



**AAFCPAs**  
great minds | great hearts

October 27, 2020

# **Business Tax Planning Guidance Related to COVID-19 & the CARES Act**

# Getting Started

- All participant lines are muted.
- You may use the **Chat** feature to ask questions.
- Please use the **Raise Hand** feature if you would like to speak.
  - The Raise Hand feature is located in the Participant panel.
- Any questions not answered during the presentation will be addressed at the end of the session.



# Continuing Professional Education Requirements for CPAs

- **Polls are Required for CPEs**
  - If you are seeking CPE credits, please submit ALL polls and the conference evaluations.
- We use **Polls** and the **Zoom attendance record** to verify participation throughout the webinar.
  - **Participants must submit ALL polls and be logged in no later than 10 minutes after the scheduled session start time to receive a certificate.**
- You may request a certificate of completion via the conference evaluations.
  - Links to the evaluations are emailed to all registrants.
- For more information on CPE credits, contact Lindsay Wells at [consult.lwells@gmail.com](mailto:consult.lwells@gmail.com).



# Outline

- FFCRA Requirements & Tax Credits
- NOL Changes
- Excess Business Losses & Limitation on Business Interest Deductions (163(J))
- Qualified Improvement Property & Charitable Contributions
- Employee Retention Credit
- Deferral of Social Security Taxes (Employer & Employee)
- Benefits for Employees
- Notice 2020-53 – Section 42 Tax Credits
- HUD Supplemental Payments
- Foreclosure Moratoriums
- Loans & Grants
  - Main Street Lending Program
  - Exchange Stabilization Loans
  - EIDL
  - Paycheck Protection Program



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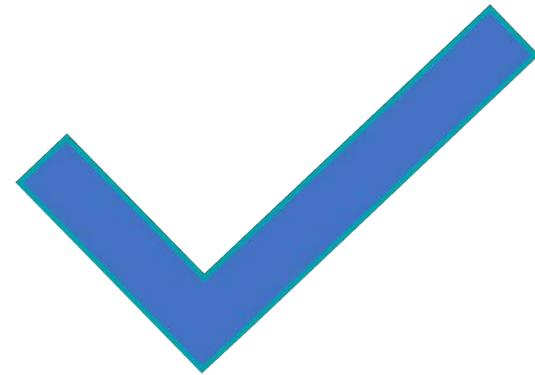
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Tax Consulting Attorney

# AAFCPAs Speakers



# Today Objectives

- Familiarize yourself with recent legislation and the tax implications
- Learn strategic approaches for your organization
- Understand the tax and accounting implications of the PPP loans
- Understand required and recommended recordkeeping for the PPP



# Families First Coronavirus Response Act (FFCRA):

Covered employers are private sector employers with fewer than 500 workers at the time the leave is granted, and government entities.

Reason for Leave	Leave Entitlement	Daily Pay Rate Cap	Total Pay Cap
<ul style="list-style-type: none"> <li>Employee is experiencing COVID-19 symptoms and seeking medical diagnosis.</li> <li>Personal quarantine or isolation order.</li> <li>Advised by health care provider to self-quarantine due to COVID-19 concerns; or</li> <li>Employee is subject to federal, state, or local quarantine order.</li> </ul>	<p>All employees No waiting period No requirement to use other paid sick time first</p> <p>FT Employees: 80 hours PT Employees: Avg. of 2- week period Variable Schedule: Avg. 6-month lookback</p>	Regular pay rate up to \$511 per day	\$5,110
<ul style="list-style-type: none"> <li>Care for family member affected by COVID-19, or subject to government quarantine or isolation order, advised by health care provider to self-quarantine due to concerns related to COVID-19</li> </ul>	<p>30 days of employment No waiting period No requirement to use other paid sick time first</p> <p>FT Employees: 80 hours PT Employees: Avg. of 2- week period Variable Schedule: Avg. 6-month lookback</p>	2/3 of regular pay up to \$200 per day	\$2,000
<ul style="list-style-type: none"> <li>Care for son or daughter under the age of 18 whose school or daycare is closed due to COVID-19, or an adult son or daughter over the age of 18 who has a mental or physical disability and is incapable of self-care</li> </ul>	<p>30 days of employment No waiting period Up to 12 weeks</p>	<p>First 10 days unpaid, but can use accrued PTO</p> <p>After 10 days, 2/3 of regular pay up to \$200 per day</p>	\$10,000

# Net Operating Losses

- For tax years beginning before 2021, the 80% income limitation for NOL Deductions is temporarily repealed. (Pre -2018 Rules)
- For losses arising in 2018-2020, a five-year carryback is allowed, you may affirmatively elect to forgo this carryback. Revenue Procedure 2020-24.
- This applies to all taxpayers, including pass-through businesses and sole proprietorships.

First return for a tax year ending AFTER March 27, 2020. Meaning most calendar year orgs it will be an option on their 2020 return.

**Form 1139 for carryback claims in 2019 & 2020.**

**Form 1120X for 2018 carryback.**



Tax Year NOL Generated	Carryback Period	Carryforward Period	Limitation on NOL Utilization in Carryforward Period		
			Tax Years BEFORE 2018	Tax Years 2018 – 2020	Tax Years AFTER 2020
Pre-2018 NOL	2 Years	20 Years	No Limit	No Limit	No Limit
2018 – 2020 NOLs	5 Years	Indefinite	No Limit	No Limit	80% Limit
Post - 2020 NOLs	N/A	Indefinite	N/A	N/A	80% Limit

# Excess business loss limitations & Interest Limitation

## Sec. 461(l) – Business Loss Limitations

- The Sec. 461(l) excess loss limitation is repealed for tax years **2018 through 2020**.

## Section 163 (j) – Interest Deduction Limitation

- For tax years beginning in **2019 and 2020**, Sec. 163(j) is amended to increase the adjusted taxable income percentage (ATI) from 30% to 50%.
- 2021 the limitation drops back to 30% of ATI.
- 2022, ATI is redefined as taxable income plus interest expense, no longer an adjustment for depreciation and amortization.
- 2025 163(j) provision sunsets.





## Qualified Improvement Property & Charitable Deductions

**Qualified improvement property:** A technical correction was made to the TCJA regarding qualified improvement property under Sec. 168 by making it 15-year property, and eligible for bonus depreciation. These improvements can now be expensed immediately.

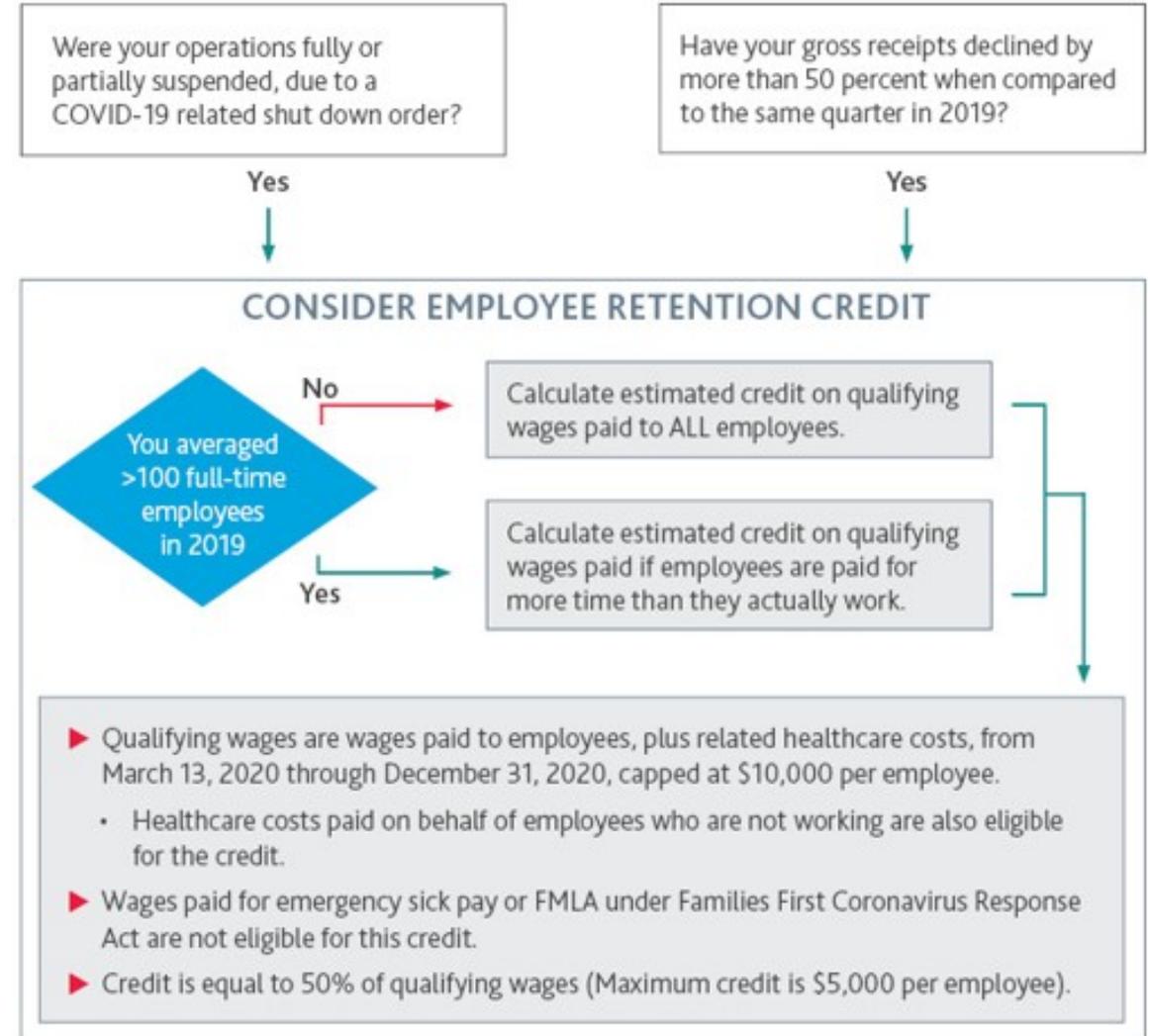
Corporate taxpayer who makes cash contributions to public charitable organizations in 2020 can take a deduction up to 25% of taxable income; this is up from the 10% limitation.



# Polling Question #1



# Employee Retention Credit



IRS FAQs: <https://www.irs.gov/newsroom/faqs-employee-retention-credit-under-the-cares-act>





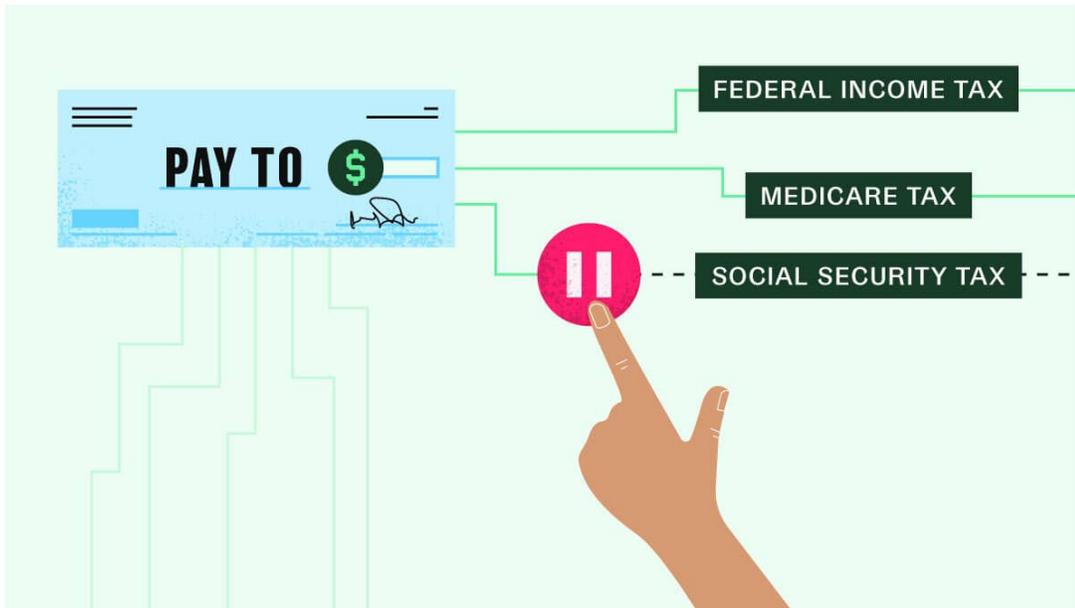
## Employee Retention Credit

### The Procedure

- Reduce deposits of payroll taxes on Form 941
- Form 7200 for refundable portion
- Contact your payroll provider



# Deferral of Social Security Taxes



Option	Timing	Value of Deferral	Future Due Date
Employer Side (CARES ACT)	Wages from March 27, 2020 to December 31, 2020	6.2% employer Social Security Tax – All wages	50% Dec 31, 2021 & 50% December 2022.
Employee Side (Presidential Memo)	Wages from Sept 1, 2020 to December 31, 2020.	6.2% employer Social Security Tax – Wages under \$4,000 biweekly (\$104,000 annually)	Between January 1, 2021, and April 30, 2021,



# Benefits for Employees

- Student Loans Paid By Employers – Expansion of IRC Section 127
- Up to \$5,250 excluded from employee income



# Disaster Relief Payments

## - Section 139 Payments

### Types of Expenses Covered:

- Medical expenses not covered by insurance (e.g., co-pays, deductibles, over-the-counter medicines and cleaning supplies);
- Expenses incurred for childcare and tutoring services;
- Expenses incurred to allow the employee to work from home (e.g., the cost of a personal computer, printer, supplies, internet service, etc.);
- Commuting expenses;
- Caregiver and domestic service expenses;
- Funeral expenses; and
- Legal and accounting expenses.



# Disaster Relief Payments – Section 139 Payments

Policy should lay out:

- a description of who is an eligible employee;
- a listing of expenses that that will be subject to reimbursement or payment;
- a per-employee allowance for reasonable expenses (optional but meant to limit the run-up cost, so some organizations will limit it to 10k per employee, etc.);
- the method for reimbursement/payment (i.e. whether an application is necessary); and
- the start and end date of the program.



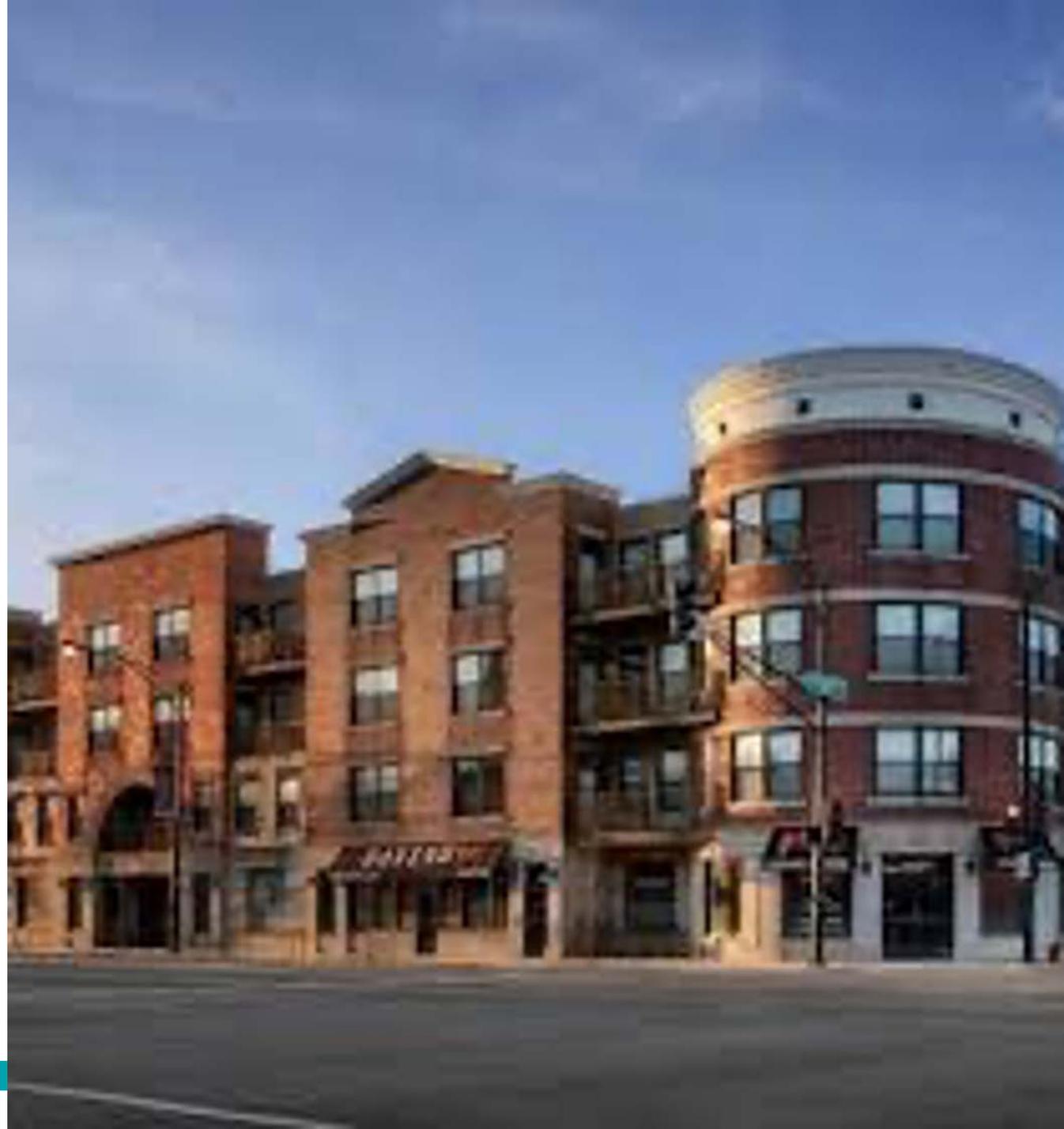
# Polling Question #2



# Notice 2020-53, Tax Credit Under Section 42

Relaxes certain LIHTC requirements under Section 42.

- If any of the following deadlines occur within the Relief Period (April 1, 2020 to Dec 31, 2020), then parties have until the end of 2020 to satisfy those timing requirements:
  - 10% test for carryover allocations;
  - The 24-month minimum rehabilitation expenditure period;
  - The reasonable period for restoration or replacement in the event of casualty loss;
  - The reasonable restoration period in the event of prior major disaster;
  - The 12-month transition period for qualified residential rental projects; and
  - The 2-year rehabilitation expenditure period for bonds used to finance qualified residential rental project.



# HUD COVID-19 Supplemental Payments

## WHO WAS ELIGIBLE?

- Property owners who currently have Section 8, 202, or 811 contracts.
- Filing Deadline Aug 5, 2020.
- If you are anticipating surplus cash flow payments at the end of the year, you are generally not eligible for the Supplemental Payments.

## USE OF FUNDS

- These funds are provided to “prevent, prepare for, and respond to Coronavirus, including to provide additional funds to maintain normal operations and take other necessary actions during the period that the program is impacted by Coronavirus.”



# Foreclosure moratoriums & Right to Forbearance

- **Suspends Evictions and Foreclosures for Evictions and Foreclosures for Enterprise-Backed Mortgages**
  - The Federal Housing Finance Agency (FHFA) has directed Fannie Mae and Freddie Mac to suspend foreclosures and evictions for at least 60 days due to the COVID-19 emergency. The foreclosure and eviction suspension applies to homeowners with an Enterprise-backed single-family mortgage.
- **Eviction Protections for Renters through Mortgage Forbearance for Multifamily Property Owners - 3/23/2020**
  - On March 23, 2020, FHFA issued a [press release](#) stating that Fannie Mae and Freddie Mac will begin offering mortgage forbearance to multifamily property owners on the condition that they suspend all evictions for renters who can't pay their rent because of COVID-19. This move protects renters from being evicted if they're unable to pay their rent and property owners who are unable to pay their mortgages due to the impact of the COVID-19.

# Main Street Lending Program & Exchange Stabilization Loans – Nonprofits

Main Street Lending Program Nonprofit Loan Options	Nonprofit New Loans	Nonprofit Expanded Loans
Term	5 years	
Minimum Loan Size	\$250,000	\$10 million
Endowment Cap	\$3 billion	
Years in Operation	At least 5 years	
Eligibility Criteria (See Term Sheets for More Detail)	<ul style="list-style-type: none"> <li>• Minimum employees 10 (previously 50)</li> <li>• Total non-donation revenues equal to or greater than 60% of expenses for the period from 2017 through 2019 (previously 70% of revenues)</li> <li>• 2019 operating margin of 2% or more, (previously 5%)</li> <li>• Current days cash on hand 60 days (previously 90 days)</li> <li>• Current debt repayment capacity—ratio of cash, investments and other resources to outstanding debt and certain other liabilities—of greater than 55% (previously 65%)</li> </ul>	
Maximum Loan Size	The lesser of \$35 million, or the borrower's average 2019 quarterly revenue	The lesser of \$300 million, or the borrower's average 2019 quarterly revenue
Risk Retention	5%	
Principal Repayment	Principal deferred for two years; years 3-5: 15%, 15%, 70%	
Interest Payments	Deferred for one year	
Rate	LIBOR + 3%	

Main Street Lending Program Loan Options	New Loans	Priority Loans	Expanded Loans
<b>Term</b>	5 years <i>(previously 4 years)</i>		
<b>Minimum Loan Size</b>	\$250,000 <i>(previously \$500,000)</i>		\$10M
<b>Maximum Loan Size</b>	The lesser of \$35M, or an amount that, when added to outstanding and undrawn available debt, does not exceed 4.0x adjusted EBITDA <i>(previously \$25M)</i>	The lesser of \$50M, or an amount that, when added to outstanding or undrawn available debt, does not exceed 6.0x adjusted EBITDA <i>(previously \$25M)</i>	The lesser of \$300M, or an amount that, when added to outstanding or undrawn available debt, does not exceed 6.0x adjusted EBITDA <i>(previously \$200M)</i>
<b>Risk Retention</b>	5%	5% <i>(previously 15%)</i>	5%
<b>Principal Repayment</b>	Principal deferred for two years, years 3-5: 15%, 15%, 70%  <i>(previously principal deferred for one year and 33.33% repayment due in years 2-4)</i>	Principal deferred for two years, years 3-5: 15%, 15%, 70%  <i>(previously principal deferred for one year and 15%, 15%, 70% repayment due in years 2, 3, and 4, respectively)</i>	
<b>Interest Payments</b>	Deferred for one year		
<b>Rate</b>	LIBOR + 3%		

# Main Street Lending Program & Exchange Stabilization Loans: For-profits



# Polling Question #3





# Forgiveness Considerations

- EIDL Grant (up to \$10k)
- Size of Loan (Audit over \$2m)
- Covered period length (8 or 24 weeks)
- Rent or Lease payments to related parties vs. Mortgage Interest
- Non-Deductibility of Expenses (For now)
- Employees making over 100k
- At Least 60% of expenses on payroll
- State Tax Implications
- Forgiveness Reductions
- Backup Documentation & Certifications



# Forgiveness Applications & Instructions

- Form 3508S – Loans under 50k
- Form 3508EZ – Less complicated loans but over 50k
- Form 3508 – All Loans

Treasury Department Website:

<https://home.treasury.gov/policy-issues/cares/assistance-for-small-businesses>

# Rent Related Costs



RELATED PARTY RENT OR LEASE  
PAYMENTS = FORGIVEABLE



RELATED PARTY MORTGAGE  
INTEREST PAYMENTS =  
NOT-FORGIVABLE



# Reductions of Forgiveness

## Salary/Hour Wage Reduction

- Safe Harbor
- Did you lower anyone's pay?

Step 1: Determine if pay was reduced more than 25%

Step 2: Determine if safe harbor was met

Step 3: Determine the reduction amount



# Reductions of Forgiveness

## Full-Time Equivalent (FTE) Quotient

- Safe Harbor
- Did you have layoffs or furloughs?
- Important Dates
  - Feb 15, 2019 to June 30, 2019
  - Jan 1, 2020 to Feb 29, 2020
  - A consecutive 12-week period between May 1, 2019 and Sept 15, 2019 (only an option for seasonal employers)

Employee Work Hours	Standard Method	Simplified Method
>40 hours	1.0	1.0
40 Hours	1.0	1.0
30 Hours	0.8	0.5
20 Hours	0.5	0.5
5 Hours	0.1	0.5
<b>Total</b>	<b>3.4</b>	<b>3.5</b>

# Safe Harbor for FTEs and Wage Reductions

- Important Dates
  - Feb 15, 2020
  - December 31, 2020
  - Feb 15, 2020 – April 26, 2020
- Safe Harbor for FTEs restored
- Safe Harbor for Salary/Wage Reductions restored



Eligible Cost	Well Under 60% on Payroll	Just Under 60% on Payroll	Over 60% on Payroll
<i>Total Loan \$500,000, assume no FTE or Salary/Wage reductions</i>			
Eligible Payroll	\$100,000	\$220,000	\$350,000
Other Eligible Non-Payroll	\$300,000	\$180,000	\$50,000
<b>Total Spent</b>	<b>\$400,000</b>	<b>\$400,000</b>	<b>\$400,000</b>
(A) Total Loan Proceeds	\$500,000	\$500,000	\$500,000
(C) Adjusted Eligible Forgiveness Costs	\$400,000	\$400,000	\$400,000
(D) 60% Payroll Requirement	\$166,667	\$366,667	\$583,333
<b>Total Forgiveness*</b>	<b>\$166,667</b>	<b>\$366,667</b>	<b>\$400,000</b>

## Final Determination

The Smallest of:

- (A) Original PPP Loan Amount
- (C) Modified Amount  
(accounting for reductions)
- (D) 60% Payroll Requirement



# Recordkeeping



DOCUMENTS SHOULD BE MANAGED  
AND MAINTAINED ASSUMING AN SBA  
AUDIT



BACKUP DOCUMENTS SHOULD BE  
KEPT FOR ALL CALCULATIONS MADE  
AS PART OF THE FORGIVENESS  
APPLICATION PROCESS



INTERNAL CONTROLS SHOULD BE  
MAINTAINED AND UPDATED IF  
NECESSARY



MEMO OF ASSUMPTIONS



# Application Requirements

- Certifications on behalf of the borrower
- Optional demographic information

## With submission:

- Payroll reports
- Bank statements
- Payroll tax filings
- Unemployment tax filings
- Receipts, cancelled checks or statements
- Backup documentation for FTE calculations
- Loan and lease agreements or statements



# Application Requirements

## Maintained but not submitted

- Calculation of wages and FTE for each employee including wage reduction calculations and limiting to \$15,385
- Documentation of qualified employee reductions (refusal to return, voluntary resignations and etc.)
- Safe Harbor FTE calculations

Retain all files for 7 years after the date the loan is forgiven and/or paid in full. Provide access to files upon request



# PPP Loan Accounting

Nonprofits have two options for accounting for the forgiveness of the PPP funds:

## 1

**Option 1:** Account for the loan as a *financial liability* in accordance with FASB ASC 470 and accrue interest in accordance with FASB 835-30.

- Consider this the “loan” option.
- Initial recognition: Record a loan payable.
- Forgiveness recognition: record the loan payable as a write off to the outstanding loan payable balance and a “gain on debt extinguishment” once notified of forgiveness.
- No need to impute additional interest.

## 2

**Option 2:** Account for the loan as a *conditional contribution* in accordance with FASB ASC 958-605.

- NFP must substantiate that they expect to meet the PPP’s eligibility criteria for forgiveness, and document what those criteria are.
- Initial recognition: Record a refundable advance (liability).
- Forgiveness recognition: reduce the refundable advance balance and recognize revenue (other income) once the NFP feels those criteria are met.
- NFPs must disclose the accounting treatments and related impact.



# PPP Loan Accounting (cont.)



## Financial statement disclosures to consider

Terms (including interest rate, maturity and other compliance requirements)

Accounting Treatment



## Single Audit Impact

PPP loans will not be subject to the Single Audit requirements. Accordingly, do not report PPP funds in their Schedule of Expenditures of Federal Awards

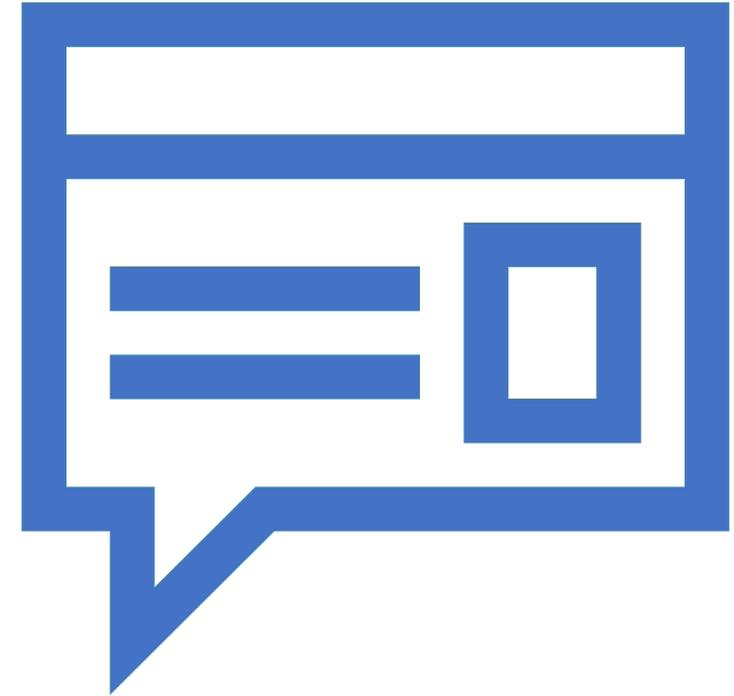
Do not charge any expenses paid with PPP loans or any other Federal CARES Act funds to other Federal awards. (No Double Dipping)



# Top 5 Take-aways



# Questions & Comments?



# Contact:



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# Resources

- AAFCPA Covid-19 Business Resource Center & Task Force
  - <https://www.aafcpa.com/covid-19-business-resources/>
- Treasury Department Website
  - <https://home.treasury.gov/policy-issues/cares/assistance-for-small-businesses>
- IRS Website
  - <https://www.irs.gov/newsroom/whats-hot>

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