

Nonprofit Organizations

Paycheck Protection Program

**Baker
McKenzie.**

Small Business Administration Paycheck Protection Program

The Small Business Administration (“SBA”) Paycheck Protection Program (“PPP”) opened April 3, offering funds for nonprofits and small businesses struggling in the coronavirus epidemic. The money is to pay staff and operating costs for up to 2½ months.

Key Information

Eligibility: The program is open to section 501(c)(3) tax-exempt nonprofit organizations that meet the following criteria: (i) have 500 or fewer employees (includes related organizations) in the US (or in a special industry), and (ii) were in operation on February 15, 2020 with employees for whom the business paid payroll taxes or independent contractors whom the business reported on Form 1099-MISC. The 500 or fewer head count.

Key Points

- The loan is available on a first come, first served basis, and applications should be made to your lender.
- The **maximum loan amount** is the lesser of \$10 million or 2.5 months compensation paid to employees (not in excess of \$20,833 per employee).
- The **interest rate** is 1%, and the loans need to be repaid generally between 6 months and 2 years from the date of the loan. No personal guarantees or collateral will be required, and loans may be forgiven, if eligibility is met.
- The loan money must be used for payroll expenses or other essential business expenses such as rent, utilities, and mortgage interest.
- Principal loan amounts used for these purposes over the 8 week period after the loan is made **may be forgiven, but** not more than 25% of loan forgiveness may be attributable to non-payroll costs. Headcount reduction can also reduce the amount of forgiveness, e.g. if a borrower decreases full-time employee headcount or salaries and wages by more than 25% for any employees that made less than \$100,000 annualized in 2019.

Important Considerations

As you are evaluating your business needs and whether to apply for loans under this program, there are **several** things to consider.

- If you are eligible **or think you may be eligible**, consider seeking advice **immediately**. Loans are available on a first come, first served basis, and the program is anticipated to be fully subscribed in a short timeframe.
- It is still not clear how the headcount calculation will be affected by any reduction from **voluntary employee resignations**. This may directly impact the amount of your loan that **will be forgiven**.
- You may apply for **loan forgiveness** following the 8-week period beginning on the date of the origination of the loan. Forgiveness covers only the principal of the loan (not interest. Certain documentation regarding use of loan amounts must be maintained for the borrower to be eligible for forgiveness.
- Despite the low interest rate, consider how much of your borrowing **may not be forgiven** and the amount of funds you need to borrow since the amount that is not forgiven accrues interest. You **should not** assume that 100% of your loan will be forgiven.
- It is unclear how any portion of these loans that are not forgiven will be treated in bankruptcy, although the government has clarified that the forgiveness under the program will not be taxable.
- The loan is an **alternative to the payroll tax credit** under section 2301 of the CARES Act, which you might otherwise be eligible for if you experienced a “Suspension” (i.e. it was not an essential business) as a result of COVID-19 legislation. We recommended you carefully evaluate and calculate the benefit options available to you. Based on your specific circumstances, the payroll tax credit and/or the payroll tax deferral may be better alternatives.

Resources:

- [Coronavirus Resource Center](#)
- [SBA and Treasury Announce Mobilization for Paycheck Protection Act in the US](#)
- [Treasury Site Dedicated to PPP](#)



\$349 Billion

→ SBA Loans



500 or Fewer

→ Employees



Apply at Your Bank

→ See Below



Ends June 30



**Administered by
Your Bank:**

A number of regional banks are already accepting applications. Large national banks are launching online applications. Generally you must have an account with the bank to apply. Search the SBA Participating Bank List [here](#).



**Get Ready
to Apply**

A sample application can be found [here](#), but most banks are requiring online applications. Here are some key documents you should start collecting:

- Payroll tax filings
- IRS Forms 1099-MISC

**Last updated April 27, 2020*