

Loan Forgiveness Under The CARES Act: The What & How

Article

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The CARES Act enacts a new loan program through the Small Business Act, the Paycheck Protection Program (the “Program”), to provide eligible borrowers with loans to help cover costs related to the COVID-19 emergency. Under the Program, borrowers are eligible for loan forgiveness up to the principal amount of the loan.

How do I receive forgiveness on my loan?

Borrowers are eligible for loan forgiveness equal to the amount of costs incurred and paid during the 8-week period beginning on the loan origination date for:

- Payroll costs;
- Payments of interest on mortgage obligations incurred before February 15, 2020;
- Payment on rent obligations under a lease in force before February 15, 2020; and
- Utility payments for electricity, gas, water, transportation, telephone, or internet if the service began before February 15, 2020.

To receive loan forgiveness, the borrower must submit an application to the lender servicing the loan with appropriate verifying documentation, a certification by an authorized representative, and other documentation required by the SBA. Loan forgiveness will not be given in the absence of such documentation. Lenders must make a decision on loan forgiveness within 60 days of receiving the borrower’s application.

Borrowers with tipped employees may receive forgiveness for additional wages paid to those employees.

What are payroll costs?

Payroll costs include:

- the sum of payments of any compensation with respect to employees that is a:

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- salary, wage, commission, or similar compensation;
- payment of cash tip or equivalent;
- payment for vacation, parental, family, medical, or sick leave;
- allowance for dismissal or separation;
- payment required for the provisions of group health care benefits, including insurance premiums;
- payment of any retirement benefit; or
- payment of State or local tax assessed on the compensation of employees; and
- the sum of payments of any compensation to or income of a sole proprietor or independent contractor that is a wage, commission, income, net earnings from self-employment, or similar compensation and that is in an amount that is not more than \$100,000 in 1 year, as prorated for the covered period.

Payroll costs do not include:

- the compensation of an individual employee in excess of an annual salary of \$100,000, as prorated for the covered period;
- taxes imposed or withheld under chapters 21, 22, or 24 of the Internal Revenue Code of 1986 during the covered period;
- any compensation of an employee whose principal place of residence is outside of the United States;
- qualified sick leave wages for which a credit is allowed under section 7001 of the Families First Coronavirus Response Act; or
- qualified family leave wages for which a credit is allowed under section 7003 of the Families First Coronavirus Response Act.

Are there particular considerations or limitations I should be aware of?

To maximize loan forgiveness, you should consider the following:

- Loan forgiveness will be proportionally reduced by any reduction in the average number of full-time equivalent employees per month employed during the covered period as compared to an earlier period.
- Loan forgiveness will be reduced by the amount of any reduction in total salary or wages of certain employees that exceeds 25% of the total salary or wages of the employee during the most recent full quarter.
- Loan forgiveness reductions resulting from certain employment and/or salary reductions may be avoided if the borrower has eliminated the reduction by June 30, 2020.
- Maintain documentation verifying the number of full-time equivalent employees on payroll and pay rate, including federal and state filings, and verifying payments on covered costs.

- Submit documentation to lender in a timely manner.

What happens to loan amounts which are not forgiven?

Any remaining balance will be carried forward as a loan under the Program with a maximum maturity of 10 years from the date the borrower applies for loan forgiveness. Interest rates on loans under the Program cannot exceed 4%.

Are there any federal income tax implications?

Amounts forgiven are excluded from gross income for federal income tax purposes.

Where can I go for additional information?

For additional information, please check out Amundsen Davis's COVID-19 Resource Center.

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