



CARES Act - Small Business Assistance

On March 27, 2020, Congress passed and the President signed into law the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act"). Included in this legislation is a new [Paycheck Protection Program](#), which expands eligibility for Small Business Administration ("SBA") loans under Section 7(a) of the Small Business Act, **making \$349 billion available for eligible small businesses**. We discuss the **Paycheck Protection Program**, and then we discuss the **Economic Injury Disaster Loan Program**.

The following information will provide better guidance for our small business members seeking potential relief under the **Paycheck Protection Program**:

Who is eligible for a Paycheck Protection loan?

- Businesses and 501(c)(3)s with less than 500 employees are eligible for this new loan.
- Sole proprietors, independent contractors, and self-employed individuals may also be eligible.

Is there a cap on the loan amount? The maximum loan amount will be the lesser of \$10 million or 2.5 times the average monthly payroll based on the prior year's payroll.

What expenses are eligible to be paid from the loan?

- Payroll costs, including costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums; and employee salaries, commissions, or similar compensations
- Payments of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a mortgage obligation)
- Rent (including rent under a lease agreement) and Utilities (**incl. telephone, or internet access**)
- Interest on any other debt obligations that were incurred before February 15, 2020

When can I apply? Starting April 3, 2020, small businesses and sole proprietorships can apply for and receive loans to cover their payroll and other certain expenses through existing SBA lenders. Starting April 10, 2020, independent contractors and self-employed individuals can apply for and receive loans to cover their payroll and other certain expenses through existing SBA lenders.

Where can I apply for this loan? The SBA itself does not provide direct loans. The SBA works with lenders who provide the loan, process the application, and submit the application to the SBA.

The [Small Business Administration website](#) has several resources that small businesses can use to search and find lenders that offer SBA-guaranteed loans.

What do I need to apply? You will need to complete the Paycheck Protection Program loan application and submit the application with the required documentation to an approved lender that is available to process your application by June 30, 2020. Although program open until June 30, 2020, businesses are encouraged to apply as quickly as possible because there is a funding cap and lenders need time to process the loan. [Click here](#) for the application.

What other documents will I need to include in my application? You will need to provide your lender with payroll documentation.

How fast will I receive the loan? To increase speed and turnaround time within this new loan product, all lenders will have delegated authority. Delegated authority allows the lender to process, close, and service a loan without SBA review.

Additionally, all borrower and lender fees for Paycheck Protection loans will be waived. The Credit Elsewhere Test and all requirements for personal guarantees under Paycheck Protection loans will also be waived.

When do I have to start paying the loan back? The CARES Act includes an automatic deferral of principal, interest, and fees for six months for Paycheck Protection loans.

Can small businesses hire back previously fired employees and still have the loans forgiven? If so, what is the hire-back date? Yes. There is flexibility in the program to allow businesses to hire new, or returning employees, by June 30, 2020, and still qualify under the headcount requirements.

What is an SBA Economic Injury Disaster Loan and how do I apply? In response to the Coronavirus (COVID-19) pandemic, small business owners in all U.S. states, Washington D.C., and territories may also be eligible to apply for an **Economic Injury Disaster Loan** with **advance of up to \$10,000**. The SBA's Economic Injury Disaster Loan program provides small businesses with working capital loans of up to \$2 million that can provide vital economic support to small businesses to help overcome the temporary loss of revenue they are experiencing.

- Funds will be made available within three days of a successful application, and this loan advance will not have to be repaid. [Click here to apply](#) for SBA Economic Injury Disaster Loan.

What if I already applied for or have received an SBA Economic Injury Disaster Loan? Businesses will be able to receive an Economic Injury Disaster Loan (EIDL) and a Paycheck Protection loan if they are used for different things. For example, a business can receive an EIDL for working capital and a Paycheck Protection loan for payroll assistance. There are no prepayment penalties on EIDLs and no prepayment penalties on Paycheck Protection loans. Additionally, a refinancing option is included.

What is the loan forgiveness tool, and how much can be forgiven?

- The bill establishes a loan forgiveness tool that allows businesses that maintain payroll continuity from February 15, 2020, through June 30, 2020, as defined by headcount, to request forgiveness on the portion of the Paycheck Protection loan used on payroll costs; mortgage interest; rent; and **utility payments** over an 8-week period. Up to 100 percent of the loan is forgivable.
 - “Covered utility payment” means any payment that includes a service for the distribution of electricity, gas, water, transportation, **telephone, or internet access** for which service began before February 15, 2020.
- The amount forgiven will be reduced proportionally by any reduction in employees retained compared to the prior year and reduced by the reduction in pay of any employee beyond 25 percent of their prior year compensation.
- The loan forgiveness program provides flexibility for businesses that re-hire workers that were previously laid off.
- To receive loan forgiveness, a business will have to work with a lender to show their payroll was maintained through documentation.
- Lenders will be held harmless on decisions of eligibility and SBA will purchase the loan after the lender grants approval.

Payroll Tax Credit

The CARES Act creates an **Employee Retention Credit**, which is a refundable payroll tax credit equal to 50 percent of up to \$10,000 in wages per employee (including health benefits) paid by certain employers during the coronavirus crisis.

Who is eligible for the Employee Retention Credit?

The credit is available to employers:

- Whose operations were fully or partially shut down by government order limiting commerce, travel, or group meetings due to coronavirus; or
- Whose quarterly receipts are less than 50% for the same quarter in the prior year.

Wages paid to employees during the period which they are furloughed or otherwise not working (due to reduced hours) as a result of their employer's closure or economic hardship are eligible for the credit. However, for employers with 100 or fewer employees, all employee wages qualify for the credit, regardless of whether they are furloughed or face reduced hours.

The credit is for wages paid by eligible employers from March 13, 2020 through December 31, 2020.

Can I receive both the Employee Retention Credit and an SBA-backed Paycheck Protection loan?

No. Employers that receive Paycheck Protection loans are not eligible for the Employee Retention Credit. Additionally, wages that qualify for the required paid leave credit are not eligible for the credit.

Additional Small Business Tax Relief

Delayed Payroll Tax Payment: The CARES Act authorizes employers to delay the payment of their 2020 payroll taxes until 2021 and 2022, providing businesses with an extra \$300 billion in cash flow.

Carry-Back Losses: The CARES Act allows businesses to carry back losses from 2018, 2019, and 2020 to the previous 5 years, which will allow businesses access to immediate tax refunds.

Investment in Improvements: The CARES Act fixes cost recovery for investments in Qualified Improvement Properties, which will allow businesses that made these investments in 2018 and 2019 and receive tax refunds now.