

CARES ACT

The Coronavirus Aid, Relief, and Economic Security (CARES) Act provides four main categories of relief for a wide range of employers. Following is general information about each of the programs, to which type of employers they apply, and important links to additional information or to applications for the programs. This general information is **not** legal advice and should not be considered as a substitute for consulting with an attorney. We strongly encourage you to consult with your counsel and accountants for assistance applying to and using the relief provided by these programs. Also, this information relates to federal programs only. Many states are also offering loan and relief programs and we encourage you to contact relevant state agencies for information.

EXPANDED SMALL BUSINESS ADMINISTRATION (SBA) LOAN PROGRAM (AKA PAYCHECK PROTECTION PROGRAM OR PPP)

DETAILS OF THE PROGRAM

- \$349 billion government-backed loan program (expected to be increased in future legislation)
- Covered businesses can apply for one loan equivalent up to two times plus 25% of their average monthly payroll in 2019 (with some adjustments on the calculation for seasonal businesses) with a max of \$10 million at an interest rate of 1%
 - Amounts of the loan spent to cover payroll (wages and fringes), mortgage interest, rents, and utilities in the 8 weeks following distribution of the loan will be forgivable provided the employer maintains staff and payroll
 - Note loan forgiveness will be reduced by workforce reductions and salary and wage reductions greater than 25% (except for employees earning more than \$100,000 annualized in 2019)

WHO CAN APPLY?

- Businesses with 500 or fewer full or part time employees
- Includes 501(c)(3) and (c)(19) organizations
 - Does NOT apply to other 501(c) organizations
 - May apply to JATCs with 501(c)(3) designations, but not to those with other tax status. JATCs who are considering PPP loans should work closely with their counsel and accountants.
- Includes sole proprietors, paid independent contractors and other self-employed individuals

WHEN CAN COVERED ENTITIES START TO APPLY THROUGH EXISTING SBA LENDERS?

- Apply as soon as possible – while there is likely going to be an increase in funding available to SBA, these loans are in high demand
- April 3, 2020 – small businesses and sole proprietorships

- April 10, 2020 – independent contractors and self-employed individuals

IMPORTANT LINKS

[SBA Payroll Protection Program Fact Sheet](#)

[Loan Application](#)

[SBA Most Active Lenders](#)

EXPANDED SBA ECONOMIC INJURY DISASTER LOAN (EIDL) PROGRAM

DETAILS OF THE PROGRAM

- Loans offered through private lenders for amounts up to \$2 million at an interest rate of 2.75% that can be used to cover bills that cannot be paid due to the COVID-19 crisis, like payroll and mortgage or rent payments.
- Applicants for an EIDL can also request up to \$10,000 in immediate (within 3 days) assistance in the form of an emergency grant. The emergency grant does not need to be repaid, even if the loan application is ultimately denied.
- Other than the \$10,000 emergency, there is no loan forgiveness available for EIDL loans, but the loans are for up to 30 years and principal and interest may be deferred for up to four years.
- Organizations can obtain loans under both EIDL and PPP so long as the EIDL loan is for a purpose not covered by PPP

WHO CAN APPLY?

- Businesses with 500 or fewer full or part time employees
- Nonprofit organizations, including labor unions and employer associations

WHEN CAN COVERED ENTITIES START TO APPLY THROUGH EXISTING SBA LENDERS?

- At any time

IMPORTANT LINKS

[Loan Application](#)

EMPLOYEE RETENTION CREDIT

DETAILS OF THE PROGRAM

- Refundable payroll tax credit against the employer's share of Social Security payroll taxes
- The credit covers 50 percent of qualifying wages paid up to \$10,000 in total per employee
- For large employers, qualifying wages are those paid to an employee who is kept on the payroll even though he or she is *not* providing services for the employer due to COVID-19 causes; for eligible

employers with 100 or fewer employees, “qualified wages” includes all wages paid whether the employer is open for business or subject to a shutdown.

- Wages paid after March 12, 2020, and before January 1, 2021 are eligible for the credit
- Wages taken into account are not limited to cash payments, but also include a portion of the cost of employer provided health care

WHO CAN TAKE ADVANTAGE OF THE CREDIT?

- Employers of all sizes and tax status who have carried on a trade or business in 2020 AND
 - whose business is fully or partially suspended by government order due to COVID-19 during the calendar quarter; and/or
 - whose gross receipts are below 50 percent of the comparable quarter in 2019. Once the employer’s gross receipts go above 80 percent of a comparable quarter in 2019 they no longer qualify after the end of that quarter
- **Employers who obtain PPP loans may not take advantage of the employee retention credit**

HOW TO APPLY THE CREDIT

- By reducing their required deposits of payroll taxes that have been withheld from employees’ wages by the amount of the credit
- Filing Form 7200 to receive a refund if the payroll taxes owed are less than the credit OR to receive an advance on the credit

IMPORTANT LINKS

[Treasury Department Fact Sheet](#)
[Form 7200](#)

PAYROLL TAX DEFERRAL

DETAILS OF THE PROGRAM

- Employers may defer payment of the 6.2% employer’s Social Security payroll tax during the remainder of 2020 as long as the deferred amounts are paid over the following two years; half by December 31, 2021 and the other half by December 31, 2022.

WHO CAN TAKE ADVANTAGE OF THE DEFERRAL?

- Widely available to employers, including labor unions and related trust funds.
- Any employer that receives forgiveness with respect to a PPP loan may NOT take advantage of the deferral

The Senate Committee on Small Business and Entrepreneurship has also provided a [helpful reference](#) for all of these programs and how they interact.