CARES Act FAQs

How will the CARES Act help my business and staff survive the coronavirus downturn?

• Paycheck Protection Program (PPP) Loans at 4%, but these can be 100% forgiven. Funding will be faster than regular SBA loans, documentation will be provided later, and banks will serve as the point person for loan proceeds distribution.
• Economic Injury Disaster Loans (EIDL) at 3.75%, but these aren’t forgiven
• Unemployment compensation of $600/week on top of state benefits

Did I make a mistake firing my employees when my office was ordered closed?
No. The CARES Act is not punitive, but it isn’t a handout, either. It is instead designed to help you cover your payroll for 2 months, along with a few extra expenses, but if your people are gone, your loan won’t be 100% forgiven, so you will be permitted to rehire any terminated or furloughed employees without penalty.

What is the difference between a Paycheck (PPP) loan and a Disaster (EIDL) loan?
The Paycheck loan lender looks at your past year of average monthly payroll costs, unless you just started in 2020, in which case they look at your January and February payroll costs, and gives you a loan within 60 days for 250% of that amount. For example, if your average monthly payroll is $50,000, your Paycheck loan will be for $125,000, which you can spend on payroll, group health premiums, rent, utilities, and phone and internet access. Your payroll for the 60 days after you receive the loan cannot be less than 75% of your average payroll and employee count between February 15th and June 30th, 2019, but if it is, your Paycheck loan will be 100% forgiven.

The Disaster loan, on the other hand, is a true loan at 3.75% interest up to $2 million. You can use it to pay COVID-19 sick leave, payroll, rent or mortgage payments, and overdue debt service due to lost revenue. Unlike the Paycheck loan, however, you can request a $10,000 advance immediately upon application, which will be paid within 3 days, and you never have to pay that back, even if your Disaster loan isn’t approved.

Can I apply for both a Paycheck loan and a Disaster loan?
Yes, but you can’t use both for the same expenses. That means you can use the PPL loan for payroll, rent and utilities, but you can only use the Disaster loan for expenses not covered by the Paycheck loan. As a practical matter, the SBA will likely not approve both loans at the same time, so as to discourage fraud and double dipping. More likely, if you already received a Disaster loan, that will get rolled into your Paycheck loan, and if you received the $10,000 advance while applying for the Disaster loan, $10,000 of your Paycheck loan won’t be forgiven. It may also be
possible to ask the bank to stagger the loans, so use the Paycheck loan forgiveness program first, and then ask to have your Disaster loan begin.

**How much of my Disaster loan can be forgiven?**
None. Payments can be deferred until December 31, 2020, but interest will continue to accru.

**How much can I receive through a Paycheck loan?**
The cap is $10 million, but that would only be for large employers. Your loan will only be for 2-1/2 times your average monthly payroll.

**How much of my Paycheck loan can be forgiven?**
100% will be forgiven if you spend it correctly. You will have to keep your payroll above 75% of your February 15 – June 30, 2019 monthly average, and keep your workforce above 75% of the number of employees you had during the same period, and spend the rest of the loan only on group health care premiums, rent, mortgage payments and utilities.

**Will my PPP Loan, once forgiven, become taxable income?**
No. Forgiven PPL loans, and the $1200/filer cash payments, are all tax free and will not be included in one’s gross income.

**What happens if my Paycheck loan isn’t 100% forgiven?**
The unforgiven portion becomes a regular loan at 4% interest with a maximum term of 10 years. You can defer payments for 6 months, but interest will accrue. On the other hand, a Paycheck loan at 4% is probably much less than your bank will give you on a line of credit, and unlike your personal line of credit, a Paycheck loan carries no prepayment penalty, and requires no personal guarantee.

**Are there salary limitations when calculating payroll costs?**
When looking at your past payroll, the amount any employee’s salary exceeds $100,000 will be disregarded in calculating your average monthly payroll. This would include surgeon salaries as well who are employees.

**What can I spend a Paycheck loan on?**
Payroll, of course, but that includes salaries and wages up to $100,000 per year, per employee, paid leave including vacation, severance, group health premiums and benefits, retirements benefits, state and local payroll taxes, compensation to sole proprietors and independent contractors up to $100,000/year, certain federal taxes and sick leave and family leave being reimbursed under the Families First Coronavirus Response Act, i.e. 2 weeks of sick leave and 12 weeks of family leave.

You can also spend it on mortgage interest, rent and lease payments, and utilities, including electricity, gas, water, transportation, and phone and internet access for service that began before February 15, 2020.

**What is an SBA 7(a) approved lender?**
The Paycheck and Disaster loans are administered through the Small Business
Administration. The SBA maintains a list of financial institutions, which they have pre-approved to make these loans. The CARES Act gives such banks full authority to approve and service those loans without SBA approval.

How do I apply?
The SBA maintains a financial institution match system and a list of lenders you can approach directly: https://www.sba.gov/funding-programs/loans/lender-match. They also have a list of the 100 lenders who handle the most loans: https://www.sba.gov/article/2020/mar/02/100-most-active-sba-7a-lenders. That said, it appears banks will not be meeting until at least Wednesday, April 1st to work out the lending process.

What paperwork will these lenders require?
Disaster loans are streamlined, only requiring personal and business financial statements and tax returns. Paycheck loan eligibility appears to require only a good faith certification that the funds are necessary to support operations, that funds will be used to retain workers and maintain payroll or make mortgage payments, lease payment, and utility payments, that you don’t have another application pending, and that you will not receive duplicative SBA loan amounts.

What CARES Act benefits are available for my employees?

Insurance Benefits. The CARES Act provides, through state grants:
- $600/week of unemployment benefits for 4 months for independent contractors and gig workers
- Adds $600/week of unemployment benefits on top of state benefits for employees, and
- Adds 13 weeks of $600/week benefits for workers who have exhausted their state benefits.

Cash. Your employees will receive cash payments of $1,200 ($2,400 for joint filers), phased out if taxpayer makes >$75,000/year ($150,000 for joint filers), unless they are behind in their child support payments.

Retirements Plans. Tax filing, IRA contributions and retirement plan contributions deadlines are extended to July 15. The IRS is also waving the 10% penalty for early plan distributions of <$100,000, provided repayment is made within 3 years and the money is needed because your employee is quarantined, furloughed, laid off, suffered reduced hours, or unable to work, or can’t find child care, all due to COVID-19. Loans from retirement plans are increased from $50,000 to $100,000, with repayment over 5 years.

Employee Retention Credit. If you do not receive a PPP loan, you can receive a refundable credit against payroll tax liability equal to 50% of the first $10,000 in wages per employee, due to either government action or 50% loss of business. Also, payroll taxes for 2020 can be deferred and repaid ½ on December 31, 2021 and half on December 31, 2022.

Loan Forbearance. Borrowers with federally-backed mortgage loans, which would
include you and your employees, may request forbearance in paying their mortgage, regardless of delinquency status and without penalties, fees, or interest upon request to the borrower’s loan servicer, accompanied by an affirmation of financial hardship due to COVID-19. Forbearance must be granted for up to 180 days and extended for an additional 180 days upon the borrower’s request. Banks may not initiate any foreclosure process, with exceptions, during this period.

**Disclaimer:** These FAQs have been prepared by Robert H. Aicher, General Counsel to The Aesthetic Society. A good faith effort has been made to keep these FAQs relevant and concise, but readers should consult their own legal and financial consultants for current accuracy. Comments may be directed to aicher@sbcglobal.net for possible inclusion in future webinars.

**CARES Act-The Law**