

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

The CARES Act, signed into law on March 27, 2020, addresses economic and health impacts of COVID-19, including relief for small and medium-sized businesses facing unprecedented challenges during the pandemic. The centerpiece of the CARES Act is the Paycheck Protection Program, which we believe will provide the greatest benefit to many of our clients.

On June 5, 2020, the Paycheck Protection Program legislation, called the Paycheck Protection Program Flexibility Act of 2020, became law, providing additional time and greater flexibility to make use of funds received under the Paycheck Protection Program.

The centerpiece of the CARES Act for small and medium- sized businesses is the Paycheck Protection Program, which we believe will provide the greatest benefit to many of our clients.

Note: If an employer receives a Paycheck Protection Loan (PPL), that employer is not eligible for the Employee Retention Tax Credit. As a result of the Paycheck Protection Program Flexibility Act, businesses may elect the federal employer payroll tax deferral under the CARES Act, regardless of whether the business has a Paycheck Protection Loan forgiven.

Please note that this information is subject to change, as additional guidance and updates by federal agencies are still forthcoming to assist in the understanding, implementation and administration of the various programs under the CARES Act. Our teams remain focused on finding ways that Insperity can work with our clients as they seek assistance under this and other programs.

Paycheck Protection Program

Loan process

Small businesses and sole proprietorships were able to start applying for and receive loans on April 3, 2020. Independent contractors and self-employed individuals were able to start applying for and receive loans on April 10, 2020. The application form, which was updated on April 2, 2020, is available on the SBA's website at the following link: [https://www.sba.gov/sites/default/files/2020-04/PPP Borrower Application Form.pdf](https://www.sba.gov/sites/default/files/2020-04/PPP_Borrower_Application_Form.pdf). Loans will be available and serviced through existing SBA-certified lenders, including banks, credit unions and other financial institutions. The CARES Act directs the SBA and the U.S. Treasury to bring additional lenders into the program. The loans do not need to be approved by the SBA.

The goal is to have same day approval and disbursement. Insperity has made available reporting to its PEO clients on its Insperity Premier™ platform to assist with determining average monthly “payroll costs”.

Eligibility

Qualifying businesses that have suffered significant disruption as a result of COVID-19 are eligible to receive no-fee “paycheck protection loans.”

Qualifying small businesses generally include employers with less than 500 employees, whether employed on a full-time, part-time or other basis; 501(c)(3) nonprofits; veterans organizations; and tribal small business concerns.

Individuals who operate under a sole proprietorship or as an independent contractor or eligible self-employed individuals are also eligible.

Exceptions to the 500 employee limit are: (1) if the business operates in an NAICS code beginning with 72 (Accommodation and Food Services sector) or is a franchise that is listed on the SBA’s Franchise Directory, then the 500 employee limit is per physical location and (2) if the business has more than 500 employees but meets the SBA’s industry-based “size standard” requirements for the applicable NAICS code, then the business would meet the size eligibility standards. Clients can find the SBA’s industry-based sized standards here: www.sba.gov/document/support--table-size-standards.

These loans are non-recourse, require no personal guarantee and are unsecured (i.e., no collateral is required). On the loan application, an authorized representative of the borrower will have to make various certifications, including that the loan request is necessary to support ongoing operations and that the funds will be used to retain workers and maintain payroll. Please see page 2 of the loan application for the list of required certifications.

Amount of loan

Loan amount up to 2.5 times average monthly “payroll costs” for the last 12 months up to annual rate of pay of \$100,000 per employee (Loans may not exceed \$10 million). Different rules apply to seasonal businesses or companies that were not in business from Feb. 15, 2019 to June 30, 2019.

Payroll costs generally

- Include payments for: (1) salary, wages & commissions,
- (2) payment of cash tips or equivalent, (3) covered leave,
- (4) separation allowances, (5) group health care benefits, including insurance premiums, (6) retirement benefits, and (7) state or local taxes assessed on employee compensation.
- Excludes: (1) compensation of an employee in excess of \$100,000, (2) certain taxes imposed or withheld under the Internal Revenue Code, (3) any compensation to an employee whose principal residence is outside the United States, and (4) qualified sick leave wages and family leave wages for which a credit is allowed under the Families First Coronavirus Response Act.

Loan forgiveness

- Portion of the loan used to cover payroll costs, interest on mortgage obligations incurred before February 15, 2020, rent under a lease in effect before February 15, 2020, and utility payments under service agreements dated before February 15, 2020, in each case over a specified period following the date of the loan will be forgiven. As a result of the Paycheck Protection Program Flexibility Act, borrowers spend at 60% of the loan amount on eligible payroll costs in order for any portion of the loan to be eligible for forgiveness.

- Amount of loan forgiveness may be reduced by any reductions in an employee's wages (in excess of 25%) or reduction in the number of full-time equivalent employees, unless employer eliminates the salary reduction or rehires employee by specified dates.
- Any loan amount not forgiven is carried forward as an ongoing loan with a minimum term of 5 years for loans issued on or after June 5, 2020, and at a 1.0% interest rate, with all payments (principal and interest) deferred for a specified period of time. Loans issued prior to June 5, 2020 have a maturity of 2 years, although a borrower can discuss extending the term of the loan with their lender. Unless the borrower has applied for a received a decision on forgiveness, the deferral is available at least until the end of the tenth month following the period in which the borrower must have used the proceeds in order to be eligible for forgiveness.

Insperty PEO clients

We have made available a report to assist our clients in calculating "payroll costs" and other reports and information to help explain Insperty's role in handling HR matters, including many federal and state tax filings under our own identification number, if the lenders have questions.

Updated as of June 5, 2020