

The Coronavirus Aid, Relief, and Economic Security Act:

Paycheck Protection Program and Emergency Loans

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On March 27, 2020, President Trump signed into law the third piece of the Coronavirus relief package known as the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"). The CARES Act contains far-reaching types of assistance including the widely publicized payments to individuals, assistance for hospitals and nonprofit organizations, specific loans and grants to airlines, significant changes to unemployment assistance programs, and a panoply of relief for small and large businesses. This update summarizes the Paycheck Protection Program provisions of Title I (Keeping American Workers Paid and Employed Act) of the CARES Act.

PAYCHECK PROTECTION PROGRAM ("PPP") LOANS

Generally, employers with no more than 500 employees are eligible to receive loans up to 2.5 times the average total monthly payroll costs incurred over the prior year (limited to \$10,000,000). These "covered" loans can be used for payroll costs (wages, compensation, payments for vacation, parental, family, medical or sick leave, tips, severance payments, certain benefits, and state employment taxes), payments of interest on mortgage and other debt obligations, rent and utilities. However, these loans cannot be used to compensate an employee for such employee's annual salary in excess of \$100,000 (pro-rated for the period between February 15, 2020 and June 30, 2020), for federal employment taxes, or for the payment of qualified sick or family leave wages for which a tax credit is allowed pursuant to the Families First Coronavirus Response Act. Employers with existing Small Business Administration (SBA) loans may want to contact their lenders about their eligibility to refinance or receive relief with respect to existing loans. The SBA is expected to provide guidance shortly on how to apply for such loans.

PPP LOAN FORGIVENESS

For borrowers who qualify, Title I of the CARES Act offers forgiveness of all, or a portion of, a PPP loan provided specific requirements are met. In particular, forgiveness is available for covered loan amounts equal to costs incurred and payments made during the 8 weeks following the origination of the covered loan for most payroll costs, any payment of interest on any covered mortgage, any payment on a covered rent obligation, and any covered utility payment. It is noteworthy that the definitions of a mortgage obligation, rent obligation and utility payment for PPP loan forgiveness are more restrictive than for PPP loan proceeds usage (generally, the obligation commitment must have arisen before February 15, 2020). *Accordingly, employers are counselled to expend PPP loans judiciously to ensure eligibility for loan forgiveness. In addition, the amount of loan forgiveness is limited if the employer's average complement of full-time equivalent employees during the 8-week post origination period is less than its average complement during the first part of 2020 (the are several tests to assess whether this complement-reduction limitation applies).* The Act is clear that any loan forgiveness is not includable in gross income for federal income tax purposes. Remaining portions of loans that are not forgiven continue to be guaranteed by the SBA with a maximum maturity of 10 years from the date the borrower applies for loan forgiveness.

More information can be found at the U.S. Chamber of Commerce web site at www.uschamber.com.

This article as well as further updates in regard to tax matters and other legal implications related to Coronavirus pandemic can be found on our COVID-19 Response webpage, <https://www.skarlatoszonarich.com/covid-19>.

If you have any questions, please contact a member of the Business Team at [SkarlatosZonarich LLC](#):

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