



Hang In: Loans – With Debt Forgiveness – Will Soon Be Available

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We know that many of you are considering your loan options in the effort to remain operational and to keep your personnel employed. Before you commit, keep in mind some very significant provisions in the Coronavirus Aid, Relief, and Economic Security Act, or CARES Act, which may be signed into law in the next couple of days.

BECAUSE THE CARES ACT IS NOT YET LAW, AND THERE IS NO GUARANTEE WHETHER IT WILL BE PASSED IN ITS CURRENT STATE, this advisory is *very* preliminary and will be followed by more detailed advisories as the law develops, but in the meantime you should be aware of what could be a game-changer for many of you.

The CARES Act as currently drafted provides that businesses with fewer than 500 employees will have access to nearly \$350 billion in “paycheck protection loans” loans during the “covered period,” which runs from February 15, 2020 through June 30, 2020. The loans are generally limited to the *lesser* of your average monthly “payroll costs” for the previous year, or \$10 million. “Payroll costs” is a defined term, and is quite broad, but will not include the compensation of any employee in excess of an annual salary of \$100,000.

The loans will have a maximum maturity of 10 years and an interest rate not to exceed 4%. Proceeds may be used to cover payroll, mortgage payments, rent, utilities, and any other debt service requirements. Most fees are waived under the Small Business Act, and no personal guarantee is required by the business owner.

Here is the kicker: A separate section of the CARES Act provides that **a portion of these loans can be forgiven on a tax-free basis**. The amount currently scheduled to be forgiven is the sum of the following payments made by the borrower during the 8 weeks starting on the date the loan is made:

- Payroll costs (as defined);
- Mortgage interest;
- Rent;
- Certain utility payments.

There will be a procedure through which borrowers can submit applications for forgiveness to the lender, providing appropriate documentation of how the loan proceeds were used.

There are a few devils in the details: The amount of the loan forgiveness will be reduced if you:

- Reduce your workforce during the 8-week covered period when compared to other periods in either 2019 or 2020, or;
- Reduce 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 you rehire or increase the employee's pay within an allotted time period.

One more thing: Emergency Government Disaster Loans

The CARES Act as currently drafted also expands access to Economic Injury Disaster Loans under the Small Business Act: 1) For any loan made under this program before December 31, 2020, no personal guarantee will be required on loans below \$200,000, and 2) In some instances ***the government will pay the principal and interest for the first six months.***

In addition, the draft Act would create a new Emergency Grant - **not a loan, a grant** - to allow a business that has applied for a disaster loan to get an immediate advance of up to \$10,000.

Final passage and implementation awaits. Right now, it looks like the CARES Act will become law shortly and, while anything is possible, there is no present controversy about these provisions. We are gearing up to answer your questions and provide more guidance, and will provide further details as soon as we can.

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Please contact Michael G. Trachtman, Esquire at mtrachtman@wispearl.com or (610) 825-8400 for more information on how we can help you today with your business.

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