



## **CLIENT CRITICAL RESPONSE TEAM**

### **Small Business Loan Opportunities in response to COVID-19**

#### **Whalen Lead Contact:**

Jeff Zaye, CPA  
614-396-4200 x103  
[jzaye@whalencpa.com](mailto:jzaye@whalencpa.com)

**Summary:** The federal government has made the following types of loans available to small businesses in recently passed legislation.

#### **Paycheck Protection Program**

- These loans are going to be made by banks, credit unions and some other lenders, guaranteed 100% by the SBA.
- Eligible borrowers are any business concern, nonprofit, veterans' organization or tribal business concern with not more than 500 employees or such higher number as the Administration may set for the industry. Certain sole proprietors, independent contractors and self-employed persons are also eligible.
- Loans are up to the lesser of (i) 2.50 times average monthly payroll costs based on the prior year's payroll costs (as defined, not including compensation in excess of \$100,000) plus other disaster loans taken out after January 1, 2020, or (ii) \$10,000,000.
- Payroll costs include the following:
  - 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
  - payment of state or local tax assessed on the compensation of the employee
- Items specifically excluded from payroll costs include the following:
  - Compensation of an individual employee in excess of an annual salary of \$100,000, as prorated for the period February 15, to June 30, 2020
  - Payroll taxes, railroad retirement taxes, and income taxes

- 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 (Public Law 116–5 127); or qualified family leave wages for which a credit is allowed under section 7003 of the Families First Coronavirus Response Act
- Permissible uses of the proceeds include most employee-related expenses, interest payments on mortgages, rent, utilities and interest on existing debt.
- The borrower must support its prior payroll costs and certify that (i) “that the uncertainty of current economic conditions makes necessary the loan request to support the ongoing operations of the eligible recipient; (ii) acknowledging that funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments”; (iii) that there is no pending application for a 7(a) loan for the same purpose and amounts and no proceeds have or will be received from such a loan.
- Terms will be as for other SBA §7(A) loans, but with no collateral, no personal guarantees, and no recourse to principals except for misuse of proceeds.
- There will be no fees associated with loans under the program.
- These loans are eligible for forgiveness. Remaining balances after forgiveness can have a maximum term of 2 years and a fixed rate of 0.5%. No interest will be charged on forgive balances.
- Loan payments will be deferred for six months.
- Lenders should be able to immediately begin applying to the SBA for a guaranty of eligible loans. Prospective borrowers should begin gathering supporting documentation and discussing with lenders the application process.

### **Loan Forgiveness**

- Businesses that qualify for a small business loan under section 7(a) of the Small Business Act — which, to qualify the business must be a small business as determined by the SBA size standard corresponding to the business’ NAICS code – or otherwise qualify for the Paycheck Protection Program may qualify for loan forgiveness on portions of their SBA disaster loan. Eligibility can be determined by visiting the [SBA 7\(a\) website](#).
- The borrowers that qualify for small business loans will be eligible to have only those portions of their loans forgiven for the amounts spent during an 8-week period after the origination date of the loan for payments related to the following expenses:
  - Payroll costs
  - Interest payments on a mortgage if the mortgage was incurred prior to February 15, 2020 (does not include principal or prepayment)
  - Rent payments under a lease that was in effect prior to February 15, 2020
  - Utility payments made on utility services if such services were in use prior to February 15, 2020

- There are certain limits on the amount of forgiveness for which the loan will not be forgiven, which include the following:
  - Amounts in excess of the principal on the loan will not be forgiven.
  - Due to likely high subscription, it is anticipated that not more than 25% of the forgiven amount may be for non-payroll costs.
  - Forgiveness will be reduced proportionately by any reduction in employees retained compared to either (i) the prior year, or (ii) the period of January 1, 2020, thru February 29, 2020 (measured based on average employees per month).
  - Forgiveness will be reduced proportionately by any reduction in pay of any employee beyond 25% of their prior year compensation (measured from the most recent full quarter prior to the origination date of the loan).
  - Payroll costs eligible for forgiveness do not include compensation paid to employees in excess of \$100,000 annually.
- If the business has "tipped employees," the business may receive forgiveness for additional wages paid to those employees.
- If borrowers re-hire workers that have already been laid off due to COVID-19 (within 30 days of the enactment of the CARES Act), they will not be penalized or have the loan forgiveness reduced by any reduction of employees or reduction in payments to employees, so long as the workers are re-hired on or before June 30, 2020.
- The amounts that are forgiven will not be included in gross income of the borrower as cancellation of debt income for federal income tax purposes.
- Any loan amounts that are not forgiven at the end of one year is carried forward for a max term of 2 years at a fixed interest rate of 0.5%, and the 100% loan guarantee remains during the term.
- How it will work? A borrower seeking loan forgiveness will submit to the lender that is servicing the loan an application that will include:
  - Documentation verifying employment and payroll costs
  - Documentation verifying mortgage interest payments, rent payments, and utility payments
  - Certifications from authorized representative that all information presented is true and correct and the amount of forgiveness requested
  - The lender will have 60 days from submission of the application to issue a decision on the application

### **Economic Injury Disaster Loans**

- Eligible borrowers are small business (determined by the SBA size standard corresponding to the business' NAICS code) and private non-profits (must sell something to generate revenue) who have suffered substantial economic injury as a result of a declared disaster (in this case, COVID-19). Substantial economic injury means the business is unable to meet its obligations and to pay ordinary and necessary operating expenses.

- In most cases, loan amounts are up to one half of the prior year's gross profit not to exceed \$500,000, but if more is needed there is a more detailed calculation that may allow for up to \$2,000,000 (historically 95% have been under \$500,000).
- In addition, small business owners are eligible to apply for an Economic Injury Disaster Loan advance of up to \$10,000. This advance will provide economic relief to businesses that are currently experiencing a temporary loss of revenue. Funds will be made available within three days of a successful application. This loan advance will not have to be repaid.
- Permissible uses are for working capital needs. This includes fixed debt payments, payroll, accounts payable, and other bills that cannot be paid because of the impact of COVID-19
- Terms are interest at 3.75% for small businesses and 2.75% for private non-profits with up to a 30-year term. Loans over \$25,000 will require collateral if available and owners of 20% or more will be asked to provide guaranties
- First year of principal and interest payments may be deferred.
- Loan application process is online via the SBA There is no fee to apply or obligation to take funds if approved. The SBA hopes to process applications in 3 to 5 days and have funds available within 30 days via a lump-sum deposit

### **Emergency Relief Loans**

- These loans are going to be made or guaranteed by the Federal Reserve.
- Eligible borrowers are any businesses affected by or located in an area affected by a disaster to whom credit is not reasonably available and for whom the obligation is prudently incurred. The business must have incurred or expect to incur losses such that continued operation is jeopardized.
- Up to \$500 billion will be available. Loan terms are as to be determined by the Secretary of the Treasury in rules to be issued within 10 days.
- Borrowers and affiliates will not be able to purchase affiliated equity securities if listed on a national exchange nor pay dividends on common stock.
- Borrower must maintain employment levels as of March 24, 2020, to the extent practical, but in no event reduce levels by more than 10%.
- Mid-sized businesses (between 500 and 10,000 employees) have special provisions and special requirements.
- The Federal Reserve may establish a Main Street Lending Program.
- Borrowers must await the publication of rules within the next 10 days.
- Complete payment deferrals are available for six months to one year pursuant to a deferment process set by the SBA in guidance due out in 30 days.
- Lenders should be able to immediately begin applying to the SBA for a guaranty of eligible loans. Prospective borrowers should begin gathering supporting documentation and discussing with lenders the application process.

**DISCLAIMER:**

*Companies should be aware that information regarding the new legislation and its interpretation continues to evolve.*