



THE CARES ACT: What Businesses Should Know

March 31, 2020

Disclosure

The following information was created and presented on March 31, 2020. The information is Warren Averett's interpretation at the time of the recording. Please note that the guidance and interpretations are changing daily, so we suggest contacting your advisors for the most current information.



Today's Moderator:

William Dow, CPA

William.Dow@warrenaverett.com

Presenters:



Will Aderholt, CPA

Will.Aderholt@warrenaverett.com



Adam West, CPA

Adam.West@warrenaverett.com



Lisa Billings, CPA

Lisa.Billings@warrenaverett.com

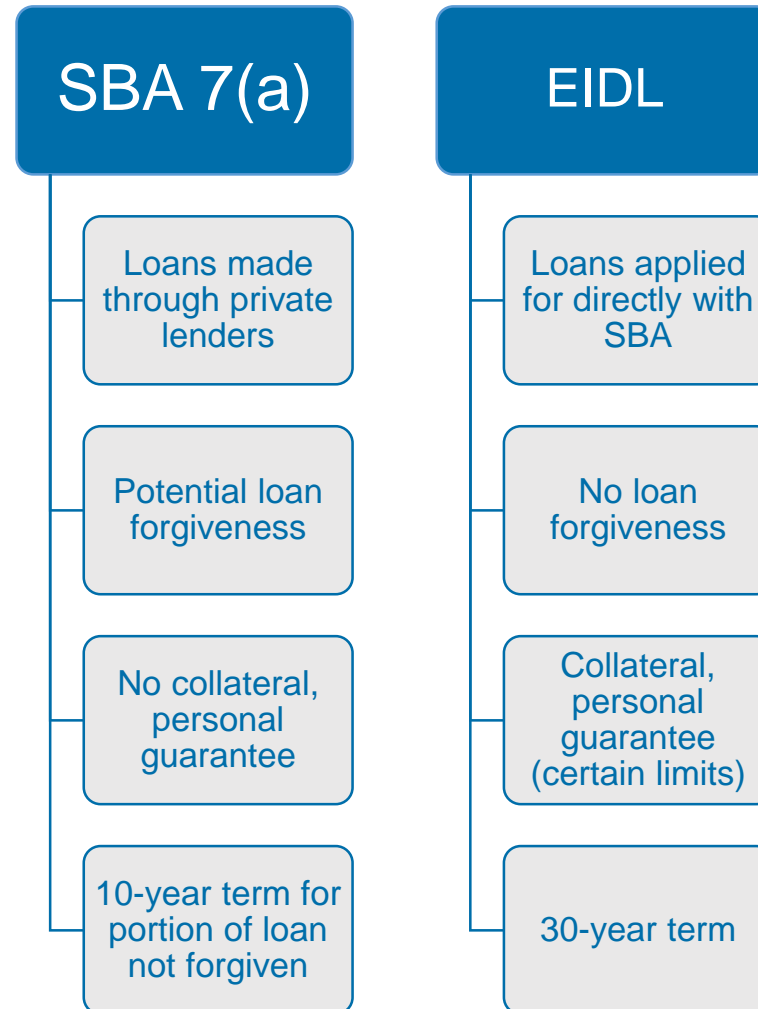
Agenda

- SBA Loan Program
- Unemployment and Payroll Taxes
- Other Business Provisions
- Individual Provisions

The CARES Act: What
Businesses Should Expect

Expanded SBA 7(a) Loan Program

What is the difference between an SBA 7(a) Loan and an Economic Injury Disaster Loan (EIDL)?



Coronavirus Aid, Relief and Economic Security Act (CARES Act)

Expanded 7(a) Loan Program

- Paycheck Protection Program
- Administered through SBA 7(a) Loan Program
- \$349 billion in federally-guaranteed loans
- Loans will be forgiven if certain requirements are met
- No collateral required
- No personal guarantee required
- "Credit elsewhere" is waived

Who is eligible under the expanded 7(a) Loan Program?

- Any business, nonprofit organization, self-employed individual, sole proprietorship or independent contractor that has been adversely impacted by COVID-19 will be eligible if that entity:
 - Does not employ more than 500 employees, including full-time and part-time employees **NOTE: SBA Affiliation Rules Apply**; OR
 - Meets the existing SBA size standard for its industry, AND
 - Was in operation on February 15, 2020 and paid employees' salaries and payroll taxes or paid independent contractors reported on IRS Form 1099.

How does a company demonstrate that it has “been adversely impacted by COVID-19” and is an “impacted borrower”?

- Company must meet the "Borrower Requirements"
 - Make a good faith certification that the uncertainty of current economic conditions makes the loan request necessary to support ongoing operations
 - Acknowledge that the funds will be used to retain works and maintain payroll or make mortgage payments, lease payments and utility payments
 - Certify no "duplication"; no double dipping by applying for multiple loans for the same purpose

How is the loan amount determined?



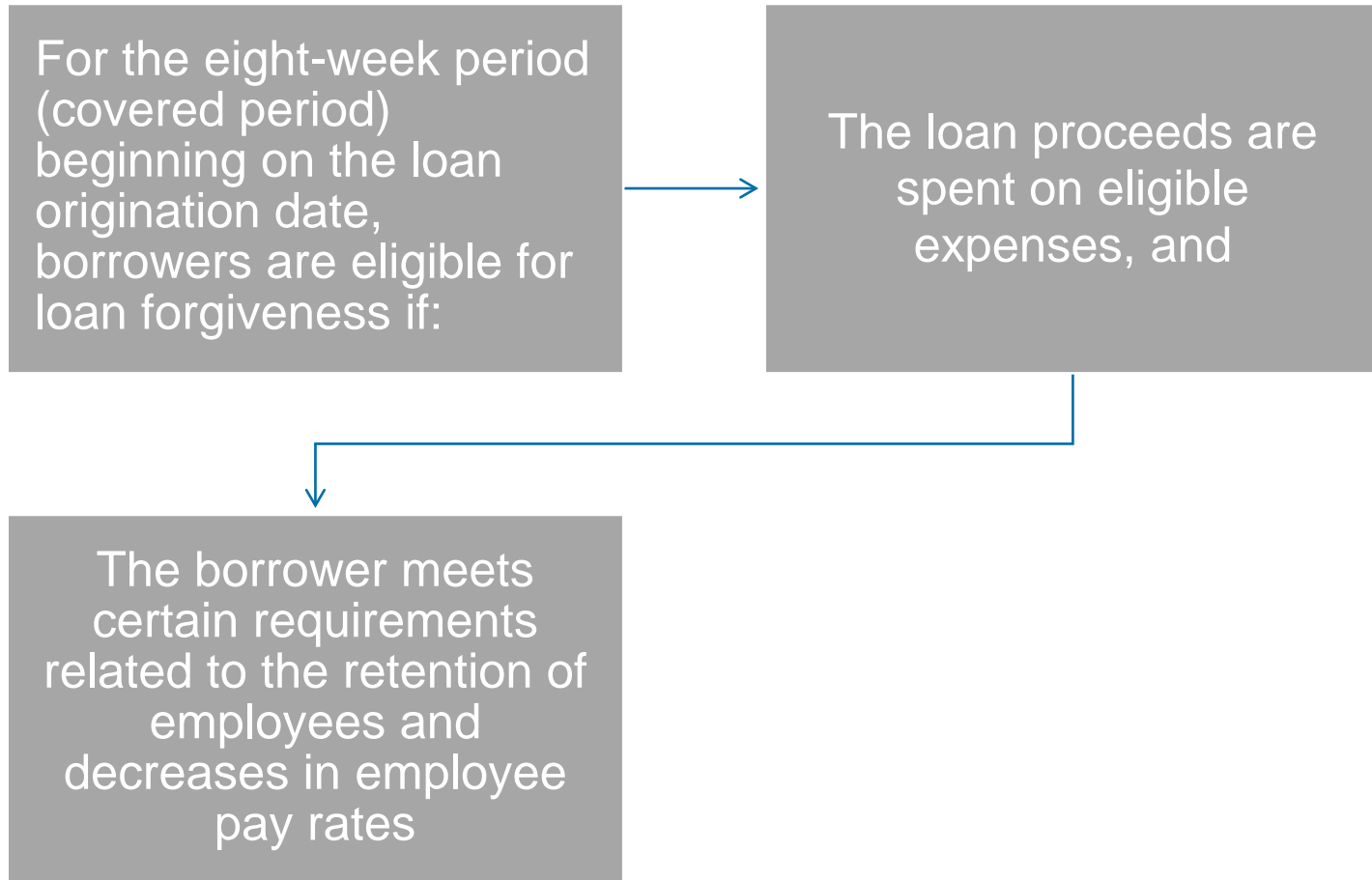
The loan amount is the lessor of:

- 2.5 times the company's average monthly payroll costs incurred in the one-year period before the loan is made, OR
- \$10,000,000

How are payroll costs defined?

- Payroll costs include:
 - Salary, wage, commission or similar compensation
 - Independent contractors
 - Cash tips or equivalent
 - Vacation, parental, family, medical and sick leave
 - Allowance for dismissal or separation
 - Payment for group health benefits (including insurance premiums)
 - Payment for retirement benefits and state or local payroll taxes
 - *Exclusions:* Compensation of an employee in excess of \$100,000, federal payroll taxes and sick leave paid under the [Families First Coronavirus Relief Act](#), and compensation of an employee whose principal place of residence is located outside of the United States are excluded from payroll costs.

How does the loan forgiveness work?



What expenses are eligible for loan forgiveness?



PAYROLL COSTS



HEALTH
BENEFITS



RENT



UTILITIES



INTEREST ON
DEBT
OBLIGATIONS

How does the loan forgiveness work (continued)?

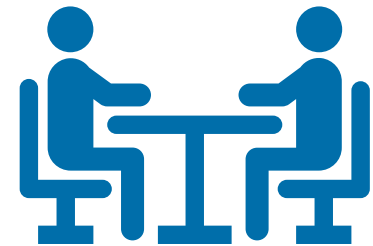
- During the covered period, the amount that may be forgiven will be proportionately reduced if the company:
 - Does not maintain the average number of employees it had before the crisis began, or
 - Reduces salaries or wages of an employee who makes less than \$100,000 by more than 25%.
 - Special Provision: Employers will not be penalized if they eliminate the decrease in full-time employee equivalents and/or wages by June 30, 2020, for employees laid-off from February 15, 2020 through April 26, 2020.

How does the loan forgiveness work (continued)?

- The loan forgiveness is not taxable income for federal income tax purposes.
- Any portion of the loan not forgiven will have a term of not more than 10 years from the date loan forgiveness is applied for, with an interest rate not to exceed 4%.
- Lenders are required to defer interest and principal from the loan origination date for a period of not less than six months and not more than one year.

When will this program go into effect?

- Lenders are waiting on guidance from the SBA
- NAGGL has a call scheduled with lenders on Thursday
- Stay tuned for additional information



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Unemployment and Payroll Taxes

Unemployment Benefits

- Benefits available to independent contractors, self-employed and gig workers
 - Requirements are similar to the paid sick leave provisions of Families First Act
- \$600/week federal benefit – up to four months
- Extends state benefits an additional 13 weeks (39 weeks total)

Families First Coronavirus Response Act

Requires 80 hours of paid sick leave for following reasons if EEs are unable to work (or telework)

The employee is subject to a Federal, State or local quarantine or isolation order

The employee has been advised by a health care provider to self-quarantine due to concerns related to the virus

The employee is experiencing symptoms of the virus and seeking a medical diagnosis

The employee is caring for another individual who falls into categories 1 or 2, above

The employee is caregiving for a child of the employee if their school or place of child care has been closed or is unavailable due to the virus

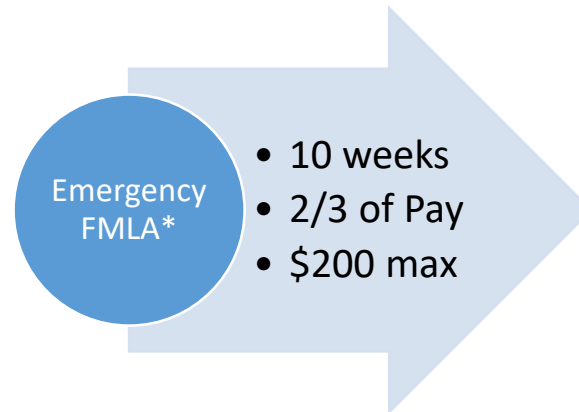
The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services

Families First Coronavirus Response Act

If you are caring for yourself:



If you are caring for someone else:



*School Closings Only

Families First Coronavirus Response Act

- Applies to employers with <500 employees
- Cost of leave is fully offset by refundable payroll tax credit
- Claimed on quarterly payroll tax return
- ER can forego payroll deposits (including EE withholding) equal to leave paid
- ER can also claim for expedited refund
- Allocable healthcare costs also increase credit

Families First Coronavirus Response Act

- Effective date is 4/1/20
- 30-day non-enforcement period
- Exemption available for <50 EEs if complying would put business in jeopardy
- Similar credit allowed for self-employed and “gig” workers
- Leave paid is not subject to Employer FICA
- <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>

Employee Retention Credit for Employers

- Provides a refundable payroll tax credit for 50 percent of wages paid by employers to employees during the COVID-19 crisis.
- The credit is available to employers whose
 - (1) operations were fully or partially suspended, due to a COVID-19- related shut-down order, or
 - (2) gross receipts declined by more than 50 percent when compared to the same quarter in the prior year.

Employee Retention Credit for Employers

The credit is based on qualified wages paid to the employee.

For employers with >100 full-time employees, qualified wages are wages paid to employees when they are not providing services due to COVID-19.

For employers with <100 full-time employees, all wages qualify for the credit (whether open for business or subject to a shut-down order).

Credit provided for the first \$10,000 of qualifying wages per employee



***Not eligible for this credit if you participate in the 7(a) program**

Delay of Payment of Employer Payroll Taxes

- Allows employers and self-employed individuals to defer payment of the employer share of the Social Security tax (6.2%) through the end of 2020.
- The deferred employment tax is to be paid over the following two years, with half due by December 31, 2021 and the other half due by December 31, 2022.

***Not eligible for this credit if you participate in the 7(a) program**

The CARES Act: What
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Other Business Provisions

CARES Act – Business Tax Provisions

- Modification for NOLs
- Modification of Limitation on Losses for Taxpayers Other than Corporations
- Modification of Credit for Prior Year Minimum Tax Liability of Corporations
- Modification of Limitation on Business Interest
- Technical Amendment Regarding Qualified Improvement Property

Modifications for Net Operating Losses

Prior Rule: Net Operating Losses (NOL) can be carried forward indefinitely and can offset 80% of future taxable income in any future

- The Act provides that an NOL arising in the 2018, 2019, or 2020 tax years can be carried back five years.
- The Act also temporarily removes the taxable income limitation to allow an NOL to fully offset income.
- Applies to corporations and individuals.

Modification of Limitation on Losses for Taxpayers Other than Corporations

Prior Rule: An individual can only use \$500,000 of business losses offset other income.

- The Act temporarily removes the loss limitation for 2018, 2019 and 2020 tax years.

Modification of Credit for Prior Year Minimum Tax Liability of Corporations

Prior Rule: The corporate alternative minimum tax (AMT) was repealed as part of the Tax Cuts and Jobs Act, but corporate AMT credits were made available as refundable credits over several years, ending in 2021.

- The Act accelerates the refund of the alternative minimum tax credits to allow a full refund of any remaining credit amount in taxable years beginning in 2019.

Modification of Limitation on Business Interest

- The provision temporarily increases the amount of interest expense businesses are allowed to deduct on their tax returns, by increasing the 30 percent limitation to 50 percent of taxable income (with adjustments) for 2019 and 2020.
- Different application to corporations and partnerships

Technical Amendment Regarding Qualified Improvement Property

- The provision enables businesses, especially in the hospitality industry, to write off immediately costs associated with improving facilities instead of having to depreciate those improvements over the 39-year life of the building.
- The provision, which corrects an error in the Tax Cuts and Jobs Act and is retroactive to 1/1/2018.

Postponement of Tax Payment and Form Filing Due Dates to July 15, 2020



- Individuals, trusts, estates, corporations or any unincorporated business entity is eligible for relief.
- Taxpayers do not have to be directly impacted by COVID-19 to qualify for relief.

Exceptions:

- This does **not** apply to payroll taxes and excise taxes.
- This does **not** apply to information returns.

State Taxes

- Alabama and Georgia have adopted the due date postponements for returns due 4/15.
- States are offering extensions on other types of taxes including sales & use, franchise, annual reports, etc. Check with your Warren Averett advisor or local Department of Revenue for local specifics.

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Individual Provisions

CARES ACT – Rebates and Other Individual Provisions



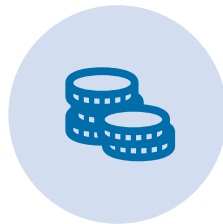
REBATES



RETIREMENT
FUNDS



WAIVER OF RMD
REQUIREMENTS



CHARITABLE
CONTRIBUTIONS



STUDENT LOANS

Warren Averett Coronavirus Resources Page

COVID-19 RESOURCES

Visit Our Coronavirus Resource Center

Warren Averett is acutely monitoring the rapidly-changing coronavirus (COVID-19) situations.

LEARN MORE



<https://warrenaverett.com/coronavirus>

Questions?

Contact your Warren Averett Advisor
or visit warrenaverett.com/contact.



Thank You!