

## **Increase Cash-Flow Now Despite COVID-19**

The Phase Three Stimulus Bill (CARES Act) has just passed with many huge benefits and tax breaks for qualified businesses. Our primary focus today is to summarize items that can increase cash-flow quickly. At the end of this attachment is a matrix we prepared with additional details on the items discussed. Many of the other benefits and breaks in the CARES Act we will talk about in future emails, but today our focus is on items that will increase cash-flow.

Please keep in mind, many of the different benefits and tax breaks are mutually exclusive. For every benefit or tax break you choose for your business, it may exclude you from another. California does not typically adopt or conform to IRS tax changes so most items mentioned in this email do not apply for California purposes. There are many rules and regulations not mentioned in this summary that you need to follow to qualify. We can customize a plan for you and guide you through everything you need to do.

### **Forgivable Loan (Paycheck Protection Program) - Up To \$10 Million**

The SBA is suspending many of their usual rules from 2/15/2020 to 6/30/2020 so that businesses can get loans up to \$10 million without credit analysis, personal guarantees, collateral, and many other usual requirements. The maximum loan term length is 10 years and interest cannot exceed 4%. The loan must go through an SBA lender, but fee limits will apply. The SBA will not charge any fees itself. The loan may only be spent on payroll, interest on certain loans, rent, and utilities. It is smart to open a new bank account for the loan proceeds to be sure you do not violate the loan use requirements.

To determine the amount you can borrow, you take 2.5X your average monthly payroll for the one-year period ending on the loan date. For this purpose, payroll has a very wide definition. It includes salary, wages, commission, tips, vacation, leave, health care, and pension costs. In addition, independent contractors and self-employment income of sole proprietors count as payroll. Borrowers may also be able to get their loan amounts higher by electing to use an alternative period for the 2.5X average payroll calculation. In addition, there are special rules for seasonal businesses.

Payroll is capped at \$100K per person. For example, if a company has 120 people making over \$100K per year (including independent contractors and benefits), payroll during the 12-month lookback period would be \$12 Million. The average monthly payroll is \$1 million. At 2.5X \$1 million average monthly payroll, the maximum loan is \$2.5 million.

### **Forgiveness of SBA Paycheck Protection Program Loan**

If you meet certain requirements, some or all of this loan will be forgiven. The maximum forgiveness amount is determined by what was spent for payroll, certain interest, rent, and utilities for the period 2/15/2020-6/30/2020. So, if these costs are more than the \$2.5 million loan, the entire loan may be forgiven. If these costs are half the loan amount, half the loan costs may be forgiven. The amount of forgiveness also depends on employee retention, which is discussed in the next paragraph.

801 S. Figueroa Street, Suite 1000  
Los Angeles, CA 90017  
213.688.9898 tel  
[fwllp.com](http://fwllp.com)

You get maximum forgiveness if the number of employees from 2/15/2020-6/30/2020 is at least 75% of what they were during 2/15/2019-6/30/2019. If the number of employees falls below 75%, the amount of forgiveness is reduced. For instance, if 90 of 120 employees are retained, that is 75% retention and the maximum forgiveness amount calculated will be forgiven. Forgiveness can be increased for re-hires and for payroll paid to tipped employees. You can also choose alternative periods for this test.

With planning and actions taken before 6/30/2020, you may be able to drastically increase the amount of forgiveness. With easy qualification, good terms, and possible loan forgiveness, there is no reason not to apply for this loan. Fineman West will be happy to help you apply, calculate loan amounts, estimate forgiveness, and otherwise help to get this loan in a quick manner.

### **SBA Economic Injury Disaster Loan (IDL) - Up to \$2 Million**

If you are not a good candidate for the SBA Paycheck Protection Program Loan because you do not have payroll or for other reasons, your best bet for immediate cash-flow may be an SBA Economic Injury Disaster Loan. SBA Economic Injury Disaster Loans are for amounts up to \$2 million and can help small businesses when the agency determines that they cannot obtain credit elsewhere. These loans can be used to cover expenses that would otherwise go unpaid because of the economic effects of the coronavirus. The interest rate for these loans are typically 3.75% for small businesses and 2.75% for nonprofits. These loans have repayment terms of up to 30 years. Terms are based on ability to repay.

### **Taxes Owed for 2019 and 1<sup>st</sup> Quarter of 2020**

The due date has now been extended to pay any 2019 federal income tax due or any 2019 California income tax due without penalties or interest until 7/15/2020. In addition, the first 2020 federal estimated tax payment and the first 2020 California estimated tax payment are also extended without penalties or interest until 7/15/2020. So, if you have \$100K due for 2019 federal income taxes and/or 2020 first estimates, you could delay the payment until 7/15/2020 at no cost.

### **6 Month Forbearance on Government Backed Mortgages**

A 6-month forbearance for financial hardship due to the COVID-19 emergency can be requested on any "Federally backed mortgage loan" securing residential property. Forbearance may also be available in some cases for non-residential properties. With the forbearance agreement, no payments need to be made for 180 days. The forbearance may be extended for another 180 days at borrower's request. Interest and fees will be accrued at rates determined as if all payments were made on time.

Multi-family borrowers with a Federally backed multifamily mortgage loan experiencing a financial hardship due to the COVID-19 emergency may request a 30-day forbearance. The forbearance can be extended for 2 additional 30-day periods at borrower's request. Interest and fees will be accrued at rates determined as-if all payments were made on time.

### **2018, 2019 or 2020 Net Operating Losses Can be Used to Refund Previously Paid Federal Taxes**

Before the act was passed, Net operating losses (NOL) were subject to a taxable-income limitation, and they couldn't be carried back to reduce income and get a refund in prior years. An individual with an NOL arising in a tax year beginning in 2018, 2019 or 2020 can now carry it back five years. The provision also

temporarily removes the taxable income limitation to allow an NOL to fully offset income. So, individuals that had losses in 2018 and 2019 can apply for refunds right away. Refunds due to 2020 NOLs can be applied for after 2020 ends. For example, if a taxpayer had a \$1 million loss in 2018 and was in the 37% tax bracket in the carryback year, they can now carryback the 2018 NOL and get a \$370K refund.

### **Employee Retention Credit**

There is a refundable payroll tax credit for 50 percent on the first \$10,000 of wages paid by employers to employees during the COVID-19 crisis (\$5,000 maximum per employee). So, if a company has 120 employees making \$100K per year, they may be eligible for a credit of \$5,000 per employee for a total refundable payroll tax credit of \$600,000. The credit is based on qualified wages paid to the employee. For employers with greater than 100 full-time employees, qualified wages are wages paid to employees when they are not providing services due to the COVID-19-related circumstances described above. For eligible employers with 100 or fewer full-time employees, all employee wages qualify for the credit, whether the employer is open for business or subject to a shut-down order. The credit is provided for wages paid or incurred from March 13, 2020 through Dec. 31, 2020.

### **Delay of Payment of Employer Payroll Taxes**

This allows employers and self-employed individuals to defer payment of the employer share of the Social Security tax they otherwise are responsible for paying to the federal government with respect to their employees. Employers generally are responsible for paying a 6.2-percent Social Security tax on employee wages. The provision requires that the deferred employment tax be paid over the following two years, with half of the amount required to be paid by Dec. 31, 2021 and the other half by Dec. 31, 2022.

### **No 10-Percent Retirement Plan Early Withdrawal Penalty on \$100K**

As with previous disaster-related relief, the IRS is waiving the 10-percent early withdrawal penalty for distributions up to \$100,000 from qualified retirement accounts for coronavirus-related purposes made on or after Jan. 1, 2020. In addition, income attributable to such distributions would be subject to tax over three years, and taxpayers can recontribute the funds to an eligible retirement plan within three years without regard to that year's cap on contributions. To the extent the taxpayer has losses, they may be able to use losses to offset all taxes owed on the retirement distributions. If the taxpayer is older than 59 ½, there is no limit to the amount they can withdraw from their IRA without penalty. The taxpayer can also offset income from IRA withdrawals and avoid taxes, to the extent they have losses.

### **Qualified Real Estate Improvements**

This enables businesses, especially in the hospitality industry, to immediately write off costs associated with improving facilities instead of having to depreciate those improvements over the 39-year life of the building. The provision also increases companies' access to cash-flow by allowing them to amend a prior year return.

## Additional Details

### Here are ways that Fineman West can help:

- Assist with SBA loan applications to get up to a \$10 Million loan that may be forgiven.
- Prepare financial models to get the maximum money from CARE Act loans and grants.
- Use tax planning strategies to obtain many of the tax breaks available under the CARE Act.
- Prepare amended returns to get tax refunds from past years as now allowed under Act.
- Prepare cash-flow projections for business planning and to advise you on the whole picture.
- Analyze which loan packages would best meet your future business and financing needs.

### SBA Paycheck Protection Loan - Fully or Partially Forgivable

<b>Eligibility and Terms</b>	Must have fewer than 500 Workers. Payroll is capped at \$100K per person. Covered period for these temporary rule changes is February 15, 2020 to June 30, 2020. Payroll includes salary, wage, commission, tips, vacation, leave, health care, and pension. Includes self-employment income of sole proprietors and independent contractors. SBA Affiliation rules are waived. Must use an SBA Lender, but fee limits apply. Special rules for seasonal and new entities. Loan can't be more than \$10 million. Loans are capped at 2.5X the average monthly payroll for the one year prior to loan date. Borrower can choose alternates such as 2.5X payroll costs from March 1, 2019 to June 30, 2019. Covered loans can only be used for payroll, interest on certain loans, rent, and utilities. Best to open separate bank account for loan. Had to be in operation on February 15, 2020. No personal guarantee or collateral required. The SBA will waive its fees. Maximum loan length is 10 years. Interest may not exceed 4%.	
<b>Forgiveness</b>	Forgiven debt will not be taxable income. Forgiven amount may not exceed principal. Maximum forgiveness is payroll, certain interest, rent, and utilities 2/15/2020-6/30/2020. Based on change in number of employees from 2/15/2019-6/30/2019 to 2/15/2020-6/30/2020. Full time equivalent hours are used. Only reduced by reduction in excess of 25%. Maximum forgiveness if employment is 75%. Can choose alternate periods for test. Forgiveness can be increased for re-hires and for payroll paid to tipped employees.	
<b>To Maximize Forgiveness</b>	There are tips and tricks to maximize the forgiveness. This is best done on a customized basis in private discussions.	
<b>Revisit 2019 Tax Returns</b>	How 2019 is filed can set the stage for increased benefits and larger future cash-flow. With 2019 returns and 2020 1st estimate extended to 7/15/2020, it is a good time to revisit it.	
<b>Other Ideas &amp; Programs</b>	This is not meant as a complete list, just the most common ones that will help our clients. On a personal basis, we will likely have additional suggestions for you.	

### Business Tax Changes

<b>Payroll Tax Credit</b>	50% credit, up to \$5,000 per employee.	March 13, 2020 thru December 31, 2020.
<b>Payroll Tax Extension</b>	Defers payment of 6.2% employer FICA tax.	50% can be paid December 31, 2021. 50% can be paid December 31, 2022.

<b>Net Operating Losses</b>	Can carryback losses from 2018, 2019, & 2020. Retroactively use losses from 2018 & 2019.	For refunds of prior tax paid. Can be carried back 5 years. Also, certain limitations are removed.
<b>Business Loss Limits</b>	Business losses no longer limited to \$500K.	Can use losses to offset other taxable income.
<b>Interest Deduction</b>	Interest was limited to 30% of EBITDA.	Deduction is increased to 50% of EBITDA.
<b>Leasehold Improvements</b>	39-year depreciation was required.	Can now expense under bonus depreciation.
<b>Individual Tax Changes</b>		
<b>Retirement Account Withdrawals</b>	No 10-percent penalty on \$100K for anyone.	If over 59 1/2 no penalty on IRA withdrawals. Still subject to income tax. But can be offset by business losses.
<b>Charitable Contributions</b>	50% limit is suspended for 2020. Contributions early in year may still be deductible, even with business losses.	
<b>Student Loan Payments</b>	Can pay up to \$5,250 in student loan payments on an employee's behalf in 2020.	Will not be income to employee.
<b>California Tax Law Changes</b>		
<b>7/15/2020 Extension</b>	California does not typically adopt or conform to IRS tax changes. However, CA 2019 tax returns and 2020 1st estimates are extended to 7/15/2020.	