

PAYROLL ASSISTANCE PROGRAMS

Congress has passed extraordinary and unprecedented legislation to provide aid to businesses to assist them in maintaining employment during this period of economic slowdown. There are three provisions to assist small businesses with payroll costs.

- **Paycheck Protection Program (PPP)**, an SBA Loan under its 7(a) lending program.
- **Employee Retention Credit** under the CARES Act
- **Expanded Sick Pay** and **Medical & Family Leave Pay** under the Families First Act.

The **Payroll Protection Program** is the one that we expect to provide the most relief to small businesses. This loan program to be provided through the SBA Section 7(a) program and is available to small businesses who employ no more than 500 employees, or non-profit organizations or self-employed individuals. It will provide eligible borrowers with an emergency loan that is potentially 100% forgiven.

- To be eligible, the borrower has to certify that *“current economic uncertainty makes this loan request necessary to support the ongoing operations of the applicant”*. Regulations are still to be issued on exactly how this will be interpreted, but it certainly appears to be very broad.
- Sole Proprietors are also eligible.
- The loan can be up to 2.5X average monthly payroll. For sole proprietors, the loan amount will be based on self-employment income.
- It is possible that the loan can be 100% forgiven, effectively becoming a non-taxable grant to the business as long as the loan proceeds are used for payroll, rent, mortgage interest and utilities over the 8 weeks following the loan. The borrower will submit an application for the amount eligible to be forgiven.
- Payroll costs for purposes of both the initial loan as well as subsequent forgiveness will include health and retirement benefits. Annual salaries to be included will be capped at \$100,000 per individual employee. All indications are that the salaries of owners can be included.
- The loan requires no personal guarantees or collateral and there is no loan fee.

Bankers began sending out applications for this program on March 31. Actual date the program become operational is still to be determined. Once operational, banks anticipate disbursing loan proceeds on the same day the loan application is completed. Stancil is in active communication with the banks regarding the application process for both the initial loan application and the forgiveness application. **We urge each of you to contact your bank regarding the application process for this loan.** We have no idea how quickly the funding will run out for this program.

Stancil will designate team members to be readily available to assist you in compiling your application for the loan disbursement as well as the loan forgiveness. As more information becomes available, we will keep you informed.

The [US Chamber of Commerce's website](#) has a terrific write up on the details of this limited time loan.

The **second provision** for payroll assistance is the ***refundable employee retention credit*** to assist employers in retaining employees during the economic slowdown. Eligible employers may receive a credit of 50% on qualified wages. The credit will be claimed on one's quarterly payroll tax report (Form 941). This provision provides two situations where an employer qualifies for the credit

- Operations were partially, or fully, suspended due to COVID-19 related shut-down order; or
- Gross receipts decline more than 50% compared to the same 2018 quarter.

When a qualifying employer has 100 or fewer employees, 100% of its employees qualify for this credit. For larger employers, only the wages of employees who have been furloughed or face reduced hours as a result of their employers' closure or reduced receipt are eligible for the credit. The credit covers the **first \$10,000 of compensation**, including health benefits, paid to an eligible employee **between March 13 and December 31, 2020**.

We recommend businesses that want to pursue this credit to schedule a consultation with us to develop procedures for maximizing the credit. We anticipate additional guidance from Treasury on this credit.

NOTE this credit is NOT AVAILABLE to employers who take advantage of the Paycheck Protection Program SBA Loan Program.

The **third provision** for payroll assistance is the expanded **Sick Pay and Family and Medical Leave Pay** under the Families First Coronavirus Response Act. This is a mandatory program requirement for small employers with less than 500 employees, except for those with under 50 employees who can demonstrate that compliance would jeopardize the viability of the business as a going concern. This law requires sick pay if employees miss pay due to a "Covid 19 reason" such as symptoms of the illness, required quarantine, or school closures. The law does not apply in the case of businesses who are required to close during the Covid 19 period, nor to employees who are furloughed because there is no work for them during the economic slowdown.

This law goes into effect on April 1, 2020.

Businesses are allowed to be reimbursed for 100% of their cost in complying with this requirement. Reimbursement comes on the quarterly payroll tax filing. In addition, the IRS is due to release information on providing an expedited method for applying for reimbursement.

See our separate article from Stancil that discusses the Families Frist Act in greater detail.

For more information on the **Paycheck Protection Program**, please contact:
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