



Coronavirus Aid Relief and Economic Security Act (“CARES Act”) provides additional economic resources for businesses dealing with the impact of COVID-19 on normal business operations.

A key provision of the CARES Act is the Paycheck Protection Program, which provides “forgivable” loans through the Small Business Administration.

Although administered through the SBA, the requirements for eligibility are different than traditional SBA loans, and the loans may be administered through new qualified lenders (and is not limited to current SBA lenders). Notably, this program is available to 501(c)(3) non-profit organizations and businesses with up to 500 employees.

Key terms of the Paycheck Protection Act include:

- Available to businesses employing up to 500 people (including non-profits)
 - Headcount for hospitality (NAICS Code 72) businesses is based on the number of employees at a single location, not aggregate across operations
- Loan amount is 2.5 times the average monthly payroll costs, up to \$10,000,000
- Funds can be used for payroll expenses, benefits, rent, utilities, and other qualifying reasons
 - Payroll expenses for employees earning over \$100,000 annual salary are excluded
 - FICA Taxes are also excluded
- Interest rates are capped at 4% and are currently .5%
- No personal guarantee or collateral required
- Repayment obligation is based on comparing pre-loan employee headcount vs. headcount 8 weeks after loan origination
 - Pre-loan measure is based on either FTE monthly average between 2/15/19 – 6/30/19 OR 1/1/20 – 2/29/20 at borrower’s choice (seasonal employers use the 2019 measuring period)
 - Repayment is waived if employee headcount is maintained or increased, only interest is paid

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- Repayment term on interest and any amounts not forgiven is 2 years
- Payments are deferred for 6 months from the date of origination

Businesses who previously applied for and were granted an Economic Injury Disaster Loan and selected an advance \$10,000 grant may have reduced eligibility for a Paycheck Protection loan, but may have the ability to roll the prior loan into a forgivable loan under the Paycheck Protection Act depending on the timing of the prior loan and the use of those prior loan proceeds.

The initial steps businesses should take now are to contact their lender, and visit the SBA website to review eligibility and begin gathering prior year information that will be required for a loan application and to determine the loan amount.

If you or your business has any questions or requires assistance applying for any benefits included in the CARES Act, please contact one of our experienced Business and Employment attorneys:

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