



## COVID-19 Funding & Resource Information

Last updated: **June 16, 2020**

*\*\*\*This document is no longer being updated, as PPP forgiveness has been largely clarified and the Main Street Lending Program has launched \*\*\**

*Please continue to add comments or questions as you would like. All information herein is based upon sources believed to be accurate, but we make no warranties about accuracy, suitability or completeness for any reader and/or for any purpose. Please contact [slord@burklandassociates](mailto:slord@burklandassociates) with questions or comments.*

**About Burkland:** [Burkland Associates](#) offers expert CFO, bookkeeping and tax services to startups across the country. Please [reach out to us](#) if you'd like to learn more about what we can do for you or have questions about federal, state and local resources available in response to the COVID-19 outbreak.

### SUMMARY

The CARES Act ([PDF of final legislation here](#)) became law on March 27, 2020 and provides for substantial loans/grants administered by the [Small Business Administration](#) to firms impacted by the virus as well as certain industries, employees, independent contractors and self-employed.

#### Quick Links:

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[Economic Injury Disaster Loan](#)

[Paycheck Protection Program \(PPP\)](#)

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## **\*\*Updates\*\***

### **=> 16 June**

- The [Lender portal](#) for the Federal Reserve's Main Street Lending Program has launched, the first step in rolling out the liquidity support program for small and medium-sized businesses. [Forms and documentation requirements](#) are also available. The Fed also expanded the program, adding non-profits as eligible, dropped the minimum loan size to \$250K, and extended the maturity of notes made under the program to five years from four (among other changes). The [Boston Fed](#) has set up the SPV for the program and is providing information about it to lenders and borrowers.

### **=> 5 June**

- President Trump has signed the PPP Flexibility Act, which makes several changes to the Payroll Protection Program desired by lenders and borrowers alike. Here's a [good summary by Forbes](#) and [another one by the National Law Review](#). Treasury implementation by revised Interim Final Rule is still pending.

Key points:

- Amount of the PPP loan dedicated to payroll in order to qualify for forgiveness dropped from 75% to 60%
- "Covered Period" in which to use PPP funds following receipt expanded from 8 weeks to 24 weeks, or the end of 2020, whichever comes first
- The deadline to rehire furloughed workers in order to avoid a forgiveness haircut extended from June 30 to December 31, 2020.
- Repayment period for any funds that are not forgiven extended from two years to five years. Interest rate on the stub portion remains 1%, with no payments due until January next year.

### **=> 20 May**

- The AICPA has released an [in-depth Excel calculator](#) for translating the PPP forgiveness application into spreadsheet format. As per the AICPA's web site, "This calculator uses available guidance from the SBA and Treasury to track eligible costs covered by the PPP and provides a look at how much of your PPP loan may be eligible for forgiveness."

### **=> 19 May**

- From [Burkland's Smarter Startup blog](#):  
The U.S. Treasury and the SBA [recently released long-awaited guidance](#) on just how Payroll Protection Loans would be forgiven, a key element of the CARES Act. The guidelines provide clarity on several key questions that have arisen as lenders and borrowers have implemented the PPP over the past several weeks. Summarizing the key points:

## 1 - PPP FORGIVENESS COVERED PERIOD CLARIFICATION

Initially, eligible payroll expenses had to be paid in the eight weeks following receipt of PPP funds, but that timing doesn't always line up with a company's payroll periods. In response, the SBA is allowing borrowers to calculate an alternative period starting at the company's next payroll period and going eight weeks from that date instead. Note that this alternative covered period is only applicable to payroll costs, which (as before) must account for 75% of the loan proceeds.

## 2 - INCURRED OR PAID CLARIFICATION

The initial CARES Act language and subsequent interim final rules, non-payroll expenses eligible for forgiveness (defined as rent, mortgage interest, and utilities), needed to be paid AND incurred during the eight-week period in order to qualify for forgiveness. In the new guidance, this language was shifted to paid OR incurred, and companies are explicitly allowed to pay expenses incurred during the eight weeks on or before the next regular billing date, even if such date is after the end of the eight weeks.

## 3 - FULL USE

The guidance also clarifies that a business owner does not need to spend the full amount of her PPP loan within the eight-week covered period in order to receive any forgiveness - not all of a PPP loan needs to be exhausted for eligible expenses to be forgiven.

## 4 - PAYROLL COSTS

The CARES Act and subsequent documentation wasn't very clear on just how a company should navigate the employee and payroll rules in order to maximize forgiveness. After all, the primary purpose of the PPP is to retain jobs and keep workers employed, so the law had consequences on forgiveness if a borrower didn't maintain headcount and salaries at pre-COVID levels, but they weren't well defined.

No longer. If a company's headcount or payroll doesn't match pre-crisis levels, the amount of forgiveness will likely fall. The forgiveness application includes a worksheet where lenders and borrowers alike can calculate how much their forgivable amount will decline based on a number of factors such as a decline in employee headcount and drops of more than 25% in employee pay for workers who earned less than \$100,000 last year. Importantly, the application clarifies the "restoration exemption". The reduction in loan forgiveness described above is waived when reductions in full-time equivalents or average hourly wages and salaries took place between February 15 and April 26, 2020, or when the number of pre-COVID full-time equivalents and compensation are restored by June 30,

2020. Also, the new guidance clarifies that forgiveness amounts will not be reduced for employee reductions related to offers to rehire that are declined, terminations for cause, or employees who resigned voluntarily.

Also, the guidance clarifies the definition of full-time equivalent (FTE) employees and how to count part-timers. To calculate payroll costs, full time means 40 hours per week, while for part-timers, borrowers can either take weekly hours worked and divide by 40 to determine a percentage FTE, or count 40-hour employees as 1 FTE anyone on a part-time basis as a .5.

#### 5 - SELF-EMPLOYED CLARIFICATION

The guidance also clarifies self-employed individuals or general partners are capped at a total forgivable amount of \$15,385 per individual or eight weeks of 2019 income, whichever is less.

#### 6 - FOREIGN WORKERS CLARIFICATION

The SBA's rules around affiliation were a significant source of uncertainty early in the PPP process, particularly around the size and involvement of VC and PE investors. In the forgiveness application, the SBA has clarified that to determine a company "size" for purposes of the under 500-employee eligibility test, employees of the company and all of its domestic and foreign affiliates should be included. This means ALL employees, including those residing outside the US and those of foreign affiliates, should be included in the calculation.

However, because of the confusion when the PPP was first announced, SBA will not find any borrower that applied for a PPP loan prior to May 5, 2020, to be ineligible if they excluded non-U.S employees from their calculations as long as the borrower, together with affiliates, had no more than 500 employees whose principal place of residence is in the United States.

Despite the clarifications included in the forgiveness application, several questions remain. For instance, the eight-week provision is problematic if local orders bar a company from reopening for all or some of that period - should a restaurant rehire and pay laid-off workers although it can't reopen just to get the forgiveness, and lay them off again afterwards? For such borrowers, flexibility on when to apply the eight weeks would allow them to align their business operations with the intent of the law, which is to save jobs.

Also, continuing a theme evident almost since the ink was dry on the CARES Act itself, borrowers will need to certify in the forgiveness application whether the total PPP loan (including affiliates) was for \$2M or more, as well as affirm the information provided was true and correct and that PPP loan proceeds were used for authorized purposes. Importantly, the forgiveness application does not require the borrower to recertify need or

economic uncertainty.

#### => 28 April

- U.S. Treasury Secretary Mnuchin was on CNBC this morning and announced plans to [audit PPP borrowers with loans above \\$2M](#) as outrage grows over potential abuse of the program by large, public and/or well-capitalized companies.
- If your PPP loan application with Bank of America has gone nowhere fast, you're not alone. The bank [has reportedly filed 184,000 applications with the SBA](#) since submissions restarted yesterday morning but has received only ~1,000 approval numbers back. BofA had a further 48,000 applications to send in as of Tuesday afternoon submitted more than 239,000 applications since the PPP program launched April 3, [according to Bloomberg](#).

#### => 27 April

- The SBA gave notice Sunday night that [lenders will be limited](#) to originating a [maximum of 10%](#) of PPP funding authority (exclusive of the additional \$60 billion preserved for lenders with assets under \$50 billion). This effectively means no bank will be able to lend more than \$60B. In the first round of funding, none of the 5,000-odd lenders accounted for more than 5% of the \$349 billion appropriated.
- Although probably moot by now, here's a recent Forbes article [lists all the non-bank lenders](#) participating in the PPP program.
- The [newest guidance from the U.S. Treasury](#) contained an important clarification about employees. For the purposes of loan eligibility, the SBA counts the term "employee" to include full-time and part-time W2 workers. This matters when determining whether the company qualifies as having less than 500 employee. However, when it comes to PPP loan forgiveness, the CARES Act uses "full time equivalent employees" in calculating the extent of layoffs or RIFs.

#### => 24 April

- The [President has signed](#) the \$484B *Paycheck Protection Program and Health Care Enhancement Act*, which provides supplemental funding to replenish the PPP program and provide billions more for hospitals and expanded testing. The PPP program receives \$310B under the new legislation and is officially back in business.
- The SBA will [resume processing applications](#) through eTran Monday morning at 1030 AM ET. By some estimates, the new appropriation could be fully reserved within two or three days as banks quickly work through their queues.
- The U.S. Treasury has [added new guidance to its FAQ](#) document regarding PPP loans, quietly slipping in Questions 31-35 to the oft-revised document. As scrutiny builds on companies receiving PPP loans, the guidance reminds borrowers that they must attest *in good faith* as to the necessity of the loan. The FAQ says companies with substantial market value and access to public markets "should be prepared to demonstrate to SBA, upon request, the basis for its certification." While aimed primarily at public companies, it's a good reminder that ALL companies receiving PPP loans should be able to make such a demonstration if need be.

- Also in the new Treasury guidance: A safe harbor provision in which borrowers can return PPP funds by May 7 without penalty if, in retrospect, the loan should not have been taken. A [good article from Holland and Knight](#) goes over this development, as well as detailing some compliance best practices to avoid problems down the road.

#### => 22 April

- Legislation for supplemental PPP funding is awaiting a House in-person vote tomorrow and an expected presidential signature later the same day or early Friday. This means the earliest the SBA will re-open eTran for applications is probably Friday afternoon or Monday morning, at which point the banks will resume processing from their internal queues. [Given the spotlight](#) some banks are receiving, expect applications to be processed faster and on a strictly first-come/first-serve basis from here.
- Attention is turning to the **forgiveness** provisions of the PPP loan, and we've had many questions about just how the forgiveness process will work. Burkland has compiled a [summary of best practices for forgiveness](#), including calculations, FTE requirements and what we know right now in terms of required documentation.
- Note that employees who took covered leave under the FFCRA starting April 1 are going to start returning soon, and this [post from McAfee Taft](#) sums up a company's obligations to them under the new rules.

#### => 21 April FLASH - PPP Replenished

- The Senate has [finally passed](#) the supplemental funding bill, adding \$310 billion to the PPP program as part of a \$484 billion package that also included money for hospitals and expanded testing. The relief bill now goes to the House for a Thursday in-person vote, where it should pass. President Trump has [tweeted](#) support for the bill, meaning the PPP program should be back in business by the end of the week.

#### => 20 April

- Burkland's [R&D tax credit](#) webpage is up, complete with a tax credit calculator. Please reach out to us if you have questions on this valuable credit.
- Reminder from one of our CFOs - full forgiveness of PPP proceeds is *not* guaranteed. It will be determined by the lender within 60 days of receiving "required documentation and certifications from the borrower" as per the Act, so companies should be sure to accrue not only the loan proceeds, but also the interest expense accrual/interest payable until such time as the loan is forgiven and/or paid off in its entirety.
- Regarding the Main Street Lending Program, the Fed has not yet published additional guidance. However, several groups, including the American Bankers Association, are [pushing the Fed](#) to allow more flexibility on some of the terms of the loan facilities, including maturity, principal amount and coupon rate. Stay tuned.

#### => 17 April

- [Carta will accept](#) PPP loan applications through Coastal Community Bank once supplemental funding is approved. The company will leverage its equity management platform and valuation work to help with applications and underwriting.
- No movement in the ongoing PPP funding debacle beyond rhetoric. The next Senate pro-forma meeting is on Monday. Fingers remain crossed.
- The U.S. Chamber of Commerce has [published a guide](#) to help independent contractors understand how the CARES Act can help them.
- The new Emergency Family & Medical Leave (EFMLA) & Emergency Paid Sick Leave (EPSL) programs contained in the Families First Coronavirus Relief Act have important changes for employers. Anyone considering RIFs or layoffs should make sure they understand the requirements in these new programs and get counsel to weigh in when necessary. Here's an [FAQ from Baker Hostetler](#) that pretty much sums it up.
- The third article in Burkland's [Scenario Planning blog series](#) was posted today, and has great insights for reducing costs and obtaining capital in this environment.

#### => 16 April

- The [SBA published a notice](#) this afternoon declaring the PPP program officially on hold pending additional funding from Congress. I'm still optimistic that a deal will get done, and [negotiations apparently intensified](#) today now that the SBA has approved loans up to the CARES Act initial appropriation of \$349B. But it is clearly unfortunate that even in this once-in-several-generations moment, both sides are placing politics over service...as for applications pending, my sense from several conversations is that banks will do their best to queue the applications that didn't get funds reserved the initial tranche so they can be uploaded quickly once funding is restored. Fingers crossed.
- Regarding the **Payroll Tax Deferral** program, please make sure you're aware of the dates (March 27 - December 31, 2020.) and mechanics. The deferrals should be available as an option in most payroll tax systems (Gusto, Trinet, Justworks, Rippling, etc.). For anyone who chose to defer payroll taxes for the rest of the year, just accrue the deferred payroll tax expense and record it as payroll tax liability on the balance sheet at the end of each month. Use the [payroll deferral calculator](#) we developed to calculate the accrual and liability for each month.
- Burkland's 3-part series on **Scenario Planning** continues with a new post on [Three Tools to Extend Cash Runways](#). These posts are a great resource for working on go-forward plans.

#### => 14 April

- U.S. Treasury and SBA have released an updated [Interim Final Rule](#) clarifying, among other things, a number of issues facing ICs, sole proprietors, or the self-employed (basically meaning anyone bringing income down to a Schedule C). The high points:
  - Individuals with self-employment Income who file Schedule C are eligible for a PPP loan if they were in operation on February 15, 2020, had a principal place of



- residence in the United States, and filed (or will file) a Schedule C for 2019.
- Such individuals calculate their PPP loan amount by taking 2019 net profit (on Schedule C line 31) dividing by 12, and multiplying by 2.5. Only count the first \$100K of net profit.
- Documents likely to be required as part of the PPP application:
  - 2019 Schedule C, regardless of whether it has been filed yet with the IRS,
  - 2019 1099s detailing non-employee compensation received, or invoices/bank statements etc. to show self-employment
  - 2020 invoices or bank statements establishing operations on or around February 15, 2020.
- Self-employed individuals with employees should follow the guidance already established for employers with payroll records.
  - Use of proceeds: ICs/self-employed individuals may use the PPP proceeds during the eight weeks following disbursement as follows:
  - Owner compensation replacement (the equivalent of payroll costs if no employees)
  - Mortgage interest, rent or utilities incurred by the business \*as long as\* they were claimed or are eligible to be claimed as deductions in 2019.
- Forgiveness - Limited to eight weeks' (8/52) worth of 2019 net profit, plus business-specific mortgage interest, rent and utilities costs deducted in 2019 or eligible to be deducted in 2020. At least 75% of the amount forgiven must be attributable to payroll costs.
- The SBA officially updated the information about the **EIDL emergency advances**, confirming in emails to applicants that they will authorize \$1K per employee on the books as of Jan 31, up to a maximum of \$10,000.
- [New IRS guidance](#) is out about how employers can defer payment of employer-paid social security taxes while simultaneously awaiting forgiveness of a PPP loan. Details:
  - Work with your payroll provider or PEO for deferring employer-paid social security tax while your PPP loan is pending. The deferral \*no longer\* impacts your eligibility for a PPP loan.
  - Once the lender notifies the company that loan is forgiven, immediately resume paying social security taxes due after the date of the decision.
  - Amounts deferred prior to the date of forgiveness are to be paid back 50% December 31, 2021 and 50% December 31, 2022. No penalties or interest will be levied on deferred amounts.
  - Payroll systems will be updated to set up the deferrals and, more importantly, ensure the resumption of social security tax payments occurs once the PPP loan is forgiven. There is a good [post on this topic at Burkland's web site](#).

=> 13 April

- IMPORTANT: The U.S. Treasury has [updated their FAQ again](#), this time adding several additional questions relevant to lenders and providing additional guidance on the affiliation rules pertaining to franchises and companies whose NAICS code starts with



72. Importantly, this guidance also clarifies the extent to which lenders must verify the beneficial ownership information of anyone owning 20% or more of a new customer, as required by the Bank Secrecy Act. This has jammed lenders from opening their application process to new customers, since the requirements for banks to “know their customers” were not softened in the CARES Act and thus placed an administrative cost onto loans with little economic upside for the bank.

- PayPal, Intuit and Square [have been approved](#) to participate in PPP loans. The firms, along with many other non-bank institutions, have been lining up to process applications for the loans for the past few weeks. [Paypal](#) and [Square](#) are focusing on existing merchants; [Intuit](#) has launched for customers of its payroll service first and will add quickbooks users next.
- PPP by the numbers...data about loans being processed is starting to flow. As per [Politico](#), 904,000 PPP applications were approved for a total of \$221 billion as of Monday. Note “approved” does not mean “deposited” - there is still a gap between what the SBA is saying it has approved and what business owners are saying they have received.
- [Here's a great site](#) tracking self-reported results from PPP and EIDL applications. One interesting observation is the high number of EIDL applicants who only received a fraction of the \$10K emergency grant. [A NASDAQ article](#) that featured the tracking site breaks down the PPP data as of today:
  - 2.4% of businesses report receiving PPP loan disbursements
  - 91% got the full amount they applied for
  - \$84,000 is the median PPP loan received
  - 84% of PPP Loans disbursed came through small/regional banks
  - 10% of PPP Loans disbursed came through JP Morgan Chase

#### => 10 April

- [Citibank](#) became the last bank in our initial Participating Lenders list to go green, i.e. begin accepting applications. It's with a catch, though - according to their web site, Citi will be first reaching out to those customers from whom they'd like to take an application, ostensibly to avoid the portal crush experienced by other banks.
- [Good article in The Hill](#) about the ongoing negotiations in Washington to get supplemental funding into the PPP program as well as a host of other initiatives, including additional capital for municipalities, an infrastructure bill, and a sweeping CARES 2 Act that would address shortcomings in the original \$2.2 trillion measure. Sen. Pelosi (D-CA), Sen. DeFazio (D-OR) and U.S. Treasury Secretary Mnuchin reportedly spoke today; the Senate meets pro forma again on Monday.
- The Fed's [Main Street Lending Program](#), nearly twice the size of the SBA's Payroll Protection Program, has received little attention since it was announced yesterday. Nonetheless, Fed vice chairman Quarles [was on CNBC today](#) and gave some details about the program, which should be up and running in 2-3 weeks. Main points:

- For companies with up to 10,000 employees
  - 2019 Revenues less than \$2.5B
  - Minimum loan size = \$1 million
  - Four-year term
  - Coupon = Fed Secured Overnight Financing Rate (SOFR, currently 0.01%) plus 250-400 basis points
  - Principal and interest payments deferred for a year.
  - No prepayment penalty.
- I'm hearing anecdotally that the SBA may be curtailing the \$10K EIDL advance to only \$1K per employee. It's unconfirmed - the original source cited a link to an SBA district notice that has since been pulled - but I'd be surprised if this turned out to be permanently true, even if enacted for expediency at the moment. Stay tuned.
  - If you didn't see it yet, [First Round Capital published an excellent guide](#) on how startup founders and their teams should be thinking about the crisis and steps necessary to navigate it successfully. With the initial crush regarding SBA loan programs starting to ease, the next phase of this crisis will involve scenario planning and helping clients understand next steps, so this article is especially timely.

#### => 9 April

- Hopes for rapid passage of the supplemental funding for the PPP program were dashed today, as the [Senate failed to pass a procedural vote](#) that would have sent the \$250B bill to the House without debate.
- The Treasury Department has expanded the [FAQ published yesterday](#) with additional questions. Important:
  - Q) When does the eight-week forgiveness period begin with regards to payroll costs under a PPP loan?
  - A) On the date the lender makes the first disbursement of the PPP loan to the borrower.

#### => 8 April

- Little in the way of new guidance today except for [some back and forth](#) on Capitol Hill about the \$250B supplemental funding request from the Treasury.
- Missing from any of the SBA/Treasury guidance is how partnerships should approach payroll cost calcs - owners of Sub S corps, single-member LLCs, LLPs, etc. all have income streams that differ from traditional "payroll" and thus don't fit well into online banking portals. Best bet for now: Use the partnership's net income since that's what the owner(s) pays taxes on.

#### => 7 April

- IMPORTANT: A new [Treasury FAQ](#) addresses several common questions surrounding the PPP program. New definitive guidance for borrowers as follows:

- If a minority shareholder irrevocably gives up rights that would have otherwise presented control issues for the purposes of affiliation, that shareholder will NOT be considered an affiliate of the business.
- The \$100,000 annual salary cap applies ONLY to cash compensation, NOT to non-cash benefits paid by the corporation for things like health care, retirement plans, etc. Such costs are not pro-rated or otherwise reduced per-employee.
- Time periods to calculate average monthly payroll costs:
  - The previous 12 months or calendar year 2019
  - Seasonal businesses - average monthly payroll for the period between February 15 or March 1, 2019 and June 30, 2019
  - Not in business during those periods? Use average monthly payroll costs for the period January 1 - February 29, 2020.
- Reiterating: Independent contractors ARE NOT included in Payroll Costs.
- Employee salaries are included on a GROSS basis, i.e. without regard to taxes imposed or withheld. Federal payroll taxes are taken out of the loan calc as a lump sum not as an adjustment per employee. If you pay an employee \$5K/mo. In salary, count the full \$5K for the purposes of calculating the payroll costs.
- Treasury has [formally requested](#) an additional \$250B from Congress for the PPP program.
- The Senate may vote to appropriate an additional \$250B to the PPP loan program as early as Thursday 9 April, according to [this Politico report](#). The program has strong support from both parties in Congress and the president, although the House may seek to expand the funding to avoid piecemeal increases.
- Fortune has published [a list of banks participating](#) in the PPP program. As with all such lists, this information is changing rapidly. As banks are slammed with applications and the SBA eTran infrastructure is reportedly crashing 3-4x per day, participation of any given bank itself doesn't guarantee the process is simple, smooth, or even successful at this point.
- An emerging best practice suggestion for companies as they start to apply for PPP loans - consider forming a separate sub account at your bank into which the loan proceeds will go. Then shift payroll and other costs qualified under the [forgiveness rules](#) to process from that account - this way, documentation is simple when the time comes to demonstrate what expenses qualify for forgiveness to the lender.

#### => 6 April

- Wells Fargo is [no longer accepting](#) PPP loan applications after receiving \$10B in requests in under 48 hours. The bank will reportedly still work with nonprofits and companies with less than 50 employees. Wells Fargo was the largest small-business lender in the U.S. last year.
- [Good article on Forbes](#) that summarizes where and why there has been so much confusion around PPP calculations and gives some great perspective on how the intent of the CARES Act should drive those calcs.
- [Fundera](#) has published a [list of banks](#) accepting PPP applications, along with links to

their respective pages. You can also apply through Fundera, who says they can "direct your application to the lender with the most bandwidth." Potentially a good option if your bank isn't participating.

#### => 5 April:

- [Quickbooks Online](#) will launch an application prep module for PPP applications on 8 April using information available in QBO. QuickBooks Online Payroll customers will be first; additional QuickBooks and Intuit Online Payroll customers will follow.
- [SVB](#) has sent an email to clients that they expect to start accepting applications to companies that had submitted an "[expression of interest](#)" with the bank starting 6 April.
- Posting [article from CNBC](#) that suggests additional funds for CARES Act programs will be immediately requested from Congress if need be. President Trump echoed this as well in a [Saturday tweet](#)
- Changed [US Bank's](#) application acceptance from "All" to "Existing" based on email correspondence received today. The bank is "building the process to accept applications from non-U.S. Bank customers who have businesses in states where we have branches. Non-customers will require additional, manual verification steps that will add time to the process."
- Posting two docs from Treasury: [Interim Final Rule on Affiliation](#) and [Affiliation Rules](#) document that describes four tests to determine affiliation:
  - Affiliation based on ownership (more than 50%)
  - Affiliation arising under stock options, convertible securities, and agreements to merge (note that this assumes full dilution)
  - Affiliation based on management
  - Affiliation based on identity of interest (faith-based organizations are exempt)
- Re-linking [U.S. Treasury](#) and [Small Business Administration](#) COVID19/CARES Act web pages as information on them has expanded significantly in the past several days.

#### => 3 April:

- Several banks report taking applications today, mostly for existing customers. See [Participating Lenders](#).
- Adding this [Heavy article](#) as a good resource on top banks that participate in SBA. Includes links. May become dated quickly.
- SBA has consolidated some information in a new [Small Business Guidance & Loan Resources](#) page .
- Treasury and SBA have released an [updated PPP application](#) and updated [fact sheet](#). Key differences:
  - Expanded questions on app regarding residence of employees, franchises, certifications.
  - Application dates:
    - **Starting April 3, small businesses and sole proprietorships** can apply for and receive loans to cover their payroll and other certain expenses through *existing SBA lenders*.

- **Starting April 10, independent contractors and self-employed individuals** can apply for and receive loans to cover their payroll and other certain expenses *through existing SBA lenders*.
- Other regulated lenders will be available to make these loans as soon as they are approved and enrolled in the program.

#### => 2 April:

- Treasury has published [“Interim Final Guidance”](#) on the Payroll Protection Program (web link [here](#)). Initial key points/clarifications:
  - Payroll Costs: Compensation to employees (whose principal place of residence is the United States) in the form of:
    - Salary, wages, commissions, or similar compensation
    - Cash tips or the equivalent (based on employer records of past tips or a reasonable, good-faith estimate);
    - Payment for vacation, parental, family, medical, or sick leave;
    - Allowance for separation or dismissal;
    - Group health care coverage, including insurance premiums, and retirement;
    - State and local taxes assessed on compensation of employees
    - Salary cap remains \$100,000.
  - Independent contractors DO NOT count as employees for purposes of PPP loan calculations, as they have the ability to apply for a PPP loan on their own.
  - For Independent contractors or sole proprietors filing for PPP loans: Count wage, commissions, income, or net earnings from self-employment or similar compensation.
  - 1% coupon on unforgiven portion of PPP loans (up from 0.5%). 2-year maturity.
  - No additional guidance on Affiliation - “SBA intends to promptly issue additional guidance with regard to the applicability of affiliation rules at 13 CFR §§ 121.103 and 121.301 to PPP loans.”
- New Burkland blog post by Ardy Esmaeili, head of Burkland’s tax practice - [“17 things to Know about Paycheck Protection Program \(PPP\) Loans](#)
- New Pepper Hamilton [SBA Affiliation](#) post. Good summary of “good” and “bad” veto rights and control provisions.

#### => 1 April:

- Treasury guidance clarifies Independent contractors are NOT included in the payroll costs calculation when applying for PPP loans. IC’s should apply directly themselves - PPP is only intended for W2 to prevent double dipping. (Note: this is a big question mark right now -- the banks are trying to clarify this with the SBA and Treasury)
- Treasury further clarifies remaining balances after forgiveness will be on a 2-year term at 0.5%. Some indications that draft PPP application form may be updated.
- Added Lowenstein Sandler [guidance on Affiliation](#).
  - Key takeaway: “While we understand that the affiliation analysis, in some

*circumstances, will deem a venture-backed company ineligible for the program, we believe that a number of venture-backed startups and growth companies should be found eligible.”*

**=> 31 March:**

- The SBA and U.S. Treasury released the [PPP Application form](#) and some initial [program information](#) and [guidance for borrowers](#). Additional guidance is expected from the SBA over the next two weeks. What we learned:
  - Existing SBA lenders will begin accepting applications on **3 April 2020**.
  - Applications can be made to any existing participating SBA lender OR federally insured depository institution or credit union.
  - Additional lenders will be certified over the next three weeks.
  - Deadline to file is 30 June 2020.

Changes from our initial understanding:

- Loan size: Average monthly payroll costs from the last year, x2, plus 25%.
- Loan term: 0.5% fixed, two-year term for any balance not forgiven.
- Forgiveness: Potentially no more than 25% of the forgiven amount may be for non-payroll costs due to high participation

**=> 31 March:** Re-linked a number of docs that were initially inaccessible. Apologies for any confusion...if you have requested access to a linked document, please try again below:

|                                                                              |                                                                       |                                                  |
|------------------------------------------------------------------------------|-----------------------------------------------------------------------|--------------------------------------------------|
| <a href="#">US Chamber Commerce virus smallbiz loan final</a>                | <a href="#">The_Small_Business_Owner_s_Guide_to_the_CARES_Act.pdf</a> | <a href="#">FINALFINAL-CARES-ACT.pdf</a>         |
| <a href="#">State Financial Relief Information for Small Businesses.docx</a> | <a href="#">SBIA-Summary-of-Final-CARE S-Act-3-27-20.pdf</a>          | <a href="#">SBA affiliation discussion 0.pdf</a> |
| <a href="#">20.03.25 Choate SBA Client Alert.pdf</a>                         |                                                                       |                                                  |

**=> 30 March:** heavily streamlined SBA Economic Injury Disaster Loan [application](#) released. Much simpler and faster to complete.

**=> 30 March:** Updated [NVCA guidance here](#). No further clarification yet on Affiliation standards, which is a potential hurdle for many venture- and PE-backed companies.

## DECISION TREE

What are you looking for? Do you need:

|                                                               |                                                   |
|---------------------------------------------------------------|---------------------------------------------------|
| Significant capital to cover the cost of retaining employees? | Go to <a href="#">Paycheck Protection Program</a> |
|---------------------------------------------------------------|---------------------------------------------------|

|                                                                                |                                                              |
|--------------------------------------------------------------------------------|--------------------------------------------------------------|
| Quick infusion of a smaller amount of cash to cover working capital right now? | Look into <a href="#">Economic Injury Disaster Loans</a> .   |
| Ways to stay current on current SBA loans?                                     | Go to the <a href="#">Small Business Debt Relief Program</a> |
| Helpful resources to do your own research?                                     | These <a href="#">links are a good place to start</a>        |
| Information on tax credits & programs?                                         | Go to the <a href="#">Tax Matters</a> section                |
| Banks that typically work with startups?                                       | <a href="#">These SBA lenders</a> may be good place to start |

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## ECONOMIC INJURY DISASTER LOAN (EIDL)

Working capital loans with favorable terms to help small businesses operate over the next few months. Eligible borrowers are small businesses who have suffered substantial economic injury as a result of a declared disaster, i.e. the company is unable to pay ordinary and necessary operating expenses. [SBA affiliation rules](#) apply, as modified by the Act.

- Disaster declarations: All U.S. states, Washington D.C., and territories
- Loan amounts: Up to one half of the prior year's gross profit, usually not more than \$500,000.
- Permissible uses: Working capital, fixed debt payments, payroll, accounts payable, etc.
- Terms: 3.75% for up to 30 years.
- May not be used for other purposes, such as dividends or non-fixed indebtedness.
- Collateral: Loans over \$25,000 will require collateral, if collateral is available
- Personal Guarantees: Yes, for owners of 20%+
- Deferral: Yes, first year of principal and interest payments may be deferred.
- Application Process: Online via the [SBA website](#)
- Emergency Advance: \$10,000 (must be paid in three days to the borrower even if you are later denied a loan)
- Filing deadline: December 16, 2020

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. Note: EID loans do not preclude applying for or receiving a Payroll Protection Program loan (discussed below) or refinancing an existing EIDL into such a loan. Any advance amount received under the Emergency Economic Injury Grant Program will be subtracted from any amounts forgiven in the Payroll Protection Program, and any EIDL made between February 15, 2020 and June 30, 2020 can be refinanced into a PPP loan by add the outstanding loan amount to the payroll sum.



## PAYCHECK PROTECTION PROGRAM (PPP)

This program provides 100% federally guaranteed loans to employers who maintain their payroll during the crisis. Details:

**Amount =>** The lesser of (i) 2.5 times average monthly payroll costs based on the prior year's payroll costs (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 =>** A key term in the Act, defined as compensation paid to W2 employees in the form of salaries, commissions or similar, including severance, tips, vacation pay, family/parental leave and sick leave. Payroll costs also include health care benefits, including paid sick or medical leave, and insurance premiums. *\*\*\*Updated 1 April to remove independent contractors as per Treasury guidance - IC's should apply themselves and are included in the Act accordingly.\*\*\**

### Eligibility:

- Businesses and entities in operation on February 15, 2020 and harmed by COVID-19 between February 15, 2020 and June 30, 2020.
- Small business concerns, as well as any business concern, a 501(c)(3) nonprofit organization, a 501(c)(19) veterans organization, or Tribal business concern described in section 31(b)(2)(C) that has fewer than 500 employees or fewer employees than established by the relevant industry code.
- Individuals who operate a sole proprietorship or independent contractor, and eligible self-employed individuals.
- Any business concern that employs not more than 500 employees per physical location of the business concern and that is assigned a [North American Industry Classification System](#) code beginning with 72 (accommodation and food service) for which the affiliation rules are waived.
- Affiliation rules are also waived for any business concern operating as a franchise that is assigned a franchise identifier code by the Administration, and a company that receives funding through a Small Business Investment Company (SBIC).

Fees: SBA borrower and lender fees are waived  
Prepayment fees are waived

### Important Program Waivers:

- No requirement to be unable to obtain credit elsewhere.
- No personal guarantees
- No collateral required.

Loan Cap: \$10,000,000

Covered Period => Retroactive to February 15, 2020, in order to help bring workers who may have already been laid off back onto payrolls. Loans are available through June 30, 2020.

Loan Origination => Through the existing network of approved SBA lenders. The U.S. Treasury and SBA will work to expand the list of lenders over time. Such designated lenders may approve loans with delegated SBA authority (i.e. no separate SBA approval required). SBICs and BDCs may qualify as "additional lenders" under this emergency program.

Lender reimbursement rates:

- 5% on covered loans <\$350K
- 3% on covered loans \$350K-<\$2M
- 1% on covered loans \$2M+

Review and Approval: Delegated by the SBA to lenders themselves for eligibility determinations, which will speed processing significantly. Estimates are loans will close in 5-7 days.

Permitted Uses:

- Payroll Costs
- Health care benefits (including paid sick or medical leave, and insurance premiums)
- Mortgage interest obligations (principal is not eligible)
- Rent obligations
- Utility payments
- Interest on other debt obligations incurred prior to February 15, 2020

### **PPE Loan Amount**

For the trailing twelve months prior to the date of the loan (use March 30 if applying in the next few weeks), calculate the average total monthly costs of:

"Payroll Costs as defined above BUT excluding the prorated portion of any compensation above \$100,000 per year for any person. In other words, a person making \$125K is only counted as \$100K for the purposes of the calculation.

Group healthcare benefit costs and insurance premiums

Any State or local taxes assessed on the compensation of employees

Note: "Payroll Costs" DOES NOT INCLUDE:

- Federal Payroll Taxes
- Any compensation of an employees whose principal place of residence is outside

of the United States

- Qualified sick and family leave wages for which a credit is allowed under the Families First Coronavirus Response Act

Calculate the potential loan components by taking the cost of each item, divide by 12, and then multiply by 2.5. For instance, if payroll was say \$500,000 over the period, take  $\$500,000/12 = \$41,660 \times 2.5 \Rightarrow \$104,160$  is added to the loan total.

- Add up those calcs across payroll, healthcare and payroll taxes. The loan will be the lesser of a) that total, or b) \$10 million.

**Payment Deferral =>** Not less than 6 months and not more than 1 year, including payment of principal, interest, and fees, at the determination of the originating lender.

**Loan Forgiveness =>** The Act includes provisions to forgive some or all of loans taken out under the Payroll Protection Program. Details:

- Amount: Provided borrower demonstrates that loan proceeds were used for eligible purposes during the 8-week period after loan origination date, amounts spent on:
  - Payroll costs (excluding individual compensation in excess of an annual salary of \$100,000)
  - Rent
  - Mortgage interest (but not prepayments or principal payments) and rent payments on mortgages and leases in existence before February 15, 2020
  - Utilities, including electricity, gas, water, transportation, and phone and Internet access for service that began before February 15, 2020
  - Interest on other debt obligations incurred prior to February 15, 2020
- Borrowers will apply for forgiveness directly with the lender
- IMPORTANT: No documentation, no forgiveness - keep good records!
- The amount forgiven may not exceed the principal of the loan
- Remaining Balance => If a covered loan has a remaining balance after the forgiveness, the law provides for it to have a maximum maturity of 10 years and an interest rate not exceeding 4%. **\*\*UPDATED 1 April - Treasury guidance clarifies remaining balances after forgiveness will be on a 2-year term at 0.5%\*\***

**\*\*UPDATED 2 April - Treasury further clarifies that 75% of the forgiveness amount must be spent on payroll, with 25% on operational costs (see [Interim Final Guidance](#))**

- The amount of forgiveness will be reduced
  - In proportion to any reduction in the number of employees retained.
  - If any wages are reduced by more than 25%.
  - Restoration of employees previously laid off at the beginning of the period or wage or salary decreases made at the beginning of the period will not count against loan forgiveness as long as the restoration occurs prior to June 30, 2020.

## **Best Practices for PPP Loan Forgiveness** (based on information/guidance as of 23 April)

The Paycheck Protection Program (PPP) was created with the intention of providing funding needed to keep small businesses running during the COVID-19 pandemic. One of the most attractive features of the PPP loan is that all or a portion of the loan will be forgiven, if a borrower meets certain criteria. This is where things can get complicated.

Information on obtaining loan forgiveness is based on our understanding of the CARES Act as of 23 April and is subject to change as additional guidance is issued. We will update our [blog post on Loan Forgiveness](#) if our recommendations change based on new information and guidance.

### **Understanding The Ppp Loan Forgiveness Condition**

1. Expense purpose and categories to be qualified for forgiveness (allowable expenses)
  - Payroll Cost  
Eligible payroll costs include:
    - Gross salary, wage and commission
    - Employee Benefits vacation, parental, family, medical, sick leave or health benefits
    - State and Local taxes assessed on compensationExcluded payroll costs for loan forgiveness include:
    - Employer paid payroll tax (Social Security and Medicare taxes)
    - Employer paid leave amounts under the Families First Coronavirus Response Act (FFCRA)
    - Individual employee compensation above \$100,000 per year, prorated for the covered period
    - Compensation to employees whose principal place of residence is outside of the United States
    - Compensation to independent contractors
  - Rent - as long as the business lease agreement was in effect before February 15, 2020
  - Utilities - as long as the service began before February 15, 2020
  - Mortgage interest - as long as the mortgage was signed before February 15, 2020
2. Eight-week period (the "Covered Period") - the eight week period for allowable uses starts as soon as the business receives the loan. Know your start date and calculate your end date.
3. The 75% rule - at least 75% of the loan must be used for payroll cost in the Covered

Period. The remaining 25% can be used for other allowable expenses. Independent contractors are *not* included in the allowable expenses.

4. Full-time equivalent headcounts (FTE) - employers must maintain the number of employees on payroll during the Covered Period, i.e. the 8 weeks subsequent to receiving the loan. The SBA will reduce the loan forgiveness by the proportion in which the FTE headcount during the Covered Period is less than the pre-COVID 19 period.

To determine if you have met these staffing requirements:

- Calculate the average number of full-time employees you had for the following periods:
    - A. 8-week covered period
    - B. February 15, 2019 to June 30, 2019
    - C. January 1, 2020 to February 29, 2020
  - Take A and divide by B. Do the same with C. Take the largest number.
    - If you get 1 or larger than 1, you maintained your staffing requirement
    - If you get smaller than 1, your forgiveness will be reduced proportionately
5. Salary and Wage Requirement - employers must maintain at least 75% of total salary in the covered period compared to the pre-COVID quarter. The pre-COVID quarter is the most recent full quarter before the pandemic (Q1 2020 or Q4 2019...we are still awaiting for more guidance).
- This requirement will be individually assessed for every employee that did not receive more than \$100K salary. For those over \$100K, salaries are reduced to \$100K.
6. Rehiring requirement - Employers have until June 30, 2020 to rehire any employees that were laid off or furloughed, and reinstate any pay reductions made between February 15, 2020 and April 26, 2020.
  7. Managing Documentation And Record Keeping

Good record keeping will be critical for loan forgiveness. Your lender will require strict documentation to prove your expenses and how you used the PPP loan. Maintain the following documents from day one of your covered period. Your lender may require additional documentation:

- Payroll summary reports from your payroll providers (reflecting salary and wages, number of full time employees)
- Payroll tax filing (941)
- State income, payroll and unemployment insurance filings
- Health insurance invoice and payments
- Invoice and payment receipts, canceled check, bank statements or other documents verifying payment on rent, utilities and mortgage interest.

The key to maximizing the PPP loan forgiveness includes sound record keeping, companies should improve record keeping by obtaining receipts and maintaining an organized system for bookkeeping and document storage.

## Affiliation

*This is the stickiest point in the CARES Act for many Burkland clients.* The SBA determines affiliation for the purposes of the under-500 employee eligibility requirements. Control of a business may be established by, among other things:

- Ownership or control of, or the power to control, 50% or more of voting stock,
- A block of voting stock that is large compared to all other outstanding blocks of voting stock.
- The ability, under the company's charter/by-laws/shareholder's agreement, to prevent a quorum or otherwise block action by the BOD or shareholders.

In the case of affiliation, the company's employees are counted alongside those of all the controlling entity's other holdings. Example:

A company with 150 employees received financing through a venture capital round dominated by one investor, and that fund was granted preference/control rights. By the SBA's existing rules, the business concern is *deemed an affiliate of the fund* and of any other portfolio company controlled by the fund, and to have all the employees of the venture fund *and* the fund's other affiliated portfolio companies.

**Exceptions =>** The CARES Act provides that this regulation is waived with respect to businesses with <500 employees:

- With [NAICS](#) codes beginning with 72 (hotels, restaurants, etc.)
- Businesses operating as franchises
- Businesses receiving financial assistance from a firm licensed to operate as a small business investment company (SBIC) under Sec. 301/Small Business Investment Act of 1958

The apparent exclusion of most venture- and private-equity backed companies from the CARES Act has come under intense scrutiny since passage of the bill on March 27. Even prior to the COVID-19 crisis, affiliation determinations were complex and often on a case-by-case basis. We expect clarifying language/guidance from the Congress and/or SBA as soon as possible and will update this as soon as we have the information. [NVCA interpretation here](#)

Good resources regarding this issue:

- NVCA - [Legislative Update](#)
- Choate - [Client Alert on Eligibility](#)

- SBA - [Affiliation Overview](#)
- \*\*Updated 1 April\*\* => Lowenstein Sandler [guidance on Affiliation](#)

## FAMILIES FIRST RESPONSE ACT

This legislation was passed before the CARES Act and establishes:

- Expanded family and medical leave for employees affected by COVID-19
- Refundable tax credits for employers
- Effective: March 18, 2020 through December 31, 2020
- Key provision for employers - paid, job-protected sick leave required for employees at companies with 500 or fewer employees.

Qualifying leave reasons:

- Federal, State, or local quarantine or isolation order related to COVID-19;
  - Advised by a health care provider to self-quarantine related to COVID-19;
  - Experiencing COVID-19 symptoms and is seeking a medical diagnosis;
  - Is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
  - Is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19; or
  - Is experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.
- g. Unable to telework** (this is an important consideration since most clients have the ability to telework)
- Under the Act, an employee qualifies for expanded family leave if the employee is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19.
  - Coverage duration:
    - The first 14 days of leave must be paid 100% of normal pay rate up to the limits below
    - Subsequent to the first 14 days, employees paid at least 2/3 of their normal pay rate for up to 3 months, up to the limits below
  - Pay Calculations & Limits:
    - For leave reasons (a), (b), or (c) => Employees taking leave are entitled to pay at either their regular rate or the applicable minimum wage, whichever is higher, up to \$511 per day and \$5,110 in the aggregate (over a 2-week period).
    - For leave reasons (d) or (f) => Employees taking leave are entitled to pay at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$2,000 in the aggregate (over a 2-week period).



- For leave reason (e) => Employees taking leave are entitled to pay at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$12,000 in the aggregate (over a 12-week period).
- Cost coverage for Employers:
  - Employers can claim payroll tax credits to offset the costs of sick leave:
    - i. Wages as a credit up to \$511/day if the employee is sick
    - ii. Up to \$200/day if the employee is taking care of a family member.
    - iii. [Regulatory guidance](#) for how to claim credits:
    - iv. Additional information at [Department of Labor](#)
- Small businesses with fewer than 50 employees may qualify for exemption from the requirement to provide leave due to school closings or child care unavailability if the leave requirements would jeopardize the viability of the business as a going concern.
- Paid sick time provided does not carryover from one year to the next. Employees are not entitled to reimbursement for unused leave upon termination, resignation, retirement, or other separation from employment.

## **SMALL BUSINESS DEBT RELIEF PROGRAM**

This program will provide immediate relief to small businesses with non-disaster SBA loans, in particular 7(a), 504, and microloans. Under this program, SBA covers all loan payments, including principal, interest, and fees, for six months. This relief will also be available to new borrowers who take out loans within six months of the bill becoming law.

- Eligible => Borrowers with 7(a), 504 and microloans
- Does not include loans made under the Paycheck Protection Program (PPP)
- Does not preclude taking out a PPP loan

## **STATE AND LOCAL PROGRAMS**

Many cities, counties and states are enacting their own support measures for companies within their jurisdictions. CFOs should look for relevant programs at each municipal level where their clients are active.

### **CALIFORNIA**

=> [Disaster Relief Loan Program](#), currently available to small businesses needing assistance to overcome economic injury caused by COVID-19 through securing 95% guarantee on a bank loan.

=> [CA Employment Development Department](#) - Unemployment information & Links

San Francisco

- [SF Small Business Resiliency Fund](#) - \$10,000 for rent and salaries for small businesses with 1-5 employees. Applicants must show 25% or more revenue decline, <\$2.5m in sales and proper SF operating licences
- [SF Moratorium on Commercial Evictions](#) - 30 day moratorium for small and medium-sized businesses.
  - Effective March 17
  - May be extended
- [Deferral of Business Taxes & License Fees](#)
  - For companies with <\$10m in sales:
  - Payment of quarterly business taxes due April 30, 2020 to February 2021 Defers annual small business license and permit fee due dates until June 30, 2020.

#### NEW YORK

- [Paid Emergency Sick Leave](#)
- Abatement of NYS [Sales & Use Taxes](#)
- [Unemployment Assistance](#)

#### New York City

- [NYC Employee Retention Grant Program](#) provides grants for small businesses with fewer than 5 employees to cover 40% payroll costs for two months.
- [NYC Small Business Continuity Fund](#) - zero interest loans for up to \$75,000 for businesses with fewer than 100 employees.
- NYC Small Business Services - [Assistance & Guidance for Businesses Impacted](#)

#### ILLINOIS

##### Chicago

- [Chicago Small Business Resiliency Fund](#)
  - Starting March 31, small businesses in Chicago can apply for low-interest loans of up to \$50,000 with repayment terms of up to five years. The amount of the loan depends on revenues before the business was affected by the coronavirus.
  - Requirements:
    - 25% drop in revenue
    - <\$3 million in revenue
    - Fewer than 50 employees
    - No current tax liens or legal judgments.

#### TAX MATTERS

For companies *not participating* in the loan forgiveness program, tax relief may be available:

- Employee retention credit: 50% refundable tax credit applicable to the company's share of payroll taxes on wages up to \$10,000 per employee. Companies must demonstrate operations were suspended because of an official government order related to

COVID-19, or that revenues dropped by 50% or more compared to Q1/2019.

- Payroll Tax Holiday: Provides the option to defer payment of the company's share of Social Security taxes for the period beginning March 27, 2020 and ending before January 1, 2021.
  - Deferred amounts are repaid according to a schedule:
    - 50% by December 31, 2021
    - 50% by December 31, 2022

## **=> Tax changes under Title II of the CARES Act**

Section 2303 - Relaxes the limitations on a corporation's use of net operating losses (NOLs), which are currently subject to a taxable income limitation and cannot be carried back to reduce income in a prior tax year.

- An NOL arising in a tax year beginning in 2018, 2019, or 2020 can be carried back five years.
- Temporarily removes the taxable income limitation to allow an NOL to fully offset income. These changes will allow companies to utilize losses and amend prior year returns, which will provide critical cash flow and liquidity during the COVID-19 emergency.

Section 230 - Temporarily increases the amount of interest expense businesses can deduct on their tax returns:

- Increases the 30% limitation to 50% of taxable income (with adjustments) for 2019 and 2020.
- This provision will allow businesses to increase liquidity with a reduced cost of capital, so that they are able to continue operations and keep employees on payroll.

## **LINKS AND RESOURCES**

There is a tremendous amount of information available on these topics, although some are dated, incorrect or based on conjecture. Ones we have found useful in preparing this guide:

Extremely valuable - Start here for more research:

- ➔ Angel Capital Association - [The Small Business Owner's Guide to the CARES Act](#)
- ➔ Small Business Investor Alliance - [Summary of the CARES Act](#)

### Law Firms

Gibson Dunn - [Paycheck Program Summary](#)  
McAfee Taft - [SBA Loans and Related Relief](#)  
Locke Lord - [COVID-19 Resource Center](#)  
Fenwick - [CARES Act: What the Paycheck Protection Program Means for Startups](#)  
Skadden, Arps - [CARES Act Provides Stimulus for U.S. Businesses, Individuals](#)

Cooley - [SBA Programs Under the CARES Act: Are you Eligible?](#)

WSGR - [COVID-19 Client Advisory Resource](#)

## Tax

Deloitte - [Tax Policy Updates](#)

Withum - [COVID Resource Center](#)

O'Connor Davies - [Resource Center](#)

BDO - [Preparing for the Business Impacts of COVID-19](#)

Eisner Amper - [Cares Act Summary](#) \*\*Updated 31 March\*\*

## HR

Thread - [Webinars: COVID19 and the Workplace](#)

JustWorks - [Your Guide to Navigating COVID-19](#)

Mintz - [Insights Center](#)

## VCs/Finance

NVCA - [Coronavirus Information and Resources for VCs and Startups](#)

Insight Capital - [COVID-19 Blogs & Videos](#)

Multifunding - [FAQs](#), [Webinars](#)  
[State-by-State Financial Relief Links](#)

Duke University-Fuqua - [CASE COVID19 Dashboard](#). Grants, loans, and other cash equivalents for entrepreneurs, non-profits and businesses around the world. Searchable by national/global/local etc.

## Federal Resources

IRS - [Coronavirus Tax Relief](#)

U.S. Chamber of Commerce - [Small Business Guide and Checklist](#)

Small Business Administration

- [Main Site](#)
- [Affiliation Overview](#)
- [District Office Finder](#)

## Participating Lenders

As of April 3, a few banks are taking applications for PPP., but the majority are still working with SBA to put together the applications and process. We are still hearing the majority will be ready by April 10.

We believe all SBA lenders will ultimately participate in the program, including large banks like Wells Fargo, Chase, Citibank, US Bank, etc. We will update this list for those our startups typically work with as soon as we have more info. In the meantime, below is a list of lenders we understand are or plan to participate in the PPP loan program.

NOTE: This is a partial list at best, is in no particular order or preference, and is changing very rapidly. Please check with your banking institution for the most current information about their participation in the program. No endorsement, express or implied, is made about the competence, suitability or capabilities of these lenders.

\*\*List updated as of 5 April\*\*

| <b>Lender</b>                           | <b>Accepting/Preparing</b> | <b>Existing/New Clients?</b> |
|-----------------------------------------|----------------------------|------------------------------|
| <a href="#"><u>Madison One</u></a>      | Accepting                  | Existing                     |
| <a href="#"><u>SVB</u></a>              | Accepting                  | Existing                     |
| <a href="#"><u>Bank of America</u></a>  | Accepting                  | Existing                     |
| <a href="#"><u>KeyBank</u></a>          | Paused                     | Existing                     |
| <a href="#"><u>Cross River Bank</u></a> | Accepting                  | All                          |
| <a href="#"><u>First Republic</u></a>   | Accepting                  | Existing                     |
| <a href="#"><u>Choice Bank</u></a>      | Accepting                  | All                          |
| <a href="#"><u>Capital One</u></a>      | Accepting                  | Existing                     |
| <a href="#"><u>JPMorgan Chase</u></a>   | Accepting                  | Existing                     |
| <a href="#"><u>Citizens Bank</u></a>    | Accepting                  | Existing                     |
| <a href="#"><u>M&amp;T Bank</u></a>     | Accepting                  | Existing                     |
| <a href="#"><u>PacWest</u></a>          | Accepting                  | Existing                     |
| <a href="#"><u>Wells Fargo</u></a>      | Accepting Again            | Existing                     |
| <a href="#"><u>U.S. Bank</u></a>        | Accepting                  | Existing                     |
| <a href="#"><u>Blue Ridge Bank</u></a>  | Accepting                  | All                          |
| <a href="#"><u>TD Bank</u></a>          | Accepting                  | Existing                     |
| <a href="#"><u>PNC Bank</u></a>         | Accepting                  | Existing                     |
| <a href="#"><u>Regions</u></a>          | Accepting                  | Existing                     |
| <a href="#"><u>Citibank</u></a>         | Accepting                  | Existing                     |
| <a href="#"><u>Bank of the West</u></a> | Accepting                  | Existing                     |
| <a href="#"><u>Fortune Bank</u></a>     | Accepting                  | All                          |

Non-bank agents (No endorsement, express or implied, is made about the competence, suitability or capabilities of these companies)

|                         |           |     |
|-------------------------|-----------|-----|
| <a href="#">Fundera</a> | Accepting | All |
| <a href="#">Kabbage</a> | Accepting | All |
| <a href="#">ExWorks</a> | Accepting | All |
| <a href="#">NAV</a>     | Accepting | All |