

# Navigating Financing and Employment Issues in the Shadow of COVID-19

# Morris, Manning & Martin, LLP



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# Corporate Payroll Services

**Ephrat Merid**  
**Corporate Payroll Services**  
[emerid@corpay.com](mailto:emerid@corpay.com)  
215-244-2580 x3001

**Corporate Payroll Services**  
**230 Scientific Drive Suite 100**  
**Peachtree Corners, GA 30092**  
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# Stimulus Loan Programs

- **Paycheck Protection Program (PPP)**
  - Nominal interest, forgivable loans for businesses with under 500 employees
- **Economic Injury Disaster Loans (EIDL)**
  - Long-term, low-interest loans with \$10k “advances” available upon application
- **Mid-Size Business Assistance Program**
  - Loan program for businesses with between 500 and 10,000 employees
- **Loan forgiveness for existing Section 7(a) loans**
  - 6-month principal, interest, and loan fee forgiveness for existing SBA small business loans

# PPP – Loan Terms

- 2 year term, no prepayment penalty
- 1% fixed interest
- Interest deferral for 6 months
- Non-recourse -- no collateral or personal guarantee
- Use of proceeds:
  - Payroll costs
  - Mortgage interest
  - Rent
  - Utilities

# PPP - Eligibility

- For-profit, certain non-profits, independent contractors, and sole proprietors
- Size standards
  - 500 or fewer U.S. employees *or* small business concern
  - Exceptions for accommodations and food services businesses
- Affiliation rules – apply for most businesses
  - Affects private equity and venture-backed businesses
  - Exceptions
- Need

## PPP – Loan Amount

- 2.5x borrower's average monthly payroll costs for 2019 or TTM, up to \$10 million
- “Payroll costs”
- Alternative calculations for seasonal and new businesses

# PPP – Principal Forgiveness

- Principal forgiveness for amounts spent during first 8 weeks from loan date
- 25% limitation on use other than payroll cost
- Forgiveness reduction
  - Reduction of number of employees
  - Reduction in salaries
- Restoration of jobs or wages

# Economic Injury Disaster Loan

- Up to \$2 million working capital loans
- Up to 30 year term, 3.75% interest rate
- 1 year principal and interest deferral
- Collateral and personal guarantees
- \$10,000 emergency grant

# Main Street Loan Facilities

- Unsecured, 4-year term loans
- Principal and interest amortization deferred for 1 year
- Loan amounts between \$1 million and \$25 million
- Adjustable rate of SOFR + 250-400 basis points
- Businesses with up to 10,000 employees
- Federal Reserve Bank purchases 95% participation interest in eligible loans
- Use of proceeds and restrictions

# FFCRA

- FFCRA (Families First Coronavirus Response Act) added new requirements for paid sick and family leave
  - Applies to employers with fewer than 500 employees
  - Sick leave: up to 80 hours at employees' regular rate (up to \$511/day)
  - Paid family leave: effectively up to 12 weeks for employees to care for a child whose school or place of care has closed at 2/3 regular rate (up to \$200/day)
- Refundable tax credits available applied against payroll tax liability
- Employers do not need to wait until next quarter to take tax credits
- Employee notices required – DOL poster (required to have been sent via e-mail and posted in prominent place in workplace by 4/1)

# FFCRA: Eligibility v. Usability

- If an employee is completely laid off (i.e. not performing any work), an employer has no obligation to provide paid leave under the FFCRA (they are *not eligible*)
  - This is true regardless of whether the layoff is due to a federal, state, or local directive related to COVID-19
- If an employee is still working on reduced schedule, an employer is required to provide such an employee with paid leave under the FFCRA (they *are eligible* if they qualify for leave during *scheduled* hours)
- FFCRA leave also may be taken intermittently, only if the employer and employee come to an agreement
  - And for an employee still coming to a worksite, only if there is minimal risk that the employee will spread COVID-19 to other employees at the worksite

# Workforce Restructurings

- Layoffs
  - Termination of employment relationship – possible final pay obligations (including PTO), severance
  - Types:
    - Temporary Layoffs (< 6 months)
    - Permanent Layoffs (> 6 months or indefinite)
  - WARN Act issues
  - Unemployment eligibility triggered
- Furloughs
  - No termination of employment
  - Employees may be able to retain benefits; check with carrier
  - Often includes a reduction in days or weeks worked, or a “pause”
  - Employee should not perform any work while on furlough
  - WARN Act issues if > 6 months or indefinite
  - Unemployment eligibility usually triggered – some special state rules

# Workforce Restructurings (cont'd)

- Hours and compensation reductions

	Hours Reduction	Comp Reduction
<i>Employment Termination?</i>	X	X
<i>Need to ensure permitted by CBAs or EAs?</i>	✓	✓
<i>Eligibility for benefits impacted?</i>	✓ (maybe; check with carrier)	X
<i>FLSA issues?</i>	✓ (exempt EEs)	✓ (exempt & non-exempt EEs)
<i>WARN Act issues?</i>	✓	X
<i>Unemployment obligations triggered?</i>	✓ (even if EE not ultimately eligible)	X

# MMM Resources

MMM COVID-19 UPDATE of new state and federal laws and MMM Alerts relating to employment, healthcare, insurance and other matters impacting tech companies. You can subscribe to our daily **MMM C-19 Legal & Business Alerts** <https://www.mmmlaw.com/covid-19/>.

## Upcoming Webinars:

- **COVID-19: Legal & Tele-Health Considerations** – April 16<sup>th</sup> 12pm EST -- please register here <https://bit.ly/3e63dtb>
- **Navigating Uncertainties: The Paycheck Protection Program Under The CARES Act** – April 17<sup>th</sup> 2pm EST – please register here <https://bit.ly/3epfokM>

## LOAN PROGRAMS

- **PAYCHECK PROTECTION** Daily Update: Paycheck Protection Program Rules, Guidance, And FAQs - <https://bit.ly/2VaB0Zu>
- **ELIGIBILITY FOR LOANS:** CARES Act Paycheck Protection Program – Is My Business Eligible? <https://bit.ly/2JRxApg>
- **WEBINAR/LOANS:** What Tech Founders Need to Know About SBA Loans – <https://bit.ly/3dQVj6H>
- **CARES ACT:** Paycheck Protection Program – Is My Business Eligible? available at <https://bit.ly/2xGpxlY>
- **CARES ACT – WHITE PAPER:** Loans and Payment Protection Program Under the CARES Act -- <https://bit.ly/2QSJMtR>
- **SBA LOANS:** Loan Options for Small Businesses Amid COVID-19 Crisis <https://bit.ly/2WUVfgs>
- **FLORIDA LOANS** -- Florida's Business Recovery Loan Program - <https://bit.ly/33ODvom>

# MMM Resources

## INSURANCE ISSUES

- INSURANCE COVERAGE -- Insurance Coverage For Businesses Impacted By COVID-19 -- <https://bit.ly/2y7xsPM>
- WEBINAR - COVID-19: BUSINESS INTERRUPTION & LIABILITY ISSUES – An Overview of FORCE MAJEURE & INSURANCE Issues; recorded at <https://bit.ly/3bGkVI5>

## EMPLOYMENT ISSUES

- WEBINAR -- COVID-19 Issues: Employment & Benefits FAQs – <https://bit.ly/34kR3YZ>
- EMPLOYMENT / PAID LEAVE -- FFCRA: Small Business Exemptions -- <https://bit.ly/3e7TJO8>
- WEBINAR -- COVID-19 ISSUES: WHAT EMPLOYERS NEED TO KNOW – click here for the recording <https://bit.ly/2QT6C4F>
- EMPLOYMENT – FAMILIES FIRST ACT -- The Families First Coronavirus Response Act-- What Does This Mean For Employers? -- <https://bit.ly/3bx6zmM>
- BEST PRACTICES FOR EMPLOYERS-- Coronavirus: Best Practices For Employers -- <https://bit.ly/2xxMlec>
- EMPLOYMENT / PAID LEAVE -- DOL Guidance On The COVID-19 Paid Leave Laws -- <https://bit.ly/2Jn8ggR>
- UNEMPLOYMENT CLAIMS -- Georgia Department Of Labor Issues Emergency Rules For Unemployment Claims -- <https://bit.ly/2vVfrUj>

# MMM Resources

## CONTRACT ISSUES & BREACHES

- RENT CONCESSIONS: Avoiding Unintended Breaches & Recommendations for Accommodation -- <https://bit.ly/2UXWHvB>
- FORCE MAJEURE & CONTRACT BREACHES -- The Implications Of COVID-19 Under Force Majeure Contract Clauses -- <https://bit.ly/2wHFHSo>
- WEBINAR -- COVID-19: BUSINESS INTERRUPTION & LAIBILITY ISSUES – An Overview of FORCE MAJEURE & INSURANCE Issues <https://bit.ly/3bGkVI5>

## PRIVACY/CYBERSECURITY

- WEBINAR/SECURITY: COVID-19 Cybersecurity & Privacy Risks – How to Protect Your Company from Serious Legal Exposure – <https://bit.ly/39VL4uN>
- CYBERSECURITY: Impact Of COVID-19 On SEC Cybersecurity Risk Disclosures -- <https://bit.ly/2RqHCS>
- REMOTE WORK CYBERSECURITY ISSUES -- Potential Regulatory Scrutiny Of COVID-19 Remote Work Cybersecurity Risks -- <https://bit.ly/2JhojGK>
- DATA PRIVACY -- COVID-19 Data Privacy Considerations For Employers -- <https://bit.ly/33SzhvU>
- PRIVACY AND HIPAA – HIPAA Waivers And What Healthcare Providers Need To Know -- <https://bit.ly/2xuH0Ep>

# MMM Resources

## GENERAL

- WEBINAR/HEALTHCARE: COVID-19 Update On Changing Healthcare Laws – click here for the recording and slides <https://bit.ly/3aW4ZLh>
- PATENT DEADLINES: USPTO Extends Certain Patent And Trademark-Related Deadlines Due To COVID-19 -- <https://bit.ly/2xGA9HX>
- LENDER COMMUNICATIONS: Communicating with your LENDER & Other Contract Parties: Avoiding Admissions of Insolvency -- <https://bit.ly/3aFHndK>
- SUMMARY/CMS REGULATION WAIVERS - <https://bit.ly/2USytTK>
- GOVERNMENT CONTRACTORS -- COVID-19 Related Issues For Government Contractors -- <https://bit.ly/3bzVLob>
- TELEMEDICINE RULES -- Current State Of Telemedicine Rules Under Coronavirus -- <https://bit.ly/3dzKbLk>
- IP GUIDANCE & DEADLINES -- Intellectual Property Guidance On Deadlines -- <https://bit.ly/2xrcLOH>

# How Corporate Payroll Services Can Help

## Payroll Costs Reporting Requirements:

- Payroll Costs for Determining Eligible Loan Amount
- Payroll Costs for Determining Forgiveness
  - Compliance with 75% of Loan Proceeds Towards Payroll Costs for 8 Weeks Following Loan
- Payroll Costs for Determining Qualifying for Cure during PPP Implementation Phase (Feb 15 2020 – April 26, 2020)
  - Restore Salary Reductions by June 30, 2020

# How Corporate Payroll Services Can Help

## Headcount Reporting Requirements:

- Average Employee Headcount for Determining Qualification for PPP Loan
- Employee Headcount for Determining Forgiveness
- Employee Headcount for Determining Qualifying for Cure during PPP Implementation Phase
  - Restore Headcount by June 30, 2020

# CARES Act Emergency Loan Calculation Report

## CARES Act Emergency Loan Calculation report

This program does the following:

Accumulate Eligible Earnings along with SUI amounts and user entered amounts for Healthcare, Retirement, and additional State/Local amounts for calculating the Total Cost and an Estimated Loan Amount.

	From	Thru
Check Date:	<input type="text" value="04/01/2019"/>	<input type="text" value="03/31/2020"/>
"Option 1" Date:	<input type="text" value="//"/>	<input type="text" value="//"/>
"Option 2" Date:	<input type="text" value="//"/>	<input type="text" value="//"/>
SUI State:	<input type="text"/>	<input type="text"/> (Leave blank to include liability from all states.)

Pay Types for Calculating Earnings

Pay Types selected: None!!!

Annual group health care benefits  
paid on behalf of employees: .00

Annual retirement benefits paid on behalf of employees:  
(Note: Employer match amounts set up  
through payroll will already be included) .00

Additional State or Local annual amounts paid on  
behalf of employees: .00  
(Note: SUI amounts will already be included)

CSV File

Text File

Preview

Print

Cancel

# CARES Act Emergency Loan Calculation Report

04/08/2020 12:10 T13/EPHRAT2  
CPSCPS

Adaptable Systems Corporation  
CARES Act Emergency Loan Calculation report  
Check Date: '04/01/2019' - '03/31/2020'

Page 1

Emp ID	Employee Name	Total Earnings	Eligible Earnings	Healthcare Benefits	Retirement Benefits	SUI St	SUI Amount	Additional State/Local	Active Emp	Opt 1 Actv EE	Opt 2 Actv EE	Total Cost	Est Rate	Estimated* Loan Amount
10	Adams Stacey	150000.00	100000.00	0.00	0.00	PA	270.00	0.00	1	0	0	100270.00		
11	Burke Donald	35000.00	35000.00	0.00	0.00	PA	270.00	0.00	1	0	0	35270.00		
12	Connors Tracey	79000.00	79000.00	0.00	0.00	PA	270.00	0.00	1	0	0	79270.00		
13	Dove Ellis	88200.00	88200.00	0.00	0.00	PA	270.00	0.00	1	0	0	88470.00		
14	Roberts Carrie	111000.00	100000.00	0.00	0.00	PA	270.00	0.00	1	0	0	100270.00		
{Cust}	{User entered amounts}	0.00	0.00	0.00	0.00	}}	0.00	0.00	0	0	0	0.00		
<b>Totals</b>		<b>463200.00</b>	<b>402200.00</b>	<b>0.00</b>	<b>0.00</b>		<b>1350.00</b>	<b>0.00</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>403550.00</b>		

CPSCPS EIN: 11-1556611

Average Monthly Cost: 33629.17 \* 2.5 84072.93

Total Earnings will include wages from the following INCLUDED Pay Types:

94 - Regular	442500.00
95 - Overtime	0.00
98 - Sick	0.00
97 - Vacation	0.00
96 - Holiday	0.00
01 - Commissions	1500.00
02 - Bonus	19200.00
04 - Retro Pay	0.00

The following is the list of EXCLUDED Pay Types:

03 - Expense Reim	4500.00
05 - Mileage Reim	0.00

\* = subject to your additional exclusions

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**ANY  
QUESTIONS?**

# Thank You For Joining Us!