

# SBA Loan – Payroll Protection Program

Updated 04/05/2020

I would like to provide you with an update to the e-mail I just sent a few days ago. There is now much better guidance as to how the Payroll Protection Loan will work.

On Thursday, April 2<sup>nd</sup>, the US Treasury Department issued detailed guidance on the PPP (Payroll Protection Program) loans referred to as an Interim Final Rule.

Here is a link to the rule: <https://content.sba.gov/sites/default/files/2020-04/PPP--IFRN%20FINAL.pdf>

The CARES Act created a new type of SBA loan – Payroll Protection Loan which was signed into law on March 27<sup>th</sup> and is authorized to provide \$349 billion in loans. There is already conversation that Congress may authorize more funds.

There has been a fair amount of confusion as to exactly who qualifies, what costs qualify, and to what extent the loan can be forgiven. My summary below is still a bit detailed and you may still need to read the details at the link above.

Also, my interpretation of the calculations indicates that you may qualify for 2 ½ months (about 10 weeks) of payroll costs to determine the amount you can borrow; however, the forgiveness portion is only for 8 weeks of all eligible costs.

I have an updated CARES Act Calculator in the Excel worksheet to reflect this new information.

## Eligibility

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Your business or non-profit is eligible for the PPP loan if:

1. You have 500 or fewer employees
2. You were in operation on February 15, 2020
3. You had either employees for whom you paid salaries or paid independent contractors as reported on a Form 1099MISC
4. You can also operate as
  - a. a sole proprietorship or
  - b. an independent contractor or
  - c. an eligible self-employed individual
5. You will be required to provide documentation to establish eligibility such as payroll records, payroll tax filings, for Form 1099MISC
  - a. Or income/expense records for a sole proprietorship

You're are **ineligible** for a PPP loan if:

1. You engage in any activity that is illegal under federal, state or local law
2. You are a household employer
3. You have defaulted under a previous SBA loan within the past 7 years

## Amount Available to Borrow

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The maximum amount you can borrow is:

1. Total the payroll costs (see below) for the last 12 months
  - a. Subtract any compensation over \$100,000
2. Convert the annual payroll costs above into a monthly amount
3. Multiply the number in item 2 by 2.5
  - a. Effectively, you're eligible for 2 ½ months of payroll costs
4. Add the amount of an Economic Injury Disaster Loan made between January 31, 2020 and April 3, 2020.
  - a. Less any "advance" under the EIDL loan (note: the advance does not have to be repaid)

Payroll costs includes compensation to employees

1. Includes wages, salary, commissions, cash tips
  - a. Includes wages for vacation, medical or sick leave, allowance for separation/dismissal
2. Payment for employee benefits consisting of
  - a. Group health care coverage, including premiums
  - b. Retirement benefits
  - c. Payment of state and local taxes assessed on the compensation of employees
3. For self-employed individuals it's the net earnings
4. Payroll costs explicitly excludes:
  - a. Compensation to an employee whose principal place of residence is outside of the US
  - b. Compensation in excess of \$100,000
  - c. Federal employment taxes including FICA
  - d. Wages for which a credit is available under the FMLA Sick Leave Credit
  - e. Independent contractors (this is where some confusion came in ...to be eligible for the PPA loan you might have paid independent contractors, but payments to independent contractors are not included in the calculation to determine the amount of the available loan)

The PPP loan will carry an interest rate of 1% with a two-year maturity date. You can only apply for one PPP loan. You cannot apply for additional money later on, so consider requesting the maximum amount with your initial application. No collateral or personal guarantees will be required.

All PPP loans must be made on or before June 30, 2020. Loans will be made on a first-come first-served basis, so get your application in as soon as possible. Banks were able to start making the loans on April 3rd to businesses. I have heard that loans to self-employed people will begin on April 10th.

## Repayment/Forgiveness

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Even though interest expense will accrue from the loan date, you do not have to make any interest payments for the first 6 months.

The amount of the loan can be fully forgiven up to the loan amount and any accrued interest. The forgiven amount will not be considered as income to the borrower.

The amount to be forgiven will be based on an eight-week period following the loan date to the extent payments have been made for:

1. Payroll costs
2. Interest on mortgage debt (for loans in place as of February 15, 2020)
3. Rent payments (for leases in place as of February 15, 2020)
4. Utility payments (under service agreements in place as of February 15, 2020)
  - a. I haven't yet seen what specifically qualifies for utility costs. For instance, does it include telephone or internet?
5. Not more than 25% of the loan forgiveness may be attributable to non-payroll costs

To actually qualify for the loan forgiveness, you will have to document how the loan proceeds were used for the above items.

## Other Information

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There is some interaction between this PPP loan and the Economic Injury Disaster Loan. So, if you are also applying for the EIDL loan, please review the details with your bank.

There are special rules for new businesses that don't have a full 12 months of prior activity. I haven't had time yet to research those. If you're curious, please let me know and I will look into it.

Banks that are eligible to make loans are all SBA 7(a) lenders. Additional banks may become eligible as later determined. The banks will need to abide by the SBA requirements for loan underwriting.

Here is a link to the SBA loan form for the Paycheck Protection Program:

<https://www.sba.gov/sites/default/files/2020-04/PPP%20Borrower%20Application%20Form.pdf>

Your bank will also have their own form.