



April 1, 2020

Payroll Protection Program (PPP):

The Treasury has released the application that small businesses can use to apply for an SBA Paycheck Protection Program loan on March 31st in the evening.

You can find it here:

<https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Application-3-30-2020-v3.pdf>

More detail from the Treasury for borrowers:

<https://home.treasury.gov/system/files/136/PPP--Fact-Sheet.pdf>

Applications will be made through your bank (if eligible) or one that currently handles SBA 7a loans.

If your bank is not an SBA 7a lender, a list of SBA lenders can be found here:

<https://www.sba.gov/article/2020/mar/02/100-most-active-sba-7a-lenders>

Applications can be submitted starting Friday, April 3rd.

The Paycheck Protection Program ("PPP") loan amount is basically 2.5 times the average 2019 monthly payroll - but if anyone earned over \$100,000, they can only "count" a maximum of \$100,000. Proceeds can be used for payroll, rent/mortgage, utilities and certain debt service requirements.

To apply you will need to:

- Assemble monthly payroll records for each of the months back to January 2019.
 - Newer companies can use payroll data starting January 2020.
- Itemize payroll by employee in order to identify employees earning over \$100,000 per year.
- Assemble evidence that payroll taxes since the beginning of January 2019 have been paid.
- It is advised to get confirmation from a lawyer that you are eligible.
 - If needed, get an opinion from their lawyer on the SBA Affiliate rules and how they might apply to you and any investor(s) you might have.
- Find a bank that does SBA 7a loans.

Use of Loan Proceeds:

- Payroll costs, including benefits;
- Interest on mortgage obligations, incurred before February 15, 2020;
- Rent, under lease agreements in force before February 15, 2020; and
- Utilities, for which service began before February 15, 2020.

What Counts as Payroll Costs:

- Salary, wages, commissions, or tips (capped at \$100,000 on an annualized basis for each employee);
- Employee benefits including costs for vacation, parental, family, medical, or sick leave; allowance for separation or dismissal; payments required for the provisions of group health care benefits including insurance premiums; and payment of any retirement benefit;
- State and local taxes assessed on compensation; and
- For a sole proprietor or independent contractor: wages, commissions, income, or net earnings from self-employment, capped at \$100,000 on an annualized basis for each employee.



Information on the PPP Loans:

- Interest will not exceed 4%.
- Maximum maturity is for 10 years.
- No personal guarantee required.
- Loan payments are deferred for 6 months.
- Loan amounts can be for up to two months of your average monthly payroll costs from the last year plus an additional 25% of that amount. There is a \$10 million cap.

PPP Loan Forgiveness:

- The amount that may be forgiven is the sum of the following payments made by the borrower during the eight-week period beginning on the date of the loan:
 - Payroll costs
 - Mortgage interest or rent
 - Certain utility payments
- The loan forgiveness is contingent upon the employer not reducing the salary or wages paid to any employee who had earned less than \$100,000 in annualized salary.
- Forgiven loan amounts will not be taxable income for startups.
- The process is not entirely clear, but loan recipients will submit a request to the lender that is servicing the loan. The request will include documents that verify the number of full-time equivalent employees and pay rates, as well as the payments on eligible mortgage, lease, and utility obligations. You must certify that the documents are true and that you used the forgiveness amount to keep employees and make eligible mortgage interest, rent, and utility payments. The lender must make a decision on the forgiveness within 60 days.

Economic Injury Disaster Relief (EIDR) Loans:

- These are loans that the SBA makes available after a state or locale declares an emergency. Companies located in states that have been declared a State of Emergency (most have) are eligible for Economic Disaster Relief Loans of up to \$2 million.
- You apply for the loans directly on the SBA website. Administered directly by the SBA instead of Banks.
- This Loan was created before the CARES Act Paycheck Protection Program Loans were created.
- The company has to be able to prove it has sustained economic injury and the majority of the loans require a Personal Guarantee with assets/collateral to back it up.
- However, No Personal Guarantee is required on loans below \$200k.
- It is generally recommended that companies focus on the PPP Loans.

Payroll Tax Deferral:

- Companies who do not receive a SBA loan as part of the CARES Act will be able to defer 100% of its payroll taxes for the remainder of 2020.
- Normally, companies pay a payroll tax equal to 6.2% of all employee compensation up to \$137,700 per employee and a 1.45% of all compensation.
- Under this plan those taxes for the remainder of 2020 will be eligible for deferral – 50% due in December 2021 and 50% due in December 2022. Companies should consult their payroll provider to seek this credit.