

Coronavirus Aid, Relief, and Economic Security Act (CARES) Act: Financial Support Programs for Small Businesses

Providing more than \$350 billion in cash flow to businesses and incentives to keep employees on payroll is a much-needed life-support program for the economy.

Following is a summary of available programs to provide financial support:

Payments on Existing Small Business Association (SBA) Loans: The Act includes \$17 billion to help businesses with existing SBA business loans.

- For six months, the SBA will pay all principal, interest, and fees on all existing SBA loan products, including 7(a), Community Advantage, 504, and Microloan programs
- It will not do the same for the new Paycheck Protection Program loans
- Contact one of SBA's preferred lenders -
<https://www.sba.gov/partners/lenders/microloan-program/list-lenders>

Paycheck Protection Program: \$349 billion for the PPP; through the PPP, small businesses and other eligible entities can receive up to \$10 million with payments deferred for up to a year.

- The SBA will forgive up to eight weeks of payroll and other costs if the organization retains its employees and maintains salary levels
- All loan fees are waived for borrowers and lenders
- Applies to any business that already qualified as a "small business concern," plus businesses, 501(c)(3)s, veterans organizations, and tribal business concerns that employ not more than either: 500 employees; the size standard established by the SBA for their industry; or, if the business has more than one physical location (with 500 or fewer employees per location) and is assigned a North American Industry Classification System (NAICS) code beginning with 72. Sole proprietors, independent contractors, and self-employed individuals are eligible for PPP loans, as well.
- The maximum loan amount is \$10 million, and the bill provides a formula by which the loan amount is tied to payroll costs incurred by the business. Loan proceeds may be used for: (1) payroll costs; (2) employee salaries; (3) interest payments on mortgages entered into before February 15, 2020 (but not prepayment or payment of principal); (4) rent for a lease entered into before February 15, 2020; (5) utilities, including electricity, gas, water, transportation, telephone, or internet; and (6) interest on any debt incurred before February 15, 2020. Loans would be backed by a 100% federal guarantee through December 31, 2020, at which time the guarantee percentage would revert to the standard Section 7(a) loan guarantee

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*Sources: 1. <https://comms.arnoldporter.com/6/3037/uploads/ap-ebook-policy-developments-related-to-the-coronavirus-pandemic-part-ii-the-cares-act.-03-27-2020.reduced.pdf>, accessed 3/28/20. 2. <https://www.advamed.org/>, accessed 3/29/30.

- By participating in the PPP, however, businesses may become ineligible for other relief provided in the bill

Paycheck Protection Program Loan Forgiveness: Loans will be eligible for payment deferment for at least 6 months and no more than one year, as well as forgiveness for the total amount borrowers spent on payroll costs and mortgage interest, rent, and utility payments between February 15 and June 30, 2020.

- Any canceled indebtedness will not be included in the borrower's taxable income. However, note that a borrower whose PPP loan is forgiven is not eligible for deferral of the payroll tax offered under Section 2302 of the CARES Act.
- There are a few restrictions on the amount of loan forgiveness a business can receive. First, the forgiven amount cannot exceed the loan principal. Second, the amount forgiven will be reduced proportionally by any reduction in employees compared to the prior year and reduced by the reduction in pay of any employee beyond 25% of their compensation the prior year. To encourage employers to rehire employees who may already have been laid off due to COVID-19, the Act provides an exception to the reduction if the business re-hires employees and/or eliminates the reduction in salaries by June 30, 2020.

Disaster and EIDL: \$562 million for SBA disaster loans in response to COVID-19, including, but not limited to, economic injury disaster loans (EIDLs), available nationwide given the declared Federal emergency

- Up to \$2 million for working capital and have a 3.75% interest rate for small businesses and a 2.75% rate for nonprofits
- Expanded eligibility for EIDL to include tribal businesses, cooperatives, and ESOPs with fewer than 500 employees or any individual operating as a sole proprietor or independent contractor between January 31, 2020 and December 31, 2020. Private nonprofits are also eligible for both grants and EIDLs
- Until December 31, 2020, the SBA can approve EIDLs based solely on an applicant's credit score or an alternative appropriate method for determining an applicant's ability to repay
- For EIDLs made before December 31, 2020 due to COVID-19, the SBA will waive the requirement for a personal guarantee on advances and EIDLs below \$200,000, the requirement that an applicant needs to have been in business for the one-year period before the disaster, and the requirement that a business not have credit available elsewhere
- To apply for EIDL loans, click here - <https://disasterloan.sba.gov/>

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Emergency Economic Injury Grants: The package includes \$10 billion for SBA to provide emergency EIDL grants until December 31, 2020.

- The emergency EIDL grant is an advance of \$10,000 to small businesses and nonprofits that apply for SBA's EIDL program. The advance will be provided within three days of applying for the loan, and businesses will not be required to repay the advance, even if they are denied for an EIDL.

Employee Retention Credit for Employers: The provision provides a refundable payroll tax credit for 50 percent of wages paid by employers to employees during the COVID-19 crisis.

- The credit is available to employers whose (1) operations were fully or partially suspended, due to a COVID-19-related shut-down order, or (2) gross receipts declined by more than 50 percent when compared to the same quarter in the prior year
- For employers with more 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 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 the first \$10,000 of compensation, including health benefits, paid to an eligible employee. The credit is provided for wages paid or incurred from March 13, 2020 through December 31, 2020.

Delay certain payroll tax payments: Under the bill, employers and self-employed individuals may delay payment of the employer's share of FICA payroll taxes (and half of SECA tax liability), with 50% of such taxes due by December 31, 2021, and the other 50% due by December 31, 2022.

Net operating loss deductions: The bill relaxes requirements from the Tax Cuts and Jobs Act limiting the use of net operating losses from prior years

- Companies are able to amend their returns to claim losses from 2018, 2019, and 2020 carried back five years, and the bill temporarily removes the taxable income limitation ensuring that the net operating loss could be used to fully offset taxable income. Additionally, the bill modifies the rules applicable to pass-through companies and sole proprietors to allow them to utilize active business losses.

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Expand access to Corporate AMT credits and deductible interest: The bill accelerates the ability of corporations to claim future refundable tax credits attributable to the repealed corporate alternative minimum tax. The bill also allows companies to claim a deduction for interest expense incurred in 2019 and 2020 up to 50% of their adjusted taxable income.

Immediate write off of certain improvement costs: Expanding the "bonus" depreciation rules, the bill allows businesses to write off costs associated with improving facilities in the current year, rather than requiring them to be depreciated on the normal schedule. This immediate write off will allow such businesses to both amend their prior year tax returns to receive refunds and reduce their tax liability in the current and future years.

State Trade Expansion Program: Under the CARES Act, the State Trade Expansion Program may continue providing grants through the end of FY 2021 using remaining funds from FY 2018 and 2019. In addition, a recipient of assistance from the State Trade Expansion Program will be reimbursed by the SBA for canceled events due to COVID-19 if the reimbursement does not exceed the recipient's federal grant.

Increased Eligibility for Bankruptcy: For one year, the Act increases the eligibility threshold to file under subchapter V of chapter 11 of the Bankruptcy Code to businesses with less than \$7.5 million of debt. In addition, coronavirus-related payments from the federal government will not be treated as "income" during bankruptcy for one year. If an individual or family is currently in chapter 13, they may seek payment plan modifications if they are experiencing a material financial hardship due to COVID-19.

Entrepreneurial Development: Funding and resources to small business development centers, women's business centers, and minority business centers. These centers are to provide small businesses with assistance in getting through COVID-19 challenges, especially in rural or economically distressed areas. Collectively, these programs will receive \$275 million.

Small Business Materials in Multiple Languages: SBA resources and services will be made available in the ten most commonly spoke languages in the U.S. other than English, including Mandarin, Cantonese, Japanese, and Korean.

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