



Certified Public Accountants



# Paycheck Protection Program



The COVID-19 Pandemic has forced employers to cut millions of jobs throughout the US. In response, Congress passed the CARES Act which includes a provision known as the Paycheck Protection Program. This \$349 billion program provides emergency loans to small businesses and nonprofits for the primary purpose of keeping employees on their payroll. The loans are 100% guaranteed by the SBA and contain a provision to forgive the debt if used to pay certain costs.

## Who is it for?

The loan program is available to all small businesses including nonprofits, veterans' organizations, tribal business concerns, sole proprietorships, self-employed individuals, and independent contractors whose principal place of business is in the United States.

You must have been in operation on February 15, 2020 and either had employees for whom you paid salaries and payroll taxes, or paid independent contractors, as reported on a Form 1099-MISC.

You must have 500 or fewer employees or are a business that operates in a certain industry and meets the applicable SBA employee-based size standards for that industry. You can find the size standards by industry at [www.sba.gov/size](http://www.sba.gov/size).

Businesses that operate under the NAICS code beginning with 72, which is for accommodations and food services, and have fewer than 500 employees per physical location are eligible.

SBA's affiliation standards, which are used to calculate total employees, are waived for small businesses in the accommodations and food services industries or that are franchises in the SBA's Franchise Directory or that receive financial assistance from small business investment companies licensed by the SBA.

Even if you meet those requirements, you are ineligible if:

- You are engaged in any activity that is illegal under federal, state, or local Law.
- You are a household employer.
- An owner of 20 percent or more of your business is incarcerated, on probation, on parole; presently subject to an indictment, criminal information, arraignment, or other means by which formal criminal charges are brought in any jurisdiction; or has been convicted of a felony within the last five years.
- You, or any business owned or controlled by you or any of your owners, has ever obtained a direct or guaranteed loan from SBA or any other Federal agency that is currently delinquent or has defaulted within the last seven years and caused a loss to the government.



## How much can you get?

The amount a business is able to receive is 2.5 times the average monthly payroll expense over the past twelve months. If you are a seasonal or new business, you will use different applicable time periods for your calculation. Regardless, the total loan amount cannot exceed \$10 million. So, if your average monthly payroll expense is \$100,000 you are eligible for a \$250,000 loan.

For the purposes of calculating monthly payroll costs, you can include:

- Salary, wage, commission, or similar compensation.
- Cash tips or the equivalent.
- Group health care benefits including premiums.
- Retirement benefits.
- Allowance for dismissal or separation.
- Payment of state and local taxes on employee compensation.
- Costs associated to vacation, parental, family, medical or sick leave.

For self-employed, sole-proprietors or independent contractors, you can include wages, commissions, income, or net earnings from self-employment or similar compensation, capped at \$100,000 on an annualized basis.

The following payroll costs cannot be included:

- Compensation of an individual employee in excess of an annual salary of \$100,000, as prorated for the period February 15th to June 30th of 2020.
- Costs for independent contractors.
- Federal employment taxes imposed or withheld between February 15th and June 30th of 2020, including the employee's and employer's share of FICA and Railroad Retirement Act taxes, and income taxes required to be withheld from employees.
- Any compensation of an employee whose principal place of residence is outside of the United States.
- Any qualified sick leave or family medical leave for which a credit is allowed under the new Families First Coronavirus Response Act.

If you received an Economic Injury Disaster Loan between January 31st and April 3rd of 2020, you may add the outstanding amount of that loan, excluding any advance you received, to the amount you're eligible for.





## What are the terms?

The term of the loan is 2 years at a 1% fixed rate.

Lenders are required to defer loan payments for a period of 6 months, but lenders are able to extend this to one year. Even though you don't have to make payments, interest will still accrue during this time.

## What can you use the funds for?

The funds can be used for payroll, costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, insurance premiums, mortgage interest, rent, utilities, interest on other debt that existed as of Feb. 15, 2020 and refinancing an Economic Injury Disaster Loan made between January 31st and April 3rd of 2020.

## Debt Forgiveness

A major benefit of the Paycheck Protection Program is its debt forgiveness provision. The amount eligible for debt forgiveness is the sum of payments made within the first 8 weeks period of the loan for payroll costs, and rent, utilities and interest on mortgages that were in effect before February 15, 2020. Recent guidance has stated that not more than 25 percent of the loan forgiveness amount may be attributable to non-payroll costs.



The forgiveness provision is dependent on the business maintaining employees and their compensation. The forgivable amount will be reduced if the average number of full time employees during the first 8-week period of the loan is less than the average number of employees during a designated prior period. That prior period can be either from February 15, 2019 to June 30 of 2019 or from January 1st to February 29th of 2020. Also, the forgivable amount will be reduced if you reduce the salary or wages paid to any employees who did not earn more than \$100,000 annualized in any pay period in 2019, by more than 25% as compared to their most recent full quarter.

To encourage employers to rehire any employees who have already been laid off due to the crisis, borrowers that re-hire workers previously laid off and restores their salary by June 30 of 2020 will not be penalized for having a reduced payroll at the beginning of the period.

It is important to note that any debt forgiven will not be included in taxable income.

## What are the requirements?

For loans made under the program, the SBA will guarantee 100% of the loan amount.

Unlike other SBA loan programs, the Paycheck Protection Program does not contain the “Credit Elsewhere Test” which requires an extensive analysis to determine whether you have the ability to obtain some, or all, of the requested loan funds from alternative sources.

Also unlike other SBA loan programs, the Paycheck Protection Program does not require a personal guarantee or collateral.



## How do you apply?

The Paycheck Protection Program will be available through June 30, 2020 or until the \$349 billion made available to the program have been exhausted. Small businesses and sole proprietorships can apply starting April 3rd, and independent contractors and self-employed individuals can apply starting April 10th. Funds are provided on a first come first served basis, so it's important to apply sooner than later.

Please be aware that you cannot apply for more than one loan, so you should consider applying for the maximum amount that you are eligible for.

You can apply through any existing SBA lender or through any federally insured depository institution, federally insured credit union, and Farm Credit System institution that is participating. Other regulated lenders will be available to make these loans once they are approved and enrolled in the program. You should consult with your local lender as to whether it is participating. You can also visit [www.sba.gov](http://www.sba.gov) for a list of SBA lenders.

You will need to submit SBA Form 2483 along with documentation. Your lender will provide guidance on what documentation they need, but we suggest preparing the following information:

- Your 2019 financials including income statement, balance sheet and tax return if filed.
- Your quarterly 940, 941 or 944 IRS payroll forms for 2019.
- Payroll reports starting with your most recent payroll and then going back twelve months. For seasonal employers, it would be a good idea to have your payroll averages from February 15, 2019 through June 30, 2019.
- Documentation showing the payment of any retirement benefit funded by your company, but exclude any payments from employees toward their retirement benefits.
- Documentation showing group health insurance premiums paid by your company under a group health plan.



# Final Thoughts

If you have questions or would like to discuss how the Paycheck Protection Program can help your business, please contact our office.



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