

## 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.
  - 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 10 years at max interest rate of 4%, 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

## 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, veteran's 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) 2.5 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.
- 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 personal guarantees and no recourse to principals except for misuse of proceeds.
- These loans are eligible for forgiveness. Remaining balances after forgiveness can have a maximum term of 10 years and a maximum rate of 4%.
- 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.