

COVID-19 Response Financial Resources for MSPs and IT Providers

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--- Please talk to your CPA or attorney to discuss your specific situation. This document is meant to provide direction only. ----

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Executive Summary

There are multiple financially beneficial programs available, but I believe the most appropriate program for most U.S. MSP's is the Paycheck Protection Program (PPP) enacted as part of the CARES Act. This would allow for a loan of up to 2.5 times the average monthly payroll costs from 2019. 8 weeks of these costs plus additional allowable expenses, beginning on the loan origination date, are eligible for forgiveness. The balance continues as a low interest loan and can be paid off early without penalty. This application is made directly from an SBA Preferred or Certified banking lender. An SBA preferred lender would be the best choice, but you should start with a lender that you have an existing relationship with. If additional funds are needed for other business purposes, an MSP can also apply for an Economic Injury Disaster Loan (EIDL) directly from the SBA. These funds are low interest and monies should be available quickly. There is also a grant of \$1,000/employee, up to \$10,000, available under the EIDL program. All grants and credits are mutually exclusive so you cannot receive a grant or credit under one program if you are taking a grant in another program. If you take a credit under FFCRA and/or the \$10,000 grant, you cannot claim those same payroll expenses under PPP. In addition, there are requirements for employers under FFCRA that most U.S. MSP's must adhere to.

Family First COVID-19 Response Act (FFCRA) [US Federal]

PAID LEAVE REQUIREMENT FOR EMPLOYERS

Employees of eligible employers can receive two weeks (up to 80 hours) of paid sick leave at 100% of the employee's pay where the employee is unable to work because the employee is quarantined, and/or experiencing COVID-19 symptoms, and seeking a medical diagnosis.

An employee who is unable to work because of a need to care for an individual subject to quarantine, to care for a child whose school is closed or childcare provider is unavailable for reasons related to COVID-19, and/or the employee is experiencing substantially similar conditions as specified by the U.S. Department of Health and Human Services can receive two weeks (up to 80 hours) of paid sick leave at two-thirds the employee's pay.

An employee who is unable to work because they have to care for a child whose school is closed, or childcare provider is unavailable for reasons related to COVID-19, may, in some instances, receive up to an additional 10 weeks of expanded paid family and medical leave at two-thirds the employee's pay.

<https://www.dol.gov/agencies/whd/pandemic/ffcra-employer-paid-leave>

SMALL BUSINESSES EXEMPTION

Small businesses with fewer than 50 employees will be eligible for an exemption from the leave requirements relating to school closings or childcare unavailability where the requirements would jeopardize the ability of the business to continue.

The exemption will be available on the basis of criteria that make it available in circumstances involving jeopardy to the viability of an employer's business as a going concern.

PAID SICK LEAVE CREDIT

Eligible employers may receive a refundable sick leave credit for sick leave at the employee's regular rate of pay, up to \$511 per day and \$5,110 in total, for 10 days for an employee who is unable to work because of COVID-19 quarantine or self-quarantine or has COVID-19 symptoms and is seeking a medical diagnosis.

For an employee who is caring for someone with COVID-19, or is caring for a child because the child's school or childcare facility is closed, or the childcare provider is unavailable because of the COVID-19, eligible employers may claim a credit for two-thirds of the employee's regular rate of pay, up to \$200 per day and \$2,000 in total, for up to 10 days. Eligible employers are entitled to an additional tax credit determined based on costs to maintain health insurance coverage for the eligible employee during the leave period.

CHILDCARE LEAVE CREDIT

Eligible employers may receive a refundable childcare leave credit in addition to the sick leave credit for an employee who is unable to work because they need to care for a child whose school or childcare facility is closed or whose childcare provider is unavailable. This credit is equal to two-thirds of the employee's regular pay, capped at \$200 per day or \$10,000 in total. Up to 10 weeks of qualifying leave can be counted toward the childcare leave credit. Eligible employers are entitled to an additional tax credit determined based on costs to maintain health insurance coverage for the eligible employee during the leave period. This credit is claimed through your payroll filings by retaining federal withholding taxes otherwise due to be paid. Discuss this credit with your payroll administration company or CPA.

Small Business “Paycheck Protection Program (PPP)” Loan [US Federal CARES Act, Section 7(a)]

In a move designed to keep small businesses afloat, the CARES Act provides that businesses with fewer than 500 employees — including sole proprietors and nonprofits— will have access to nearly \$350 billion in loans under Section 7 of the Small Business Act during the “covered period,” which runs from February 15, 2020 through June 30, 2020. The loans, which are referred to as “paycheck protection loans” and are fully guaranteed by the federal government through December 31, 2020 (returning to an 85% guarantee for loans greater than \$150,000 after that date), are generally limited to the LESSER OF:

the average monthly “payroll costs” for the 1 year period ending on the date the loan was made multiplied by 2.5,

\$10 million.

Payroll costs, in turn, are the sum of the following:

- wages, commissions, salary, or similar compensation to an employee or independent contractor,
- payment of a cash tip or equivalent,
- payment for vacation, parental, family, medical or sick leave,
- allowance for dismissal or separation,
- payment for group health care benefits, including premiums,
- payment of any retirement benefits, and
- payment of state or local tax assessed on the compensation of employees,

Payroll costs do not include, however:

- the compensation of any individual employee in excess of an annual salary of \$100,000,
- employer paid payroll taxes,
- any compensation of an employee whose principal place of residence is outside the U.S., or
- any qualified sick leave or family medical leave for which a credit is allowed under the new Coronavirus Relief Act (FCRA).

Example. XYZ Technical Services applies for a paycheck protection loan on May 1, 2020. The business had \$1.2 million in payroll costs for the period May 1, 2019 through May 1, 2020, for a monthly average of \$100,000. XYZ Technical Services is entitled to a fully guaranteed federal loan —assuming it's made before December 31, 2020 — equal to the LESSER OF:

*\$250,000 (\$100,000 in average payroll costs * 2.5), or*

\$10 million.

The loans will have a maturity of 2 years and a fixed interest rate of 1.00%. Proceeds may be used to cover payroll, mortgage payments, rent, utilities, and any other debt service requirements. The standard fees imposed under Section 7 of the Small Business Act are waived, and no personal guarantee or collateral is required.

An additional provision in the CARES Act provides for possible deferment of repayment of the loans for a period of at least six months, but not to exceed a year.

The beginning application date for small businesses and sole proprietorships is April 3, 2020. Independent contractors and self-employed individuals can apply beginning April 10, 2020.

Based on guidance issued on April 3, 2020, 1099 independent contractors can NOT be included in "payroll costs." 1099 employees can apply for a PPP loan on their own. *This differs from the initial guidance that was issued.*

Loan Forgiveness of Paycheck Protection Loans

A separate section of the CARES Act calls for a portion of the aforementioned paycheck protection loans to be forgiven on a tax-free basis. The amount to be forgiven is the sum of the following payments made by the borrower during the 8-week period beginning on the date of the loan:

- payroll costs (as defined above)
- mortgage interest,
- interest on debt incurred before February 15, 2020,
- rent,
- utility payments, including electricity, gas, water, transportation, telephone, Internet, if service began before February 15, 2020.

The latest guidance from the SBA indicates that non-payroll costs cannot exceed 25% of the loan forgiveness amount. To seek forgiveness, a borrower must submit to the lender an application that includes documentation verifying the number of employees and pay rates, and cancelled checks showing mortgage, rent, or utility payments. The amount of forgiveness cannot exceed the amount of the loan.

Example. Continuing the previous example with XYZ Technical Services, in the first 8 weeks after the business borrows the \$250,000, the business pays \$200,000 in payroll costs, mortgage interest, and utility payments. XYZ Technical Services is eligible to have \$200,000 of the \$250,000 loan forgiven.

The forgiveness will not create taxable income. In addition, because of the deferment rules in the CARES Act, any payments due on the remaining \$50,000 will not be due for six months.

- There is a provision, however, that reduces the amount that may be forgiven if the employer either:
- Reduces its workforce during the 8-week covered period when compared to either 2/15/2019 through 6/30/2019, or 1/1/2020 through 2/29/2020.
- Reduces the salary or wages paid to an employee who had earned less than \$100,000 in annualized salary by more than 25% during the covered period.

This reduction can be avoided, however, if the employer rehires or increases the employee's pay within an allotted time period.

Eligibility

To qualify, an otherwise eligible recipient must also make a good-faith certification that:

- the uncertainty of the current economic conditions makes the loan necessary to support the ongoing operations of the recipient
- the funds will be used to retain workers and maintain payroll or to make mortgage payments, lease payments and utility payments
- the recipient does not have an application pending for a loan for the same purpose and duplicative of amounts applied for or received
- during the period February 15, 2020 through December 31, 2020, the recipient has not received (and will not receive) amounts under this the Paycheck Protection Program Loan for the same purpose and duplicative of the amount applied for

Documentation Required [Formal guidance from SBA pending]

- 2019 IRS Quarterly 940, 941, or 944 payroll tax reports
- Last 12 months of payroll reports beginning with your last payroll date and going backwards 12 months
- Net owner compensation documentation for the same period, if compensation is paid through disbursements. Amount is capped at \$100,000/owner for the year.
- Trailing 12 month Income and expenses (P&L) for sole proprietorship/partnership
- State and local taxes assessed on employee compensation for each employee
- Documentation showing total of all health insurance premiums paid by the company/owner under a group
- Retirement plan match paid for each employee, including owners

Potential Issues

- The SBA has not issued guidance on how sole proprietor schedule C income as well as partnership income will be calculated and how it will be treated under the forgiveness program. The Act does not explicitly spell it out although it does say that self-employed

are covered. The assumption is that net schedule C or K-1 income is the owner's compensation, up to \$100,000 annualized.

SBA Economic Injury Disaster Loan (EIDL) Program (US Federal)

As part of its disaster assistance program, the SBA is providing low-interest working capital loans of up to \$2 million to small businesses affected by the coronavirus.

These loans carry an interest rate of 3.75% for small businesses. Loan repayment terms vary by applicant, up to a maximum of 30 years.

Allowed Use of Funds

- Pay for sick leave to employees unable to work as a result of the coronavirus
- Maintaining payroll to retain employees
- Meeting increased costs
- Making rent or mortgage payments
- Repaying any obligations that cannot be met due to revenue losses

How to Apply

Apply here: <https://covid19relief.sba.gov/>

[Addition by CARES Act, Section 7(b)(2)] For any loan made under this program before December 31, 2020, no personal guarantee will be required on loans below \$200,000. The business must be in business for over 1 year. In addition, the Act creates a new Emergency Grant to allow a business that has applied for a disaster loan to get an immediate advance of up to \$10,000. Guidance released on April 14th indicates that the grant amount is calculated at \$1,000 per employee, up to \$10,000. The advance is not required to be repaid, even if the borrower's request for an Economic Injury Disaster loan is denied unless the business exercises the forgiveness option under the PPP, in which case the advance amount is reduced from the loan forgiveness amount. Also, this loan can be refinanced into a PPP loan so you can apply for this money while waiting for the PPP loan. If it is not refinanced into the PPP loan, the funds from this loan cannot be used to pay for the same expenses as the PPP loan pays for.

Delay of Payment of Employer f [US Federal CARES Act]

In addition to the various new payroll tax credits created by the Coronavirus Relief Act and the CARES Act, the new law would again seek to alleviate the burden on employers struggling to

make payroll by allowing the employer's share of the 6.2% Social Security tax that would otherwise be due from the date of enactment through December 31, 2020, to be paid on December 31, 2021 (50%) and December 31, 2022 (50%).

Similarly, a self-employed taxpayer can defer paying 50% of his or her self-employment tax that would be due from the date of enactment through the end of 2020 until the end of 2021 (25%) and 2022 (25%).

Additional Resources

Official SBA Coronavirus site: <https://www.sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources>

CARES Act FAQ: https://www.sbc.senate.gov/public/_cache/files/9/7/97ac840c-28b7-4e49-b872-d30a995d8dae/F2CF1DD78E6D6C8C8C3BF58C6D1DDB2B.small-business-owner-s-guide-to-the-cares-act-final-.pdf

CARES Act, Full Text: <https://www.congress.gov/bill/116th-congress/house-bill/748/text#toc-HB497FA84BE3B40479927BB8EC35E9886>

<https://home.treasury.gov/system/files/136/PPP--Fact-Sheet.pdf>

<https://www.sba.gov/sites/default/files/2020-04/PPP%20Borrower%20Application%20Form.pdf>