



FREE WEBINAR

How the CARES Act SBA Lending program
and the Families First Coronavirus
Response Act can affect your business.



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Employers' Obligations Under the Families First Coronavirus Response Act

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Covered Employers under the FFCRA

- Only applies to employers with fewer than 500 employees
- Employees counted:
 - Full-time
 - Part-time
 - Temps
 - Employees inactive or on leave

Covered Employers under the FFCRA

- Partial, possible small business exemption for employers with fewer than 50 employees.
- Only exempt from paid sick leave and FMLA for school or place of care closures or child care provider unavailability for COVID-19 related reasons.
- Applies when leave under FFCRA would jeopardize the viability of the small business as a going concern.
- Reasons must be documented by authorized officer of the company.

FFCRA Part 1: Paid Sick Leave

- Employees can take up to 80 hours paid sick leave for the following reasons:
 - The employee is subject to a quarantine or isolation order;
 - The employee has been advised by a health-care provider to self-quarantine;
 - The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
 - The employee is caring for an individual who is subject to a quarantine or isolation order or has been advised to self-quarantine;
 - The employee is caring for a son or daughter whose school or childcare provider is closed;
 - The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services.
- Pay capped at \$511 per day; \$5,110 in the aggregate
- Part-time employees eligible for the same number of hours of sick leave that the employee typically works in two-week period.

FFCRA Part 2: Expanded FMLA

- Normal FMLA rules expanded to include caring for a minor child because the child's school or childcare provider is closed due to the public health emergency
- First two weeks unpaid (but remember paid sick leave applies)
- Last 10 weeks paid at two-thirds
- Pay capped at \$200 per day; \$10,000 in the aggregate
- Employees who have worked for at least 30 days are eligible
- Otherwise, most usual FMLA rules apply

Common Questions

- Interplay between the two parts of the FFCRA
- What documentation is required
- Conducting layoffs during leave
- Prior exhaustion of FMLA leave



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For Borrowers: Paycheck Protection Program under the CARES Act

April 3, 2020



Questions

1. Please address which programs are exclusive of one another - i.e. PPP loan v. EIDL loan v. various tax credit programs
2. Can I apply Payroll from the loan retroactively- I have already furloughed workers. Do I have to hire them back even though I don't have anything for them to do. Do I qualify for a loan on what I WOULD have paid my employees?
3. Once we reopen there is no guarantee our business will ramp back up to where we were immediately...is additional stimulus being considered if the allowed amount doesn't bridge the gap?
4. Can I pay myself as an owner with PPP funds?

PPP: Who can apply?

- For-profit businesses, not-for-profit organizations, veterans organizations, and Tribal business concerns that meet the following criteria:
 - Size of business:
 - Entities with fewer than 500 employees; certain industries such as hospitality may have 500 employees per location; OR
 - Sole proprietors, independent contractors, self-employed individuals;
 - Small under the business's primary industry NAICS (found on SBA website)
 - SBA's alternative size standard

How much is available?

\$349 billion available under the program.

- Loan amount can be up to 2.5 X a business' average monthly payroll costs from the prior year or for the period 2/15/2019 -6/30/2019; OR
- \$10 million, whichever is less.
- Payroll costs are capped at \$100,000 annualized for each employee.

How to calculate payroll

- For small businesses, payroll includes:
 - Salaries, wages, cash tips, payments for vacation, parental, family, medical or sick leave, group health care benefits, company retirements contributions and state & local taxes on employee's income;
- For sole proprietors and independent contractors, includes:
 - Wages and net earnings for self-employment

Allowable Uses

- May be used for payroll costs, group health care costs, salaries, commissions, interest on mortgage obligations, rent, utilities and interest on other debts incurred prior to February 15, 2020;
- No guaranty required;
- No collateral required.

Terms

- Interest rate:
 - Initial guidance suggests that interest rate on PPP loans will be 1.0% fixed;
 - Payments fully deferred for 6 months, with interest accruing over the deferment period.
- Maturity: two (2) years.
- No borrower, lender, or prepayment fees.

Forgiveness eligibility

- Amount spent during the 8 week period after PPP loan origination will be forgiven for the following:
 - Covered payroll costs (subject to \$100,000 cap on comp);
 - Interest on covered mortgage obligations incurred before 2/15/20;
 - Covered rent and utility payments;
- Forgiveness reduced pro rata for workforce reductions (not including employees who are rehired);
- Forgiveness reduced if salaries/wages are reduced by more than 25%;
- Treasury guidance indicates that at least 75% of the forgiven amount must have been used for payroll.

How and when to Apply?

- Existing SBA 7(a) lenders and subsequently approved lenders are authorized to make PPP loans.
- Law provides that approved SBA 7(a) lenders will begin to accept applications on 4/3/20.
- Preliminary Borrower application available online; unclear what documentation will be required.

What to Gather?

- Evidence of # of employees on 2/15/2020
- Payroll forms from 2019 (941, 1099, 1096, 944, W2)
- Evidence of rent, utilities, interest on pre-2/15/2020 debt
- EIN, and formation documents for business

Must disclose

- 20% or more Owner of business
- Affiliates of business:
 - 50% or more owner of both companies
 - Control (affirmative or negative) over both companies
 - Common management (board members, officers, management agreement)
 - Common interests (close relatives, similar businesses and economic reliance)
 - Franchises – need to be on SBA Directory

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