NAIFA | Advocacy

EVENT NOTES

The Paycheck Protection Program

What it means to you and your small business clients.

The federal Paycheck Protection Program was created by the CARES Act COVID-19 economic relief legislation. It allows small businesses to get low-interest loans from banks and other financial institutions to pay employee salaries and certain approved business expenses. Loan recipients that use at least 75% of their loans to pay employee salaries and do not reduce their full-time workforce are eligible to have their loans forgiven. Under the program, there is no need for recipients to provide collateral or personal guarantees.

Below are important take-aways from NAIFA's online Town Hall meeting question and answer sessions with Scott Sinder and Kate Jensen of the firm of Steptoe & Johnson.

Who is paying for this?

- The CARES Act allocated $384 billion to cover the Paycheck Protection Program loans and allowed businesses with 500 or fewer employees or that meet Small Business Administration's employee-based size standards for specified industries to submit applications beginning April 3, 2020. The initial allocation quickly ran out, but on April 23 Congress approved an additional $310 billion of funding for the program
- The federal government pays loan-origination fees.
- The federal government will repay the loans and interest (set at 1% by the law) if recipients meet criteria for keeping employees on their payrolls. (See below.)

What size loans may small businesses receive?

- Loans may be for up to two months of a business's average monthly payroll costs from the last year plus an additional 25% of that amount. However, payroll costs are capped at $100,000 annualized per employee.
- Payroll figures are the only costs used to determine loan amounts, even though recipients may use loans to pay some non-payroll business expenses. (See below.)
- The maximum loan amount is $10 million.

How may recipients use the loans?

- The program's main purpose is to keep workers on employer payrolls, and the bulk of the loans are intended to cover payroll costs up to $100,000 on an annualized basis per employee. (See below, under forgiveness.)
- Under the legislation, payroll costs include: salary, wages, and tips; paid vacation, family leave, parental leave, and sick leave; group health insurance premiums; retirement benefits; and taxes on compensation.
- The loans may also be used for certain business expenses, including mortgage or rent payments and utilities (including phones). Mortgages, rental and lease agreements, and utility contracts must have originated before Feb. 15, 2020. Business expenses must account for less than 25% of the loan amount for recipients to be eligible for full loan forgiveness. (See below.)

Who pays the loans back and when?

- All repayments are deferred for six months, though 1% interest will accrue during that period.
- The loans are due two years after origination. There are no prepayment penalties or fees.
- Loans will be forgiven and repaid by the government if recipients meet forgiveness criteria.

What do small businesses have to do to have their loans forgiven?

- The SBA has not issued formal rules. These are due April 26. Some details won't be known until the final rules come out.
- Under the legislation, small businesses must show that they spent at least 75% of their loans on employee compensation during the eight weeks after receiving the loans to receive complete loan forgiveness.
- Employers must have the same number of full-time employees (with compensation under $100,000 on an annualized basis) at the end of June as they had on Feb. 15. Employees who are terminated or leave voluntarily must be replaced on the payroll (it doesn't have to be the same person) by June 30, 2020, for the company to receive full loan forgiveness. NAIFA and other groups have requested limited common-sense, good-faith exceptions to this requirement.
- Employers must not reduce the salary by more than 25% of any employee who made less than $100,000 on an annualized basis last year.
- After June, there will be a separate application process through lending institutions for small businesses seeking loan forgiveness.
- It is crucial to document everything. It will be up to loan recipients to validate that they qualify for loan forgiveness under the program.

How does the program apply to independent contractors?

- Self-employed individuals and independent contractors may apply for loans on their own behalf. To qualify, they must: 1.) have been in operation on Feb. 15, 2020, 2.) have been earning income as an independent contractor, 3.) have their principal residence in the United States, and 4.) submit an IRS form 1040 Schedule C.
- Independent contractors, and their compensation, are not counted by the contracting employers.
- Loan amounts are based on income (up to $100,000, annualized) reported on their 2019 form 1040 schedule C line 31 (Net Profit).
- If independent contractors have not yet submitted a 2019 schedule C, they must use the amount that will appear on the 2019 form; they may not substitute figures from 2018.
- Recently established independent contractors should base their compensation on the Jan. 1 – Feb. 29, 2020, earning period. They should consult with lending institutions for more details.
- The loans, mean to cover eight weeks of income, are based on annual net profit up to $100,000 for the entire year, even if independent contractors usually earn more at certain times of the year than at others.

Learn More!

- NAIFA's Town Hall sessions on Paycheck Protection Program are available for on-demand viewing.
- Also see the U.S. Treasury Department's Paycheck Protection Program information sheet.