

March 29, 2020

## **The CARES Act Provides Significant and Easily-Accessible Relief to Small Businesses Grappling with the COVID-19 Pandemic**

The United States Congress' COVID-19 relief package, called the CARES Act, was signed into law on Friday March 27, 2020. As we've all read in the news, this approx. \$2 trillion package provides a wide range of financial relief to individuals, small and large businesses, hospitals, and state and municipal governments.

Many of our clients are interested in the law's **financial benefits for small business**. In total \$377 billion has been allocated for small business relief programs. The U.S. Chamber of Commerce has issued an excellent summary of each of these programs

here: <https://www.uschamber.com/co/start/strategy/cares-act-small-business-guide>

### **Paycheck Protection Program**

The most significant of the CARES Act's small business relief programs is the **Paycheck Protection Program (PPP)**, which will provide up to \$349 billion to small businesses across the country. As detailed below, **any business with 500 or fewer employees** is eligible for financial help through the PPP. Some larger businesses in the Accommodations and Food Services industries are also eligible, as are independent contractors, sole proprietorships, and self-employed individuals. The PPP is intended to help businesses maintain payroll between now and June 30, 2020, and to support their rent, mortgage, utility, and other fixed expenses during that period. **Accordingly, PPP funds received by businesses that are used for such near-term fixed costs or payroll do not need to be paid back.** The PPP will be administered under the Small Business Administration's Section 7(a) lending program but these loans will be forgiven, i.e., converted into grants, if spent on covered expenses during the covered period in 2020.

A comprehensive bulletin on the PPP can be found here: <https://bit.ly/39nZzY8>. Please review that document for important PPP details – but here are the high points:

- Eligible applicants **may borrow up to 250% of their average monthly payroll expenses**, up to a total of \$10 million.
- The loan amounts forgiven will be equal to the sum of **8 weeks' worth** of expenses for payroll **AND** existing interest payments on mortgages, rent payments, leases, and utility service agreements. Payroll costs include employee salaries (up to an annual rate of pay of \$100,000), hourly wages and cash tips, paid sick or medical leave, and group health insurance premiums.
- Applicants are eligible to **apply for a PPP loan until June 30, 2020.**

- Recipient businesses can choose which 8 weeks they want to count towards the covered period, **which can begin retroactively as early as February 15, 2020**. According to the text of the CARES Act, for the borrowed funds to be forgiven, the period during which the funds may be expended on eligible expenses extends to 8 weeks from when the loan is originated. Accordingly, for businesses applying for a PPP loan just prior to the June 30, 2020 application deadline, for example, that expenditure period could be as late as the end of August 2020.<sup>1</sup>
- The **loan forgiveness** for payroll and fixed expenses occurs at the end of the 8-week period after the business has taken out the loan.
- PPP funds used for other business-related expenses, like inventory, will not be forgiven, but lending terms are generous. No personal guarantees or collateral is required.

### **Who will lend PPP funds?**

As noted, PPP loans will be administered by banks under the SBA's Section 7(a) program. Banks are finalizing their PPP procedures now with the SBA, and you should check with your bank as early as this coming week.

For your reference, the SBA reports that in 2018 the **top 10 Massachusetts lenders of SBA Section 7(a) funds** were:

1. Eastern Bank
2. TD Bank
3. Citizens Bank
4. Independence Bank
5. Leader Bank
6. Berkshire Bank
7. Salem Five
8. Santander Bank
9. Rockland Trust
10. Cambridge Savings Bank

Please do not hesitate to contact us if you have any questions about the CARES Act and its potential legal implications, or any other COVID-19 matters that may be impacting your business.

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<sup>1</sup> The bulletin posted above from the Senate Committee on Small Business states the all funds subject to loan forgiveness must be spent by June 30, 2020, regardless of when the loan was originated. This appears to be an error in the bulletin, though PPP details are being worked out by SBA lenders presently.