

## **Paycheck Protection Program**

The Coronavirus Aid, Relief and Economic Security Act (the “**CARES ACT**”) was signed into law on Friday, March 27, 2020 and allocates \$350 billion for a Paycheck Protection Program (“**PPP**”) passed to provide immediate relief to businesses (less than 500 employees) and other eligible entities impacted by the COVID-19 pandemic. PPP Loans are in place to encourage small businesses to keep their workers employed through this crisis.

**Process.** The process for securing a PPP loan is simple. The law allows Small Business Administration (“**SBA**”) approved Lenders to provide eligible businesses loans up to \$10 million (based on a formula tied to payroll costs) for payroll and other expenses incurred between Feb 15, 2020 and June 30, 2020. To determine eligibility, a Lender need only consider whether the Borrower was in operation on Feb 15, 2020 and paid employee salaries and payroll taxes or paid independent contractors. The Act waives fees for both Borrowers and Lenders.

**Loan Terms.** A Borrower is eligible for a loan equal to 2.5 months of regular payroll expenses, capped at \$10 million. A Borrower does not have to provide a personal guarantee or collateral to get a PPP loan. The loans have a maximum interest rate of 4% and start to mature the date the employer applies for the loan forgiveness (see below). The loan can have a maximum maturity of ten (10) years from such date.

**Allowable Uses.** Employers can use the funds from the PPP loan for (1) Payroll costs, (2) Group health care benefits during periods of sick leave and insurance premiums, (3) Employee salaries, commissions or similar compensations up to \$100,000 pro rated per employee or independent contractor (4) Payments of interest on mortgage obligations, (5) Rent, and (6) Interest on any other debt obligations incurred before the covered period.

**Loan Forgiveness.** A portion of the loan may be forgiven in an amount equal to payments made on eligible employee payroll costs, interest payments on covered mortgage obligation, rent, and utility payments made during the first 8 weeks after the origination date of the loan. However, forgiveness amounts will be reduced proportionately for a reduction in employees compared to prior year or reductions in salary in excess of 25%.

In an effort to incentivize employers to rehire employees who have been laid off due to COVID-19, employers who rehire the laid off employees by June 30, 2020 will not be penalized for having reduced payroll at the beginning of the forgiveness period.

Of note, Section 2302 of the CARES ACT provides that employers can defer paying their portion of the social security payroll tax through December 31, 2020. You should note that if an employer’s PPP Loan is forgiven, the employer will not be eligible for the payroll tax deferral.

**Additional Guidance.** The SBA is required to issue regulations within 15 days after the enactment of the CARES Act.

**What is needed to get the PPP Loan.** While more information from the SBA will be forthcoming, at a minimum, any employer interested in obtaining this loan should locate/prepare the following :

- Articles of incorporation
- Bylaws/Operating Agreement
- Payroll expense verification documents
- Payroll summary report
- Breakdown of payroll benefits
- 1099's of independent contractors
- Certification that all employees live in the US
- List of all business expenses incurred monthly
- Rental amount/mortgage amount – proof of the monthly obligation
- Supporting bank statements confirming the payments have been made
- Certification from the employer confirming the truth of the documentation

Having these documents ready for your Lender will simplify the process and make the loan funds available faster.

We have been working with the SBA, SBA approved lenders and borrowers in excess of 20 years and are here to assist you during this crisis. Please contact us directly to discuss any additional questions you may have during these trying times. We are working remotely and feel free to call my cell at 570-840-4197.

Stay well and be safe!

Tressler Law, LLC

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