



Questions & Answers: Coronavirus Policy Briefing

3/30/20

I. SMALL BUSINESS RELIEF:

Question: What are the qualifications for the loans (just 500 employees)?

Answer: Small businesses, nonprofits, or veteran's organizations with less than 500 employees, or the applicable SBA size standard for the industry, are eligible for loans per the PPE. "Size standard" references the SBA's current small business classification standards, as matched to industries described in the North American Industry Classification System (NAICS). A chart outlining the SBA's numerous definitions for "small businesses" by industry is linked [here](#). SBA size standards frequently contradict the 500-employee marker provided above, with some industries qualifying as small businesses with as many as 1,500 employees. The PPP also waives the affiliation rule for: businesses in the hospitality/food service and certain franchisees.

The following entities can also seek relief:

- Sole-proprietors, independent contractors, and other self-employed individuals.
- Businesses with more than one physical location and no more than 500 employees per physical location in certain Accommodation and Food Services industries.
- Borrowers who have received an economic injury disaster loan (EIDL) between 2/15/20 – 3/31/20.

Question: How is the amount per company determined (is it still 2.5x average payroll cost with a cap of \$10 million)?

Answer: Eligible businesses may apply for a loan made for 250% of the employer's average monthly payroll. If a business is less than one year old, the loan is capped at \$10 million.

Question: What are the amounts and requirements for the loans to be forgiven? What are the proceeds of the loan allowed to go toward (payroll, rent, other debt expense, etc.)

Answer: Businesses may use loans to supplement payroll, employee salaries (not in excess of \$100k), commissions, benefits, mortgage interest, rent, utilities, and any other debt obligations incurred during the covered period. All borrowers will be eligible for loan forgiveness with the level of borrower's forgiveness proportionately reduced by any employee or payroll reduction during the emergency. For example, the amount of forgiveness will decrease materially if there is decrease in employee pay in excess of 25% of the previous year's compensation.

Question: What is required in terms of employment / FTE / payroll maintenance (i.e., no layoffs or payroll cuts) to receive the loan or to allow the loan forgiven?

Answer: Eligible borrowers are required to make a good faith certification that the loan is necessary due to the uncertainty of current economic conditions caused by COVID-19; they will use the funds to retain

workers and maintain payroll, lease, and utility payments; and are not receiving duplicative funds for the same uses from another SBA program.

Question: How is the program going to be administered? How do companies apply for and get access to the loans?

Answer: The SBA Administrator will issue regulations to carry out the provisions of the CARES Act and make relief available no later than 15 days after the date of enactment of the Act. Lenders will issue decisions on applications for relief no later than 60 days after the date on which a lender receives an application for loan forgiveness.

Question: Do loans under paycheck protection program get forgiven?

Answer: The borrower shall have a portion of their loan forgiven in the amount equal to their payroll costs (not including costs for compensation above \$100,000 annually), interest payments on mortgages, rent payments, and utility payments between February 15 and June 30, 2020. Loan forgiveness will be reduced if the borrower reduces employment by a ratio similar to their reduction in employment or if borrower reduces salaries and wages by more than 25%.

Question: Are sole proprietors eligible for SBA loans or do you need to be a registered LLC or Corporate entity?

Answer: Sole proprietors are eligible.

Question: Do any of the provisions of the CARES Act amend or suspend the requirements for SBA Disaster Loans (*SBA ECONOMIC INJURY DISASTER LOAN (EIDL) PROGRAM) (e.g. personal guarantees, collateral requirements)?

Answer: Yes. Loans are available to all non-profits (including 501(c)(6)s); loans can be made based solely on credit scores; loans below \$200,000 can be approved without a personal guarantee; and borrowers can receive \$10,000 cash advances that are forgiven if spent on paid leave, maintaining payroll, increased costs due to supply chain disruption, mortgage or lease payments, or repaying obligations that cannot be met due to revenue losses.

**Note that borrowers receiving PPP assistance cannot pursue assistance in the form of an EIDL through SBA for the same purpose.

Question: For the SBA loans provision, does it still include requiring a good-faith certification of the need for the loan to continue operations during the COVID-19 emergency (and if so, any clarity into what that entails)

Answer: Yes, please find the text below.

BORROWER REQUIREMENTS. — “(i) CERTIFICATION.—An eligible recipient applying for a covered loan shall make a good faith certification— “(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 the eligible recipient does not have an application pending for a loan under this subsection for the same purpose and duplicative of amounts applied for or received under a covered loan; and “(IV) during the period beginning on February 15, 2020 and ending on December 31, 2020, that the eligible recipient has not received amounts under this subsection for the same purpose and duplicative of amounts applied for or received under a covered loan.

Question: The loans to small - middle size businesses that are run through their financial institutions will become available how soon after the president signs?

Answer: The SBA Administrator will issue regulations to carry out the provisions of the CARES Act and make relief available no later than 15 days after the date of enactment of the Act. Lastly, lenders will issue decisions on applications for relief no later than 60 days after the date on which a lender receives an application for loan forgiveness.

Question: If a small business keeps all of its employees and takes a loan for both wages and rent can it get the whole amount forgiven? Or just the portion used for wages but not for the portion used to pay rent.

Answer: All borrowers will be eligible for loan forgiveness with the level of borrower's forgiveness proportionately reduced by any employee or payroll reduction during the emergency.

Question: For small businesses administering payroll through a firm that aggregates employees (e.g. company is 8, but benefits and payroll paid through aggregator with 10s of thousands of employees). Will the small company be considered a small company for these programs?

Answer: The bill allows businesses with more than one physical location that employs no more than 500 employees per physical location in certain industries to be eligible and is below a gross annual receipts threshold in certain industries to be eligible.

II. UNEMPLOYMENT:

Question: Did the "Four Months of Full Salary for Furloughed Workers" provision make it into the final bill?

Answer: For workers eligible to receive unemployment insurance benefits, which typically includes workers who have been furloughed or laid off through no fault of their own, the bill provides an increase of up to \$600 per week payment for each recipient.

Question: What are the qualifications for expanded UI - can independent contractors with 1099s apply?

Answer: Yes, it applies to those who are self-employed.

III. Federal Reserve

Question: Will the loan programs for larger businesses have a credit rating agency threshold / requirement?

Answer: Fed's secondary market corporate credit facility eligibility:

- Issued by an eligible issuer;
- Rated at least BBB-/Baa3 by a major nationally recognized statistical rating organization ("NRSRO")
- and, if rated by multiple major NRSROs, rated at least BBB-/Baa3 by two or more NRSROs, in each case subject to review by the Federal Reserve;
- Have a remaining maturity of five years or less.

Fed's Primary market corporate credit facility:

Same as secondary market facility but also:

- Have a maturity of four years or less.

Question: What are the terms for Fed purchases with amended 13-3?

Answer: Purchasing obligations or other interests directly from issuers of such obligations or other interests; (B) purchasing obligations or other interests in secondary markets or otherwise; or (C) making loans, including loans or other advances secured by collateral.

Must NOT be: A - Not part of a syndicated loan, loan originated by financial institution in ordinary course of business, securities or capital markets transaction

Question: On the economic Stabilization part of the Bill - who can receive loans out of the \$454B bucket? Is this for "eligible businesses" like in the prior drafts of the bills? How is this different than the direct loans?

Answer: To be eligible for the \$454 billion Fed Programs bucket:

1. No buybacks or dividend payments for 1 year after the loan is paid off
2. Agree to executive payment restrictions

Does not have the same restrictions as direct lending under subsections (1) (2) (3).

III. AID TO BUSINESSES:

Question: In what form can money be given to companies?

Answer: Largest part is loans but grants and forgivable loans exist for specific companies that adhere to program guidelines. Fed program is all loans.

Question: Will there be any aid to carriers such as Fedex/UPS?

Answer: \$4 billion in loans and loan guarantees.

Question: How will airline money be disbursed?

Answer: Part is loans and loan guarantees, while direct relief (~\$29 billion) will come as grants. Procedures for this are still unclear.

Question: Please explain the 50% shared payroll.

Answer: A refundable payroll tax credit for 50 percent of wages is provided to employers whose (1) operations were fully or partially suspended due to a COVID-19- related shut-down order, or (2) quarterly gross receipts declined by more than 50 percent year-over-year. For employers with over 100 full-time employees, qualified wages are wages paid to employees no longer providing services due to COVID-19-related circumstances. For eligible employers with 100 or fewer FTEs, all employee wages qualify for the credit. The credit is provided for the first \$10,000 of compensation, including health benefits, paid to an eligible employee. The credit is provided for wages paid or incurred from March 13, 2020 through December 31, 2020.

IV. TAX PROVISIONS

Question: Are there any special tax benefits to encouraging charitable giving at this time?

Answer: Section 2204. (\$300 above-the-line charitable deduction). The 2017 tax bill largely wiped out the charitable deduction for the great majority of taxpayers who claim a standard deduction rather than itemize. The provision permits an "above-the-line" deduction--that is, a deduction for non-itemizers--for cash charitable contributions of up to \$300.

Section 2205. (Increase in maximum charitable deduction) For individuals, the limitation of charitable deductions to 50-percent of adjusted gross income limitation is suspended for 2020. For corporations, the 10-percent limitation is increased to 25 percent of taxable income.

Question: Is the payroll tax deferral automatic, or is there an application process? And for what period does the deferral apply?

Answer: There is a delay in when payment of employer payroll taxes for the period from the date of enactment through the end of due--half at the end of 2021, and the other half at the end of 2022.

Question: can you repeat the NOL changes?

Answer: Relief is temporarily granted from the changes made to NOLs in the 2017 tax act, which had generally eliminated NOL carrybacks and capped NOL carryforwards. The draft bill provides that a loss from 2018, 2019, or 2020 can be carried back five years. The provision also temporarily removes the taxable income limitation to allow an NOL carryforward to fully offset income.

V. HEALTHCARE

Question: can you comment on Medicare sequestration

Answer: The bill temporarily lifts the Medicare sequester, which reduces payments to providers by 2 percent, from May 1 through December 31, 2020, boosting payments for hospital, physician, nursing home, home health, and other care.

VI. MISC:

Question: will any/all provisions be available to local government as well?

Answer: In total, states and municipalities will receive \$150 billion. Reserved within that amount is \$8 billion for Indian Tribes and \$3 billion for DC and U.S. territories. Funds are allocated proportionally based on state population, and no state will receive less than \$1.25 billion. Localities with more than 500,000 people can apply directly to Treasury for their relative share by population (compared to the state's total population) of 45 percent of the total allocated to a state. Treasury will automatically award each state its share within 30 days.

Question: Can anyone speak to the agriculture related provisions in the bill?

Answer: The bill provides \$25 million in additional funding for the Distance Learning, Telemedicine (DLT), and Broadband Program, which supports rural communities' access to telecommunications-enabled information, audio, and video equipment, as well as related advanced technologies for students, teachers, and medical professionals.

The bill provides \$100 million for the Reconnect Pilot, which provides grants for the costs of construction, improvement, or acquisition of facilities and equipment needed to provide broadband service in eligible rural areas.

The bill provides \$56 million to fund Essential Air Service (EAS), which maintains air service to rural communities. This funding is necessary to offset the reduction in overflight fees that help pay for the EAS program.

The bill provides \$75 million to the Corporation for Public Broadcasting for stabilization grants to maintain programming services to provide small and rural public telecommunications stations.