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CETA Member:

The Coronavirus Aid, Relief and Economic Security (CARES) Act

On Friday March 27th, the House passed, and the President signed the Coronavirus Aid, Relief and Economic Security (CARES) Act. In addition to direct support for individuals, this massive relief bill includes several provisions which will be significant to nearly every business.

Paycheck Protection Program (aka. PPP)

This is an SBA backed program intended to help businesses with cash flow during the pandemic. It differs substantially from typical SBA programs in several key aspects:

- No collateral or personal guarantee required.
- No SBA loan fees.
- Interest and payments deferred for 6–12 months.
- Maximum interest of 4%.
- Maximum loan amount is 2.5X average monthly payroll costs or \$10,000,000 whichever is less.
- Offered through an expanded network of banks.

Loan amounts used for certain qualifying expenses may be forgiven (subject to program requirements). Qualifying expenses include:

- Payroll costs
- Interest on mortgage obligations in existence before February 15, 2020 and incurred in the ordinary course.
- Rent under a lease agreement in force before February 15, 2020.
- Utility payments for which service began before February 15, 2020.
- Interest on any other debt obligations incurred before February 15, 2020.

Eligibility

- Businesses with fewer than 500 employees. This includes self-employed individuals.
- Some industries, such as hospitality may be eligible based on number of employees per location rather than the entire enterprise.
- Businesses must have been in operation on February 15, 2020 and had employees or independent contractors who were paid wages.
- Businesses must make a good faith certification that they were impacted by the pandemic, will use the funds for a qualifying purpose and do not have a duplicate loan application pending.

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The Treasury department has now announced that applications can begin on April 3rd for most small businesses and April 10th for independent contractors and self-employed individuals. The loans will be offered by banks authorized by the Small Business Administration (SBA). We expect that most banks will participate in the program, but it appears that many banks are not prepared to begin offering loans on the 3rd, due to the delay in regulatory guidance.

An Interim Final Rule <https://home.treasury.gov/system/files/136/PPP--IFRN%20FINAL.pdf> has been published which provides additional clarity on certain provisions of the program.

Furthermore, Treasury has provided a Q&A <https://home.treasury.gov/system/files/136/PPP-- Fact-Sheet.pdf>) with additional information for businesses who plan to apply for a loan as well as a model application <https://home.treasury.gov/system/files/136/Paycheck-Protection- Program-Application-3-30-2020-v3.pdf>.

Anecdotally, we have seen announcements from banks that they plan to participate in the program but often only for existing business banking customers and/or only through an online application process. Although Congress has appropriated 350 billion dollars, it is expected that many thousands of businesses will apply once applications are available, so time may be of the essence.

We've also seen several advertisements for services that promise to connect businesses with lenders for the program. Some of these services appear to be misrepresenting the terms of the program, so businesses should be cautious before providing any sensitive data.

Economic Injury Disaster Loans and Grants

The SBA is also offering fast \$10,000 advances to small businesses impacted by the pandemic as part of their Economic Injury Disaster Loan Program. This advance is effectively a grant, as a business is not required to repay it even if the EIDL loan is not approved. Businesses can apply via the SBA website <https://covid19relief.sba.gov/#/>. The SBA hopes to get the advances out within 72 hours.

Businesses can apply for both programs but cannot request funds for the same purpose. *{If a business receives the Paycheck Protection Program and also applies for the Economic Injury Disaster Loan then the \$10,000 EIDL grant advance they receive will have to be repaid by a reduction of \$10,000 in any forgiveness they receive on the Paycheck Protection Program loan.}* We believe that the PPP program makes more sense for covering payroll costs, while the EIDL may be useful for covering other qualifying business expenses.

{Get Your Documents Ready

For all programs, be prepared to certify that you will use the funds you receive to support your business and employees, and have your basic business information (EIN, revenue, sales) ready to use in your applications.

For PPP Loan forgiveness, you will also need:

- *Payroll documentation that shows the number of employees you have and what you pay them.*
- *Statements that show payments for employer contributions to employee retirement accounts and health insurance premiums.*
- *Statements that show the amount you spend on other business expenses, such as lease payments or utility bills.*

Apply

PPP

1. *Before you apply for your loan, calculate your average monthly payroll costs for the year. You can work with your lender to determine the exact amount. For more detailed guidance, click here.*
2. *Contact a bank registered to make 7(a) loans before June 30, 2020. Here is a list of the 100 most active 7(a) lenders. Lenders are just learning the stimulus bill, so it may require a little patience.*

PPP Loan Forgiveness:

Once you have signed your loan documents, contact your lender again. Tell them you have calculated your payroll costs, interest on mortgage obligation, and utility payments, and believe that you qualify for full or partial forgiveness. You can request loan forgiveness for up to eight weeks of payroll and operational costs. You have until June 30, 2020, to apply for loan forgiveness.

EIDL Emergency Grants and Application:

1. Apply through the SBA's [website here](#)
2. Apply in person at a [Disaster Recovery Center](#) (check if office hours have been affected by social distancing)
3. Request an application by phone by calling 1-800-887-8339 or TTY (800) 887 8339

EIDL Emergency Grants:

1. Apply for an EIDL following the directions above. You will be assigned an SBA case manager.
2. Contact your case manager and ask to apply for the emergency grant.

Debt Relief for 7(a) Loans:

If you have an existing 7(a) loan, you can apply for debt relief. This relief doesn't include loans made under the PPP. Contact your lender to get more information.}

Business Tax Provisions

The CARES Act includes a variety of tax changes intended to improve business liquidity during the pandemic. Some highlights include:

- Deferral of the employer share of Social Security taxes.
- Refundable payroll tax credit for up to 50% of qualifying wages paid by affected employers during the pandemic.

Health Insurance Changes

- Expands upon COVID-19 testing rules that were part of the Families First Coronavirus Response Act (FFCRA) requiring insurance plans to cover all services performed in connection with a coronavirus test without cost to the plan participant.
- Modifies rules for qualifying High Deductible Health Plans (HDHP) to allow coverage of telehealth services without application of the deductible.
- Adds additional over-the-counter medical products as qualified expenses for reimbursement under FSA, HSA and HRA plans.
- Adds certain menstrual care products as qualified expenses for reimbursement under FSA, HSA and HRA plans.

Retirement Plans

The CARES Act allows employers to amend qualifying retirement plans to provide additional flexibility during the pandemic.

- Permits affected individuals to withdraw up to \$100,000 from a qualifying retirement plan without application of the normal 10% early withdrawal penalty.
- Extends the period to pay income tax on these early withdrawals to three years.
- Increases the maximum loan amount on qualifying plans to the lesser of \$100,000 or 100% of the vested balance.
- Allows individuals with existing loans to delay payment for up to a year.
- Waives minimum distribution requirements for individuals who are 70 ½ or older.

Paid Leave

There were several key developments on April 1, 2020 regarding the Families First Coronavirus Response Act (FFCRA) as amended by CARES.

The Department of Labor (DOL) issued much anticipated regulations which provide critical guidance on how employers should administer the new paid leave benefits available under the law. This may be the fastest the DOL has ever issued regulations on such an expansive piece of legislation and it is much needed by employers who are already inundated with requests from employees for the new leave. The regulations can be found here <https://www.dol.gov/agencies/whd/ffcra>

Some highlights include:

- Clarification on substitution of paid leave during Expanded FMLA (EFMLA).
- Restrictions on circumstances where an employee may use Emergency Sick Leave (ESL), including the requirement that work must otherwise be available to the employee.
- Clarifies what questions an employer may ask in connection with the use of leave to ensure that leave is qualifying.

The Internal Revenue Service (IRS) issued additional guidance, including IRS Form 7200 <https://www.irs.gov/pub/irs-pdf/f7200.pdf>, which employers may use to request an advance from the IRS to help cover the costs of providing the paid leave benefits under the FFCRA. The Instructions for form 7200 <https://www.irs.gov/pub/irs-pdf/i7200.pdf> provide important information to employers that wish to request an advance.

The IRS also released numerous FAQ's <https://www.irs.gov/newsroom/covid-19-related-tax-credits-for-required-paid-leave-provided-by-small-and-midsize-businesses-faqs> on how employers may request reimbursement for paid leave as well as the information employers must retain in connection with paid leave credits.

Unemployment Benefits

The CARES Act greatly expands the availability of unemployment benefits as well as increasing the amount unemployed individuals may receive. As is the case with all unemployment changes, states must choose how to adopt the expanded federal benefits.

- Expands eligibility for unemployment benefits to include self-employed individuals, those with limited work history and others not able to work because of the pandemic through December.
- Increases unemployment benefits by \$600 per week for up to 4 months.
- Extends unemployment benefits to an additional 13 weeks.
- Funds the first week of unemployment benefits if states waive the normal one week waiting period.

The final bill is nearly 900 pages and contains numerous provisions impacting almost every individual and business in the country. It will take time for the regulatory agencies to issue guidance and for programs to begin, but the agencies have committed to rapid implementation.

Your CETA COVID-19 Task Force will continue to review the FFCRA regulations, tax credit Q&A's as well as further PPP details in our upcoming committee meeting over the coming days and weeks.

Businesses can find an Eligible Linder at this link: <https://www.sba.gov/paycheckprotection/find>.

If you know of a business that could also benefit from our updates during this time period, you may encourage them to sign up for our updates at <https://ceta.org/applications/>.

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