



Coronavirus Aid, Relief, and Economic Security (“CARES”) Act

Summary of Key Provisions

Updated: 4/13/2020

The CARES Act was signed into law on March 27, 2020. The Act includes many provisions for small to mid-sized employers and provides important measures to help business owners economically impacted by COVID-19. This document is intended to help you understand some of the key provisions impacting your payroll and related expenses. ***Important Disclaimer: the below is not legal advice and is subject to change based on clarification or amendments received from legislative authorities.***

Paycheck Protection Program

The CARES Act creates a new loan program, relying in part on the existing SBA 7(a) loan program; to provide employers with *forgivable loans of up to \$10 million* to use for payroll, group health insurance premiums, retirement benefits, interest on mortgage, rent, and certain covered utilities such as electric, gas, water, transportation, telephone, and interest access. ***The SBA has made the online application available as of 3pm EST on 3/31. Please visit [sba.gov](https://www.sba.gov), or contact your SBA approved lender to begin the process.***

Who is Eligible for PPP Loans?

- Businesses with 500 or fewer employees.
- Businesses that fall within NAICS Code 72 (Accommodation and Food Services sector) eligible for employing fewer than 500 employees *per location*.
- Full-time, part-time, and employees employed on “other basis” are included, such as independent contractors.
- Applicants are *not* required to show that credit is unavailable elsewhere or demonstrate repayment ability (PPP loans are backed by the SBA).

How and where can you apply for the loans?

Lenders who have already been approved by the SBA as 7(a) lenders will be able to issue the PPP loans. Businesses may apply for the loan through June 30, 2020. The SBA will publish a full list of required documentation to support the loan application.

How much can be borrowed?

- Up to \$10 million.
- Calculated at 2.5 times the average monthly payroll costs of the business (averaged over the one-year period prior to the date of the loan).
- “Payroll Costs” include compensation (salary, wage, commission, or similar compensation, payment of cash tip or equivalent, severance pay), group health and employer paid insurance premiums, retirement benefits, and state or local payroll taxes (a/k/a employer state/local taxes, but not employee state/local taxes).
- For the purpose of calculating average monthly payroll costs, employers must exclude amounts that exceeds \$100,000 for any single employee.

How to obtain Loan Forgiveness under the PPP?

PPP loans can be forgiven to the extent that the loan proceeds have been used for payroll, mortgage interest, rent, and permissible utilities during the eight-week period after the loan is made. Loan forgiveness will be *reduced* based on:

- Failure to maintain average number of Full-Time/FTE employees versus either 2/15/19 – 6/30/19, or 1/1/20 – 2/29/20.
- A 25% reduction in compensation for any individual making less than \$100,000 per year measured against the most recent full quarter.
- Reductions in either employee counts or in compensation between 2/15/20 and 30 days after enactment of the CARES Act will generally be ignored to the extent that they are reversed by 6/30/20.
- You may apply for this loan through June 30th, 2020.

PPP Loan Terms

PPP loans bear interest at a maximum rate of 4% and mature no later than 10 years after determination of the amount, if any, to be forgiven, as described above. Payments under PPP loans and all other 7(a) loans will be deferred for 6-12 months, which will be finalized with additional guidance by the SBA in the coming weeks. The SBA has waived prepayment penalties, the guaranty fee, and the annual fee applicable to other 7(a) loans. There is a presumption that the borrower was adversely impacted by COVID-19, and no personal guarantee or collateral is required for the covered loan.

SBA Economic Injury Disaster Loans

Businesses waiting for the processing of an SBA Economic Injury Disaster Loan may receive up to \$10,000 to cover immediate covered expenses. This grant does not need to be repaid. Please speak with your SBA lender's loan agent for more information.

Employee Retention Tax Credit

The employee retention tax credit (ERTC) will be available to businesses who have had operations fully or partially suspended from government authority to do COVID-19, or businesses who have had gross receipts decline more than 50% in a calendar quarter as compared to the same quarter in 2019. The credit is for 50% of the first \$10,000 in qualified wages (including health expenses) paid to each employee between 3/13/20 and 12/31/20. Note: employers who are eligible due to a decline in gross receipts, will remain eligible until the gross receipts return to at least 80% relative to the same quarter in 2019, or until 12/31/20, whichever is sooner.

If your business employs more than 100 employees (at pre-COVID-19 levels), credits can only be claimed on wages paid to employees who were not providing services as a result of COVID-19. Additionally, this relief is *not* available if the employer receives a covered loan under the Paycheck Protection Program.

Once the IRS has released guidance to software developers, we will update you on how these credits will be processed.

Delay of payment of Employer Payroll Taxes

Employers can defer payment of the *Employer Share of Social Security tax* (the 6.2% SSI match paid by employers). This deferral is permitted only to taxes against wages paid beginning on 3/27/20 and through 12/31/20.

Deferrals can be paid in two installments. Fifty percent will be due by 12/31/21, with the remainder due on 12/31/22.

The deferral is not permitted where an employer has had a covered loan forgiven. However, you *may* defer these payroll taxes during the loan application, loan approval, and forgiveness application processes. Once you receive approval from your PPP loan lender for the *forgiveness*, new deferrals are no longer permitted (FAQ #4 - <https://www.irs.gov/newsroom/deferral-of-employment-tax-deposits-and-payments-through-december-31-2020>)

Additional Provisions

The CARES Act contains additional provisions that may be beneficial to your business. Please contact your CPA or financial advisor to discuss other ways your business may obtain relief.

Helpful Links:

Senate's CARES Act Guide: <https://www.sbc.senate.gov/public/index.cfm/guide-to-the-cares-act>

US Small Business Association (SBA): <https://www.sba.gov/>

IRS FAQ Page for deferrals: <https://www.irs.gov/newsroom/deferral-of-employment-tax-deposits-and-payments-through-december-31-2020>