The longer businesses are closed, and people remain unemployed, the more of a toll it takes on our economy. To help fill this void, the Federal Reserve has taken drastic steps in monetary policy to keep the financial system stable. On March 27th, Congress passed the largest economic stimulus package in our country's history, the “Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020.”

The CARES Act is an estimated \$2 Trillion stimulus package, including nearly \$500 billion in individual rebate checks to Americans, another \$500 billion in support for several severely damaged industries, nearly \$400 billion in tax credits for wages and payroll tax relief, over \$300 billion of support for state and local governments, and almost \$180 billion for various initiatives to support hospitals and the health care system.

Krilogy's Wealth Intelligence Group has highlighted details specific to the Paycheck Protection Program Loan offered under the CARES Act to keep you informed of how this may impact you.

SBA 7(a) Paycheck Protection Program Loan

The following are the aspects of the Paycheck Protection Plan as we have interpreted in the CARES Act. These are subject to change upon guidance from the SBA and the U.S. government.

What is it?

Eligible organizations are able to receive a loan (which may qualify for loan forgiveness) from the Small Business Administration for up to \$10M to cover payroll expenses, mortgage or lease payments and utilities expenses incurred during the COVID-19 Pandemic.

Who is eligible? Each of the following as of 2/15/2020:

- Small businesses, 501(c)(3) nonprofit, a 501(c)(19) veteran's organization, or Tribal business concern described in section 31(b)(2)(C) of the Small Business Act with not more than 500 employees, or the

applicable size standard for the industry as provided by SBA, if higher.

- Sole-proprietors, independent contractors, and other self-employed individuals are eligible for loans.
- Businesses with more than one physical location qualify so long as total combined employees are below 500 employees (unless the businesses operated under NAICS code beginning with 72) or otherwise meet the SBA's size standard based on NAICS code.
- Affiliation rules are waived for businesses in the hospitality and restaurant industries, franchises that are approved on the SBA's Franchise Directory, and small businesses that receive financing through the Small Business Investment Company (SBIC) program.
- Current SBA affiliation rules apply to eligible nonprofits.

What is needed to determine eligibility?

The business must be operational as of February 15, 2020 and had employees for whom it paid salaries and payroll taxes, or a paid independent contractor.

How do you calculate the total loan amount?

Average eligible monthly payroll costs, excluding compensation above \$100,000 in wages (based on the prior 12 months) multiplied by 2.5 (represents months), plus the balance of any SBA Loan closed between 1/31/2020 and when this loan will be made, if applicable, OR, \$10 million (whichever is less).

What is the allowable use of proceeds?

Allowable uses of the loan include eligible payroll support (eligible employee salaries which excludes compensation above \$100,000 in wages, paid sick or medical leave, insurance premiums), interest paid on a mortgage (excludes any prepayment of or payment of principal) or rent, and utility payments.

What is the interest rate?

The interest rate is 1%.

What is the term of the loan?

This is a 2-year full payout loan. There will be no prepayment penalty. Complete deferment of SBA 7(a) Loan payments are allowed for at least six (6) months and not more than a year.

What collateral is required?

The loan will be unsecured.

Are personal guarantees required?

No. personal guarantees are not required.

Is the Credit Elsewhere Rule enforced?

No.

Other conditions and requirements:

- Cannot apply for any other programs through the SBA for the same purpose.
- If a borrower has an EIDL Loan unrelated to COVID-19, borrower is still eligible.
- The emergency EIDL grant award of up to \$10,000 would be subtracted from the amount forgiven under the Paycheck Protection Program.
- Eligible borrowers will be required to make a good faith certification that the loan is necessary due to the uncertainty of current economic conditions caused by COVID-19; they will use the funds to retain workers and maintain payroll, lease, and utility payments; and are not receiving duplicative funds for the same uses from another SBA program.

Is it true I won't have to pay back my loan?

- The borrower is eligible for loan forgiveness equal to the amount spent by the borrower during an 8-week period after the origination date of the loan on eligible payroll costs, interest payments on any mortgage incurred prior to February 15, 2020 (excludes principal and prepayments), payment of rent on any lease in force prior to February 15, 2020, and payment on any utility for which service began before February 15, 2020. Amounts forgiven may not exceed the principal amount of the loan.

- Forgiveness on a covered loan is equal to the sum of the following: eligible payroll costs (excludes compensation above \$100,000 in wages) incurred during the covered 8 week period compared to the previous year or time period, proportionate to maintaining employees and wages, plus any payment of interest on any covered mortgage obligation (excludes any prepayment of or payment of principal on a covered mortgage obligation) plus any payment on any covered rent obligation plus and any covered utility payment. Borrowers will verify these payments through documentation required by lenders, such as (but not limited to) IRS Payroll Expense Forms 940 and 941, mortgage statements, lease statements and utility statements.
- The amount forgiven will be reduced proportionally by any reduction in employees retained compared to the prior year and reduced by the reduction in pay of any employee beyond 25 percent of their prior year compensation. 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.
- Canceled indebtedness resulting from this section will not be included in the borrower's taxable income.
- Any loan amounts not forgiven at the end of one year are carried forward as an ongoing loan with terms of a max of 2 years at 1% interest. The 100% loan guarantee remains intact.

What will be in the Required Application Document Checklist?

- Completed Application
- Articles of Incorporation/Organization of each borrowing entity
- Bylaws/Operating Agreement of each borrowing entity
- All owners' driver's licenses
- Payroll Expense verification documents to include:
- IRS Form 940 and 941

- Payroll Summary Report with corresponding bank statement
- If a Payroll Summary Report is not available, Employee Pay Stubs as of February 15, 2020 (or corresponding period) with corresponding bank statement, and,
- Breakdown of payroll benefits (vacation, allowance for dismissal, group healthcare benefits, retirement benefits, etc.
- 1099s (if Independent Contractor)
- Certification that all employees live within the United States. If any do not, provide a detailed list with corresponding salaries of all employees outside the United States
- Trailing twelve-month profit and loss statement (as of the date of application) for all applicants
- Most recent Mortgage Statement or Rent Statement (Lease)
- Most recent Utility Bills (Electric, Gas, Telephone, Internet, Water)

As always, please contact your Krilogy advisor or advisory team to discuss the above article and how it applies to your unique financial planning situation.

To read the bill yourself and see how this may apply to your unique situation, it can be found here:
<https://www.congress.gov/116/bills/hr748/BILLS-116hr748enr.pdf>

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