



Thursday, April 2, 2020



Old San Juan, Puerto Rico

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COVID-19 Update

Dear Clients and Friends,

I hope you are all safe and well.

Many of you may already know about the recently passed legislation, The Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The CARES Act, in part, provides benefits to small businesses to help through this difficult time. You can read the full text of the legislation [here](#).

I have provided a summary of the Paycheck Protection Program, Loan Forgiveness, Expanded Unemployment and the Employer Retention Credit, however, the CARES Act covers additional benefits and obligations. You should consult with your financial institution, CPA or tax advisor, for additional information. The summary is provided as a reference tool and is not legal advice.

As always, feel free to reach out to me with any questions.

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The Coronavirus Aid, Relief, and Economic Security Act (CARES Act)

Paycheck Protection Program –Title I (§1102)

What is the Paycheck Protection Program (“PPP”)?

SBA will administer the PPP and has issued initial [guidance](#). PPP is a loan designed to provide a direct incentive for small businesses to keep their workers on the payroll.

SBA will forgive loans if all employees are kept on the payroll for eight weeks and the money is used for payroll, rent, mortgage interest, or utilities.

The Paycheck Protection Program will be available through June 30, 2020.

Who does this apply to?

This program is for any small business with less than 500 employees (including sole proprietorships, independent contractors and self-employed persons), private non-profit organization or 501(c)(19) veterans organizations affected by coronavirus/COVID-19.

How to Apply

You can apply through any existing SBA 7(a) lender or through any federally insured depository institution, federally insured credit union, and Farm Credit System institution that is participating. Other regulated lenders will be available to make these loans once they are approved and enrolled in the program. You should consult with your local lender as to whether it is participating in the program.

Lenders may begin processing loan applications as soon as **April 3, 2020**.

What is provided?

A PPP Loan may be used for:

- plant acquisition, construction, conversion, or expansion (including the acquisition of land, material, supplies, equipment, and working capital)
- payroll support (i.e., paid sick and medical leave and continuation of healthcare benefits)
- employee salaries, commissions, or similar compensations
- mortgage interest, rent and utility payments
- interest on debt obligations incurred before February 15, 2020.

Loans are capped at the lesser of:

- monthly payroll costs of the business for 2.5 months+ outstanding amount of any SBA disaster loan made between January 31, 2020 and date on which

§7(a) loans under this Act are made available (for purposes of refinancing the disaster loan) or

- \$10 million (replacing the existing §7(a) cap of \$5 million).

Loan Forgiveness

Per SBA, the loan will be fully forgiven if the funds are used for payroll costs, interest on mortgages, rent, and utilities (due to likely high subscription, at least 75% of the forgiven amount must have been used for payroll). Loan payments will also be deferred for six months. No collateral or personal guarantees are required. Neither the government nor lenders will charge small businesses any fees. Loan prepayment fees are waived.

Forgiveness is based on the employer maintaining or quickly rehiring employees and maintaining salary levels. Forgiveness will be reduced if full-time headcount declines, or if salaries and wages decrease.

This loan has a maturity of 2 years and an interest rate of .5%.

***** Contact your financial institution and begin the process of applying for PPP, as soon as possible. A good place to start is the institution that you bank with. You can also check out companies like [SmartBiz](#) Loans which works with a variety of lenders.***

Expanded Unemployment Benefits

The CARES Act increases unemployment benefits for workers who are laid off or furloughed due to the COVID-19 pandemic.

- Increased benefits will be the sum of the amount that would otherwise be due to the employee under the State's unemployment insurance program, plus \$600 per week, through July 31, 2020.
- Extension of the period of unemployment insurance, to 39 weeks. The period through July 31, 2020 will be paid at the increased amount noted above; the remainder will be paid at the rate normally paid by the State's unemployment insurance program.
- Benefits will be available to workers who are typically not eligible for unemployment benefits, such as self-employed and freelance workers.
 - Note: CA [EDD](#) has not yet implemented the CARES expansion of unemployment benefits. Keep an eye on the EDD website.
 - This is important as you may work with independent contractors who are interested in filing but the current unemployment application does not allow for ICs to file as ICs.
- The Act provides for the waiver of the one-week waiting period for benefits typically required under State law.

Employee Retention Credit for Employers Subject to Closure Due to COVID-19 - Title II, Subtitle C (§2301)

The CARES Act provides a refundable payroll tax credit for 50 percent of wages paid by employers to employees during the COVID-19 pandemic.

Who does this apply to?

Employers who carried on a business or unincorporated trade during 2020 and with respect to any calendar quarter, had their business fully or partially suspended during that calendar quarter due to orders from an appropriate governmental authority due to COVID-19. This section also applies to employers whose businesses had gross receipts decline by more than 50 percent when compared to the same quarter in the prior year.

What is provided?

Eligible employers are provided a credit against applicable employment taxes for each calendar quarter equal to 50 percent of the qualified wages with respect to each employee for that quarter.

The credit may not exceed the applicable employment taxes on the wages paid with respect to the employment of all employees for that calendar quarter.

If there is excess credit for any calendar quarter, the excess will be treated as an overpayment to be refunded.

Employees cannot be taken into account for multiple refunds, and if employers are allowed credit with respect to an employee under other sections of the Internal Revenue Code, they may not be included for purposes of this section.

The amount of qualified wages taken into account is capped at \$10,000 and includes payments to provide and maintain a group health plan, provided that is excluded from the gross income of employees and properly allocable to wages.

Employers may elect to not have this section apply to them, and employers who receive loans under section 7(a)(36) of the Small Business Act, as added by section 1102 of the CARES Act, are not eligible under this section.

- *Speak with your CPA or financial adviser about the retention credit and whether or not the PPP is better suited to your needs.*

Be advised that the information contained herein does not constitute legal advice and does not create an attorney-client relationship; instead, all information, content, and materials for general informational purposes only.

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