

CARES ACT – Your Questions Answered

April 13, 2020

**Presented by:
Jim Hammerschmidt &
Jessica Summers**

PALEY
ROTHMAN

CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT OVERVIEW

- Signed into law on March 27, 2020
- \$2.2 trillion stimulus bill – the largest spending bill in history
- Intended to help shore up the economy and provide relief for businesses and individuals

PAYCHECK PROTECTION PROGRAM (PPP) - OVERVIEW

- \$349 billion – SBA 7(a) loan program
- Applications being administered through SBA approved banks
- Program is open until June 30, 2020 – but expected to hit funding caps well before then
- Maximum loan = \$10 million or 2.5 average monthly payroll costs – whichever is less

PAYCHECK PROTECTION PROGRAM (PPP) – ELIGIBILITY

- Available to businesses that:
 - *Were in operation as of February 15, 2020, AND*
 - *Have 500 or fewer employees*
 - Note – special rules apply for hotel and restaurant franchises
 - Also note – additional guidance to come on affiliation rules for companies with common ownership
- Also available to 501(c)(3) and 501(c)(19) organizations, sole proprietors, independent contractors and eligible self employed individuals

PAYCHECK PROTECTION PROGRAM (PPP) - PROCEEDS

- Proceeds of the loan can be used to cover:
 - Payroll costs
 - Mortgage interest
 - Rent
 - Interest payments on debt incurred before February 15, 2020
 - Refinancing an SBA Economic Injury Disaster Loan (EIDL) between January 31, 2020 and April 3, 2020
 - Group health insurance premiums (including continuation of coverage while employee is on paid sick, medical or family leave)

PAYCHECK PROTECTION PROGRAM (PPP) – REQUIRED CERTIFICATIONS

- “Current economic uncertainty makes this loan request necessary to support the ongoing operations of the applicant.”
- No more than 25% of the funds will be used for non-payroll costs
- The business has not, and will not, get another loan under the PPP between February 15, 2020 and December 31, 2020

PAYCHECK PROTECTION PROGRAM (PPP) – DEFINITION OF PAYROLL COSTS

“Payroll Costs” include:

- Salary, wages, commission or similar compensation
- Payment of cash tips or equivalent
- Payment of vacation, parental, family, medical or sick leave
- Severance
- Payments for providing group health care benefits, including insurance premiums
- Payment of any retirement benefit
- Payment of state and local taxes on the employee compensation

PAYCHECK PROTECTION PROGRAM (PPP) – DEFINITION OF PAYROLL COSTS, CONT.

“Payroll Costs” do not include:

- Compensation to an individual employee over \$100k (prorated for the 8 week period)
- Payroll taxes and income tax withholdings from Feb. 15, 2020 through June 30, 2020
- Compensation to an employee whose principal place of residence is outside the US
- Wages paid to employee taking qualified sick or family leave for which a refundable tax credit is available under the FFCRA

PAYCHECK PROTECTION PROGRAM (PPP) – ADDITIONAL DEFINITIONS

- Rent - “Rent obligated under a leasing agreement in force before February 15, 2020”
- Utilities – “Payment for a service for the distribution of electricity, gas, water, transportation, telephone, or internet access for which the service began before February 15, 2020”

PAYCHECK PROTECTION PROGRAM (PPP) – LOAN FORGIVENESS

- PPP loans eligible for forgiveness up to the principal amount of the loan
- Forgiveness amount =
 - 8 weeks of payroll costs +
 - 8 weeks mortgage interest + rent + utilities (not to exceed 25% of the loan forgiveness amount)
- 8 week period begins on the date of the origination of the loan (“Covered Period”)
- Loan forgiveness amount is not considered income to the business

PAYCHECK PROTECTION PROGRAM (PPP) – REDUCTIONS TO LOAN FORGIVENESS AMOUNT

- The amount eligible for loan forgiveness will be reduced proportionately if:
 - The business reduces the average number of full-time equivalent employees that it employs

AND/OR

- The business reduces the wages or salaries of employees making less than \$100k per year

PAYCHECK PROTECTION PROGRAM (PPP) – CALCULATING EMPLOYEE REDUCTIONS

The average number of full-time equivalent employees employed during the Covered Period

The avg. number of full-time equivalent employees employed by the business between ***Feb. 15 and Jun. 30, 2019***

OR

The avg. number of full-time equivalent employees employed by the business between ***Jan. 1 and Feb. 29, 2020***

PAYCHECK PROTECTION PROGRAM (PPP) – CALCULATING SALARY

Loan forgiveness reduced to the extent that wages or salaries for employees making \$100k or less (annually) are reduced by more than 25% during the Covered Period

Compared to the employee's salary or wages during the most recent full quarter before the Covered Period

PAYCHECK PROTECTION PROGRAM (PPP) – AVOIDING FORGIVENESS REDUCTIONS

No reduction in loan forgiveness for businesses that reduce(d) compensation or employee headcount between February 15 and April 26, 2020

IF

the business has “eliminated the reduction”
by June 30, 2020

EMPLOYEE RETENTION CREDIT

- **Only available to businesses that aren't getting a forgivable PPP loan**
- Refundable tax credit against employer payroll tax
 - 50% of the first \$10,000 of wages paid between March 13, 2020 and December 31, 2020
 - Max credit = \$5,000 per employee
- For any business that has had to fully or partially suspend operations due to a COVID-19 order OR experienced more than a 50% reduction in gross receipts

EMPLOYEE RETENTION CREDIT, CONT.

- If the business has more than 100 employees - only wages or health plan expenses for employees who are not working (in person or remotely) due to COVID-10 are eligible for the credit
- If the business has 100 or fewer employees – all wages and health expenses will count (regardless of whether the employee is working)
- Wages paid for employees on FFCRA covered leave (for which the employer is already eligible for a payroll tax credit) are excluded from the credit calculation

CARES ACT OPTION TO DELAY PAYROLL TAX

- **Only available to businesses that aren't getting a forgivable PPP loan**
- Allows employers to delay 2020 payroll taxes and pay
 - 50% by December 31, 2021
 - 50% by December 31, 2022

CARES ACT Q&A

Can we still get a PPP loan if we have reduced pay or furloughed or terminated employees to make ends meet?

CARES ACT Q&A

If we have reduced compensation to make ends meet, can we use our PPP loan to "catch-up" our employees to where they should have been?

CARES ACT Q&A

Do we get “credit” for keeping our employment roles and wages consistent prior to the period when we get the loan?

CARES ACT Q&A

Are part-time employees counted toward the 500 employee number?

CARES ACT Q&A

How do the PPP loans work if we have a number of employees making over \$100k?

CARES ACT Q&A

What is the interplay between the PPP loans and the EIDL loans?

How does the CARES Act expand unemployment?

CARES ACT Q&A

What if we have workers who voluntarily resign – will that impact our loan forgiveness?

THANK YOU!

Please don't hesitate to contact us with questions!



Jim Hammerschmidt
jhammerschmidt@paleyrothman.com
(301) 951-9338



Jessica Summers
jsummers@paleyrothman.com
(301) 968-3402