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## CARES ACT

(Coronavirus Aid, Relief, and Economic Security Act)

Presented by: Joseph A. Marra, Esq.  
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### Coronavirus Aid, Relief, and Economic Security Act

- Enacted - March 27, 2020
- Purpose: Assist Small Business owners
- Originally \$349 billion allocated to the program to cover certain costs.
- April 16, 2020 – Funds ran out
- April 23, 2020 –SBA issued new guidance
- April 24, 2020 - Paycheck Protection Program and Health Care Enactment Act - a \$480 Billion bill including more \$321 billion allocated to PPP, \$60 billion of which was reserved to small lenders funding for PPP
- June 5, 2020 - Paycheck Protection Program Flexibility Act (Flexibility Act) amended the Cares Act, amending:
  - loan maturity
  - deferral of loan payments and
  - forgiveness provisions
  - Changes relating to the maturity of PPP loans and the forgiveness and extension of the deferral period of PPP loans retroactive to March 27, 2020.
  - Time to spend loan proceeds changed from 8 weeks to 24 weeks
  - Full forgiveness threshold reduced to 60% from 75% on amounts spent on payroll.
  - Time extended time to rehire workers extended to December 31, 2020 from June 30, 2020

Good Source of Info: Treasury website - <https://home.treasury.gov/policy-issues/cares/assistance-for-small-businesses>

#### **FOUR BASIC PROGRAMS under the CARES Act for Small Business**

1. Paycheck Protection Program (PPP) Loan
2. Economic Injury Disaster Loans (EIDL) and Emergency Economic Injury Grants (EIDG)
3. Small Business Tax Provisions
4. Small Business Debt Relief Program
5. Certain rules were changed with respect to retirement plans

#### **OTHER PROGRAMS TO BE AWARE OF**

1. SBA 7(a) Loans
2. New York Forward Loan Fund
3. The Main Street Lending Program from the Federal Reserve

### **1. PAYCHECK PROTECTION PROGRAM (PPP) LOAN**

Purpose - Encourage employers to maintain their payroll.

- The program is retroactive to February 15, 2020
- Implemented by the SBA [www.sba.gov](http://www.sba.gov) or [www.coronavirus.gov](http://www.coronavirus.gov)
- Here is the link to the revised borrower application but apply through your lender  
<https://www.sba.gov/sites/default/files/2020-06/PPP%20Borrower%20Application%20Form%20%28Revised%20June%2012%202020%29-Fillable-508.pdf>
- The Revised Application Form was released on June 12, 2020.
- How do you get the money? - Submit an application through a Federally insured bank, Credit Union, existing SBA lender, etc.
- File the revised application form through the bank's website.
- Linked to a list of approved lenders -  
[https://www.sba.gov/paycheckprotection/find?utm\\_campaign=Membership&utm\\_source=hs\\_email&utm\\_medium=](https://www.sba.gov/paycheckprotection/find?utm_campaign=Membership&utm_source=hs_email&utm_medium=)

[email&utm\\_content=86944844&\\_hsenc=p2ANqtz--vT3k3Ph4XENXuvn9IhEbIw4oY6p2iYgYbpxTFvLrc746Ok7tI9R\\_XFhsRdjzOczyTO4TjxfoMxJYeHY22UVUAoXV\\_oA&\\_hsmi=86944844&pageNumber=1](mailto:email&utm_content=86944844&_hsenc=p2ANqtz--vT3k3Ph4XENXuvn9IhEbIw4oY6p2iYgYbpxTFvLrc746Ok7tI9R_XFhsRdjzOczyTO4TjxfoMxJYeHY22UVUAoXV_oA&_hsmi=86944844&pageNumber=1)

- Some small lenders:
  - Kabbage
  - Fundera
  - Ready Capital Corporation
- One can file an application up to August 8, 2020 - There was still over \$128 Billion available as of July 31, 2020!
  1. March 27, 2020 - \$349 billion allocated to the PPP program to cover certain costs through June 30, 2020.
  2. April 16, 2020 – The first wave of allocate funds ran out
  3. April 23, 2020 – SBA issued new guidance to better insure small businesses get the money.
  4. April 24, 2020 - An additional \$321 billion allocated to PPP, \$60 billion of which was reserved small lenders.
  5. April 27, 2020 - PPP program resumed.
  6. As of Friday May 15, 2020, 40% of the second wave of funding was still available.
  7. Friday May 22, 2020 - SBA publishes second set of Interim Final Rules - SBA-2020-0033.
  8. As of July 22, 2020 there was over \$132 Billion still available! Why?
  9. June 17, 2020 - SBA releases 19th the Interim Final Rule (IFR) revising 3<sup>rd</sup> and 6<sup>th</sup> IFR's!
  10. June 24, 2020 – IFR additional Eligibility provisions modifying the 1<sup>st</sup> IFR
  11. June 25, 2020 – IFR on Certain Eligible Payroll Costs

2. **The loan is 100% Federally guaranteed and could be wholly or partially forgiven.**

3. Who is eligible?

- Businesses in operation as of February 15, 2020
- The Business is not eligible if it applied for the Employee Retention Credit under the Small Business Tax Provisions of the CARES Act.
- Size Limit - 500 Employees or 500 Employees per physical location.
- Forms of businesses
  - A. Sole Proprietorships/Schedule C tax filers
  - B. Independent Contractors
  - C. Partnerships
  - D. Limited Liability Companies
  - E. Certain Nonprofits, Veterans Organizations and Tribal Business Concerns

4. Amount of the Loan?

- A formula is utilized but the Maximum Amount of the Loan in all circumstances is \$10 million.
- 250% of your "Average Monthly Payroll Costs" for 2019 Calendar Year, (although the CARES ACT says the period of February 15, 2019 through June 30, 2019), consisting of payments for:
  1. Compensation (including payments to S Corp Shareholders)
  2. Vacation, Sick leave, Medical leave, etc.
  3. Severance
  4. Group health care benefits (Health insurance premiums)
  5. Retirement benefits (e.g., employer 401(k) contributions)
  6. Employee's portion of Federal Income Tax (FIT)
  7. State and local payroll taxes
  8. Payroll DOES NOT include:
    - a. Employee Compensation over \$100,000.00
      - i. The \$100,000.00 cap applies to salary only, not healthcare and retirement benefits and possibly other forms of compensation
      - ii. Independent contractor costs not included in payroll costs
    - b. Federal income and related to taxes - IRC Chapters 21, 22 and 24 – (Include Employees' share of FICA and FIT in the computation but NOT Employer's share of Social Security and Medicare paid for the benefit of employees.)
    - c. Compensation for those who live outside of the United States
    - d. Certain qualified sick leave where a tax credit was received
    - e. Formula
      1. Aggregate Payroll Costs for US-based employees

2. Subtract salary over \$100,000.00 per year
3. Divide by 12 to get Average Monthly Payroll Costs
4. Multiplied by 2.5
5. Subtract Economic Injury Disaster Loan (EIDL) advance received after January 31, 2020

## 5. Term of Usage

- Was 8 weeks after the loan is made, meaning once you receive the money or the alternate date you had 8 weeks to spend it.
- For those who got their money on June 5, 2020 or later, the Flexibility Act expanded the time to use the money from 8 weeks to 24 weeks, but not beyond December 31, 2020.
- Borrower has the option to use either the 8 week period or the 24 week period if they received the money before June 5, 2020.

## 6. Good Faith Certification

- a. In your PPP loan application you had to certify that you were adversely affected by Covid-19 pandemic – “Current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.”
- b. Department of the Treasury FAQ's 's No. 46
  - i. If you borrowed less than \$2 million there is a Safe Harbor. Your certification will be accepted on its face - no proof to the SBA required. (But your lender may ask for proof)
  - ii. If you borrowed more than \$2 million you have to prove you were adversely affected by Covid-19.
  - iii. What if you do not meet the criteria and your certification is rejected? You have to pay the loan back, but by when? – see FAQ #43. We still don't know when it has to be paid back.

## 7. You can also apply for other SBA loans, but you cannot use the loan funds for the same purposes as the PPP loan proceeds.

- What if you get an EDIL loan. Can you use the proceeds to pay payroll after your PPP funds run out? Probably yes.

## 8. Documentation

- Paycheck Protection Program Borrower Application Form – make sure you use the revised form!
- Payroll Process or Records (ADP, PayChex)
- Payroll tax filings (941)
- Supporting documentation with respect to retirement contributions, the payment of health insurance, etc.

## 9. Recommendations

- Get you application in ASAP
- Apply through multiple banks?
- Keep a separate account for the PPP money

## LOAN FORGIVENESS

### 10. Latest Interim Final Rule (IFR) released June 17, 2020 - SBA- [Docket No. SBA-2020-0036]

[https://www.sba.gov/sites/default/files/2020-06/PPP-IFR-Revisions-to-First-Interim-Final-Rule\\_06%2012%2020-508.pdf](https://www.sba.gov/sites/default/files/2020-06/PPP-IFR-Revisions-to-First-Interim-Final-Rule_06%2012%2020-508.pdf),

### 11. Interim Final Rule SBA- [Docket No. SBA-2020-0033] (IFR) pages 7-8 - Loan Forgiveness Process.

<https://www.sba.gov/sites/default/files/2020-05/IFR%20-%20SBA%20Loan%20Review%20Procedures%20FINAL.pdf>

### 12. Frequently Asked Questions (FAQ's) on PPP Loan Forgiveness released August 4, 2020

### 13. The 2 Main Factors in Forgiveness

- How you spend the money
- The number of Full Time Employees on 2-15-20 vs. 12-31-20

### 14. Must submit the Loan Forgiveness Application (SBA Form 3508 or SBA Form 3508EZ) to the lender within 10 months of the completion of the Covered Period order to forestall our payments on the loan. (The 8 week or 24 week period).

- Forgiveness Application can be submitted any time before the maturity of the loan but within said 10 month period in order to forestall making payments.
- If you receive the loan proceeds on June 5, 2020 or later, and the loan is not forgiven, the loan matures 5 years from the date funds are available to you.
- If you receive the loan proceeds prior to June 5, 2020, and the loan is not forgiven, the loan matures 2 years from the date funds are available to you.
  - But you and the lender can agree to extend the term to 5 years.

- New Loan Forgiveness Application Form published June 16, 2020 and expires October 31, 2020 – Don't use the old one!
  - You can use the new EZ application if
    1. You are self-employed and no employees, OR
    2. You are an employer did not cut salaries by more than 25% and did not reduce the number of hours worked by your employees, OR
    3. Experienced reduced business activity due to health directives related to COVID-19 and did not reduce wages of employees by more than 25%.
  - Example - Loan disbursed June 25, 2020  
24 week period ends December 10, 2020  
Loan forgiveness application must be submitted to lender by December 10, 2025
  - 8 weeks or 24 weeks?
    1. If your covered period begins June 5, 2020 or later - 24 weeks.
    2. If your covered period begins before June 5, 2020 - you can pick 8 weeks or 24 weeks.
    3. Covered Period begins the day you got the money or the alternate date.
  - There is talking Congress of making the loan a grant for those who borrowed less than \$135,000.00.
15. In order to be eligible for **loan forgiveness**, the funds must be used during the 24 week period (or 8 week period) after you received the money before June 5, 2020, (or the alternate date) for:
- A. Payroll - at least 60% (was 75%) which includes:
- Salary subject to limitations
    - Employees earning \$100,000.00 a year or more - \$15,385.00 cap per employee for the 8 week period or \$46,154.00 for the 24 week period;
    - Sole proprietors, independent contractors and self-employed people;
      - The lesser of 2.5/12 of 2019 net profit or \$20,833.00 if using the 24 week period;  
or
      - 8/52 of 2019 net profit or \$15,385.00 if using the 8 week period.
      - EXCEPT employer health insurance contributions and retirement contributions NOT included.
    - C Corp. Owners – subject to the 2019 employee compensation limited but to restrictions for sole proprietors, but you can include Employer retirement and health insurance contributions
    - S Corp Owners - Same as C Corp. owners EXCEPT employer health insurance contributions NOT included, since already included in cash compensation.
    - General Partners - 2019 net earnings from self-employment less:
      - Claimed IRC 179 deductions;

- Unreimbursed partnership expenses; and
  - Depletion from oil and gas properties;
  - multiplied by .9235
  - subject to the restrictions on sole proprietors.
- Paid Sick, Family or Medical Leave
  - Health insurance premiums (Except health insurance premiums paid for the benefit of S Corp. owners sole proprietors, independent contractors and self-employed people)
  - Certain retirement related expenses - employer contributions for retirement benefits, not those paid by the employees.
- B. Rent – Under a Lease Agreement or Mortgage Interest
- C. Business Utilities - defined as expenses “for the distribution of electricity, gas, water, transportation, telephone, or internet access.”
- a. Heat and Sewer charges clearly qualified.
  - b. Do business utilities include Cell phones and Car lease payments? Once again no definition given but probably.
  - c. You can pay utilities during the 24 week period for periods before the 24 week period, (same as rent).
    - Reference is made to "transportation". Does that mean PPP funds can be used to make car lease payments? Probably not. Only example given is gasoline.
    - Check with your accountant - The AICPA gives examples of utilities
- D. Interest on already existing debt as of February 15, 2020
- E. Refinancing of an EDIL Loan made between January 31, 2020 and April 3, 2020 where the EDIL loan was used strictly to pay Payroll Costs. EDIL advance will be forgiven so not to be included in the refinance
- F. If you furloughed Employees bring them back!
- But by when? The earlier of the filing of the Loan Forgiveness Application or December 31, 2020. (Was June 30, 2020)
    - Can you bring them back after your PPP money runs out?
  - Reduction in employees will be ignored if eliminated by the earlier of the filing of the Loan Forgiveness Application or December 31, 2020
  - Full Time Employee (FTE) = employee works more than 40 hours.
  - Any employee working less than 40 hours deemed to be a .5 FTE
- G. Forgiveness will be proportional
- H. SBA will audit those businesses that receive more than \$2 million
- Certification as to need.



16. The EDIL Advance money (up to \$10,000.00) will deducted from the loan.
17. In order to be eligible for **loan forgiveness**, the funds must be used during the 8 week or 24 week period after you receive the money **OR** the day you start regularly scheduled bi-weekly payroll after you receive the money AND the money must be used for:

A. Payroll (at least 60%, was 75%, including salary, health insurance and retirement contributions)

- a. The lesser of a “Modified Total” - Loan amount or payroll cost/60%

Example: (Example uses 8 weeks) Borrower has a bi-weekly payroll schedule. The borrower’s eight-week covered period begins on June 1 and ends on July 26. The first day of the borrower’s first payroll cycle that starts in the covered period is June 7. The borrower may elect an alternative payroll covered period for payroll cost purposes that starts on June 7 and ends 55 days later (for a total of 56 days) on August 1. Payroll costs paid during this alternative payroll covered period are eligible for forgiveness. In addition, payroll costs incurred during this alternative payroll covered period are eligible for forgiveness as long as they are paid on or before the first regular payroll date occurring after August 1. Payroll costs that were both paid and incurred during the covered period (or alternative payroll covered period) may only be counted once.

- b. Ok to give bonuses – Remember the \$15,385.00 cap per employee for the 8 week period or \$46,154.00 for the 24 week period and the sole proprietor cap.
- c. Payroll costs + non payroll costs – reductions in salary x FTE reduction percentage.
- d. Sole proprietor/Schedule C owner compensation capped at the lesser of across all businesses:
- i. 8/52 of 2019 levels up to a max of \$15,385.00 (8 week period)
  - ii. 2.5/12 of 2019 net profit up to \$20,833 for 24 week period; and
  - iii. not reduced by IRC Section 179 deductions

B. Paid Sick, Family or Medical Leave

C. Retirement Contributions considered “employee benefits” but no exact definition of “retirement benefits” given.

- IRA contributions by solos and partnerships not factored in for purposes of loan forgiveness.

D. Health insurance premiums (Employer portion)

- Forgiveness not allowed for health insurance contributions made by self-employed individuals (Schedule C) and General Partners in a partnership (Form 1065) or shareholders in Subchapter S corporations.

- E. Rent – Under a Lease Agreement or Mortgage Interest –
- e. For rent there is no “prepayment” exclusion.
  - f. Any rent that is deferred from before the beginning of the eight week period must be paid during the eight week period in order to be credited.
  - g. If rent was below fair market value, it cannot be increased to fair market value.
  - h. You can pay rent during the 8 week period for periods before the week period, e.g., you can pay January's rent with PPP money
- F. Interest on already existing business debt on real or personal property as of February 15, 2020 – but not the advanced (pre-)payment of interest!
- G. If you are paying allowable non-payroll costs you can pay them before the next regular billing date. For example, if your 8 week period ends before July 1 and your monthly rent is due on July 1, you can pay your rent for July in June and the rental payment will be included in the calculation.
- H. Allowable non-payroll costs are eligible for forgiveness if:
- b. Paid during the covered period (8 Weeks or 24 Weeks); or
  - c. Incurred during the covered period and paid before the next regular billing date even if the billing date is after the covered period.
- I. PPP Loan Expense Tracker for \$179.00. <https://leimbergservices.com/wdev/products.cfm?id=66>
- AICPA may have one for free.
- J. If you furloughed Employees bring them back!
- Reductions in employees and/or wages between February 15, 2020 and April 26, 2020 will be ignored if the employee is brought back by the earlier of the filing of the Loan Forgiveness Application or December 31 2020.
  - Offer the employee the right to come back in writing and if they refuse let the Dept. of Labor know within 30 days of employee's rejection of the offer.
  - If the employee has died or is incapacitated the employer will not be penalized. You can count them as a FTE.
  - Employees hired in 2020 will be counted.
  - Is the sole proprietor or partner in a general partnership counted?
  - FTE Safe Harbor – The following are counted as FTE's if the employee:
    - i. Fired for Cause

- ii. Voluntarily Resigned
- iii. Requested and received reduced hours and is not replaced
- iv. Laid-off FTE who refuses the offer to be rehired (FAQ 40)

- New Safe harbor for failure to rehire FTE if:

- a. Unable to rehire an employee who was your employee on or before February 15, 2020;
- b. You can't find a similarly qualified employee by December 31, 2020,

or

You can prove business has not returned to the same level of activity as it was operating in at prior to February 15, 2020, due to CDC or OSHA guidelines pertaining to the COVID-19, e.g., restaurants not being able to serve as many customers due to social distancing rules.

K. What constitutes a Full Time Employee (FTE)?

- 40 hours a week.
- Any employee who works less than 40 hours per week is deemed to be a .5 FTE
- Cash compensation for any one employee cannot exceed \$15,385.00. (\$100,000 prorated over 8 weeks). REMEMBER - this does not include health insurance premiums and 401(k) safe harbor match payments.
- Can bonuses be paid to reach the 60% threshold?
- Reductions in pay for FTE's of more than 25% for those earning less than \$100,000 must be restored by June 30, 2020 or December 31, 2020.

L. SBA will Audit those business that receive more than \$2 Million in PPP funds.

M. Tax Implications

- If the loan is forgiven it is considered Tax Exempt income
- **But** - Payment of allowed expense are not tax-deductible – IRS Notice 2020-32
  - i. Example - You cannot deduct salaries you pay with PPP funds.
  - ii. Result - potentially higher income taxes
  - iii. Congress has indicated they may change this IRS rule. Stay tuned.

N. If the Loan is not forgiven:

- a. Term - 5 years (or 2 years if proceeds received before June 5, 2020) – (Maximum 10 years? Probably not)
- b. Interest rate - 1.00% (up to 4%?)
- c. Ten month deferral (was six-months) of interest but interest still accrues.

O. Keep your PPP documentation for 6 years from the date the loan is forgiven or it is repaid in full.

P. Even if you are planning to seek forgiveness you can defer the payment of employer's portion of payroll taxes.

## 2. ECONOMIC INJURY DISASTER LOANS (EIDL) and EMERGENCY ECONOMIC INJURY GRANTS (EEIG)

- <https://disasterloan.sba.gov/ela>
- <https://covid19relief.sba.gov/#/> - use this link to apply for the up to \$10,000.00 Grant

1. EEIG (Grant) – up to \$10,000 in free money – the funds have run out.

### Eligibility

- You are eligible for a EIDL (loan); and
- Your Business has been in operation since January 31, 2020.
- Grants are backdated to January 31, 2020 so those who have already applied for EIDL loans are eligible.
- Technically an advance on your EIDL.
- If you take out a PPP loan, the loan proceeds will be offset by the Grant.
- Will you have to apply for an EIDL to get it?
- \$1,000.00 per the number of Employees you had as of January 31, 2020 up to \$10,000.00.
- On April 24, 2020 - an additional \$10 billion was allocated for these grants.

## 2. EIDL (Loan)

- Hurricane and related SBA disaster loans extended to COVID -19
- Originally there was up to \$2 Million available per borrower. (That amount has been limited to \$150,000.00)
- Eligibility
  - a. Available to businesses with 500 employees or fewer
  - b. Your business has been negatively affected by Covid-19
  - c. You would otherwise be eligible for an EIDL (loan)
  - d. The application had been extremely limited but things have recently opened up.
- Interest Rates - 3.75% - 2.75% for nonprofits
- You can use the funds to:
  1. Pay fixed debts
  2. Payroll
  3. Accounts payable
  4. Bills related to the disaster

**REMEMBER:** Don't use these funds for the same purposes as the PPP loan if you took it!

- You have to file an application and get approved.
- The application is onerous - but they have recently streamlined the process for COVID-19 related loans.
- No collateral needed if the loan is for \$25,000.00 or less.
- Supposedly the SBA has significantly relaxed the collateral requirement.
- Normally one must provide:
  - Loan Application Form (SBA Form 5)
  - Tax Information Authorization (IRS form 4506T)
  - Most recent Federal Income Tax Return (and if 2019 returns not been filed a P&L statement for the prior year)
  - Year-to-date P&L statement
  - Schedule of Liabilities (SBA form 2202)
  - Personal Financial Statement (SBA form 413)

But Now? – not so much supporting documentation.

- Unlike PPP loans you don't go to the bank.
- You apply directly to the SBA <http://DisasterLoan.sba.gov>.  
<https://covid19relief.sba.gov/#/>
- On April 24, 2020 an additional \$50 billion was allocated to this program.
- Application deadline – December 31, 2020
- The SBA recently started taking additional applications for EDIL loans related to COVID-19 but that could change!

**COMPARISON between PPP and EIDL**

	<b>Paycheck Protection Program</b>	<b>Full EIDL Loan</b>
<b>PURPOSE</b>	Forgivable if used for payroll (minimum of 60 %, formally 75%, of the funds received) and the remaining for certain operating expenses (amount of any EIDL advance is probably not forgivable)	To meet financial obligations and operating expenses that could have been met had the disaster not occurred (amount of any EIDL advance is forgiven)
<b>TERMS</b>	Up to \$10 million  1% interest rate	Was up to \$2 million but has been reduced to \$150,000.00  3.75% for businesses  2.75% for non-profits
<b>FORGIVABLE</b>	YES	NO – EIDL Loan  YES – EIDL Advance (EEIG) Up to \$10,000.00
<b>MATURITY</b>	2 or 5 years	30 years
<b>FIRST PAYMENT DUE</b>	Deferred 6 or 10 months	Deferred 1 year
<b>APPLICATION DEADLINE</b>	August 8, 2020	December 31, 2020

**3. SMALL BUSINESS TAX PROVISIONS**

1. Employee Retention Credit

- YOU CANNOT APPLY FOR THIS IF YOU APPLY FOR A PPP and want to get it forgiven!
- If you timely repay the PPP Loan you can apply for the ERC after repayment.
- A refundable payroll tax credit for 50% of wages paid

Eligibility

A. Employer's whose operations have been fully or partially suspended due to Covid-19

B. Employers who have experienced greater than 50% reduction in quarterly receipts

Limitation

The credit only applies to the first \$10,000 of wages and compensation including Health Care benefits –  
NOT A LOT OF MONEY

## 2. Delay of Payment of Employer Payroll Taxes

- This program would allow the taxpayer to defer the employer portion of certain payroll taxes until the end of 2020.
- Repayment of those deferred payroll taxes would be made in 2 installments one at the end of 2021 and the other at the end of 2022.
- You can now APPLY FOR THIS PROGRAM IF YOU APPLY FOR A PPP!

## 4. SMALL BUSINESS DEBT RELIEF PROGRAM

- Relates strictly to those with SBA non-disaster loans.
- The SBA will cover all loan payments on applicable SBA loans for 6 months, including principal, interest, and fees.
- YOU CANNOT APPLY FOR THIS PROGRAM IF YOU APPLY FOR A PPP!

## 5. CARES ACT PROVISIONS RELATED TO RETIREMENT PLANS

- Affected retirement plans
  - i. IRA's
  - ii. 401(a) Plans
  - iii. 401(k) Plans
  - iii. 403(b) Plans
- An otherwise premature distribution of up to \$100,000.00 can be made if:
  - i. The individual was diagnosed with COVID-19; or
  - ii. The individual's spouse was diagnosed with COVID-19; and
  - iii. The individual has experience- adverse financial consequences due to COVID-19.
- With respect to COVID-19 related distributions
  - i. 10% penalty tax on the early distribution is waived.
  - ii. One can allocate the taxable portion of the distribution over a three-year period.
  - iii. The distribution is not subject to the 20% mandatory federal withholding tax.

- iv. The COVID-19 distribution can be repaid within 3 years from the date of receipt.
- One has 180 days beginning on March 27, 2020 to take a loan which is capped at \$100,000 less the value of any other outstanding loans.
  - Required Minimum Distributions (RMD's) are waived for 2020, including those that must be taken before April 1, 2020 but only to the extent not distributed before January 1, 2020.

## THE SBA 7(a) LOAN PROGRAM

1. The primary SBA loan program for small businesses.

[www.sba.gov/ny](http://www.sba.gov/ny)

2. Various types of loans
  - a. Standard 7(a) - Maximum \$5 million
  - b. 7(a) Small Loan - Maximum \$350,000
  - c. SBA Express - Maximum \$350,000.00 - accelerated turnaround time
  - d. Export Express - Maximum \$500,000 for exporters
  - e. Export Working Capital - Maximum \$5 million
  - f. International Trade - Maximum \$5 million
  - g. CAP Lines - Helps small businesses meet short-term working capital needs

Veterans Advantage - Reduced fees for veteran owned businesses.

3. How can you use 7(a) Loan Proceeds?
  - Working Capital
  - Inventory
  - Lines or Credit
  - Expansion/Renovation
  - Leasehold improvements
  - Land and Buildings
  - Furniture, Fixtures and Equipment
  - Refinance of prior debts? Maybe if for "compelling reasons"



## NEW YORK FORWARD LOAN FUND (NYFLF)

What is it?

- A fund to provide working capital loans to small businesses and organizations.

Who is it for?

- For small businesses with 20 or fewer full-time employees (FTE) and gross revenue of less than \$3 million per year
- Nonprofits
- Small Landlords who have seen a loss of rental income – 50 units or less.

**If you got a PPP Loan or EDIL loan for COVID-19 in 2020 you are not eligible for a NYFLF Loan!**

Amount of funding?

- \$100 million
- 5% to nonprofit organizations
- 30% to small landlords
- 65% to small businesses
- 

Amount that can be borrowed? –

- up \$100,000 payable over 5 years
- 3% interest, 2% for nonprofits
- interest-only payments for the first 12 months

FAQ's - <https://hcr.ny.gov/system/files/documents/2020/05/nyflf-esd-hcr-faq.pdf>

**FEDERAL RESERVE MAIN STREET LENDING PROGRAM**

Effective April 30, 2020

Main Street Lending Program Loan Options	New Loans	Priority Loans	Expanded Loans
<b>Term</b>	4 years	4 years	4 years
<b>Minimum Loan Size</b>	\$500,000	\$500,000	\$10,000,000
<b>Maximum Loan Size*</b>	The lesser of \$25M or an amount that, when added to outstanding and undrawn available debt, does not exceed 4.0x adjusted 2019 EBITDA	The lesser of \$25M or an amount that, when added to outstanding and undrawn available debt, does not exceed 6.0x adjusted 2019 EBITDA	The lesser of \$200M, 35% of existing outstanding and undrawn available debt, or an amount that, when added to outstanding and undrawn available debt, does not exceed 6.0x adjusted 2019 EBITDA
<b>Risk Retention</b>	5%	15%	5%
<b>Payment (year one deferred for all)</b>	Years 2-4: 33.33% each year	Years 2-4: 15%, 15%, 70%	Years 2-4: 15%, 15%, 70%
<b>Rate</b>	LIBOR + 3%	LIBOR + 3%	LIBOR + 3%