

Small Businesses Eligible for Numerous Relief Programs During COVID-19 Crisis

Throughout March 2020, as it became increasingly evident that the economic impact from the COVID-19 pandemic would be both profound and prolonged, Congress passed several pieces of legislation with provisions to help small businesses shore up their coffers and keep employees on the payroll. Within a few weeks, initial funding for the two cornerstone programs, the Paycheck Protection Program and the Economic Injury Disaster Loan program, ran dry. Many of the nation's small businesses discovered they were shut out after submitting applications. On April 24, the president signed additional legislation, the Paycheck Protection Program and Health Care Enhancement Act, to increase the amount of aid available to small businesses during the crisis. However, industry insiders expect the funding to be depleted quickly once again.

Regardless of the status of these programs, business owners should familiarize themselves with all available aid to help ensure they are taking maximum advantage of the new laws, as well as other potential resources.

Programs administered by the Small Business Administration (SBA)

Paycheck Protection Program (PPP)

Details: As part of the \$2 trillion Coronavirus Aid, Relief, and Economic Security (CARES) Act signed on March 27, 2020, the PPP was originally funded by a \$350 billion allocation. It is a first-come, first-served, forgivable loan program designed to encourage employers to keep paying all their employees, even if the businesses have been forced to shutter due to the virus. In order to take advantage of the program, small-business owners must submit an application to a participating lender, which then works with the Small Business Administration to guarantee the loan.

Loans can be for up to 2.5 times an employer's average monthly payroll for the last year (up to an annualized maximum of \$100,000 for each employee, \$10 million in total) and may be used for expenses incurred between February 15, 2020, and June 30, 2020.

Note: Seasonal or new businesses will use different time periods to calculate the loan amount.

Loans may be forgiven as long as the employer uses the proceeds for payroll, rent, mortgage interest, and utilities over an eight-week period from the date of loan issuance. At least 75% of the forgiven amount must be used for payroll. Forgiveness is based on the employer maintaining or rehiring employees by June 30, 2020, and restoring salary levels. The amount forgiven will be reduced if full-time headcount declines or if wages decrease more than 25%.

Amounts not forgiven will have to be paid back over a two-year period at a 1% interest rate. Loan payments will be deferred for six months, and no collateral or personal guarantees are required. Moreover, no fees may be charged, either by the federal government or the lender.

Client Bulletin

Eligible employers: Businesses that may apply include those with 500 or fewer employees (or, if more than 500, those meeting the SBA's industry size standard); accommodations and food services businesses that have multiple locations employing no more than 500 employees per location; certain nonprofits and veterans organizations; sole proprietors, independent contractors, and the self-employed.

Status: *On April 16, 2020, after guaranteeing 1.6 million loans under the PPP, the SBA stopped accepting applications when the funding was exhausted. Subsequently, many small businesses complained that they were shut out of the program, while large restaurant corporations were able to secure tens of millions of dollars in loans. On April 23, the Treasury Department updated its [FAQ guidance](#) to address this issue, saying, "It is unlikely that a public company with substantial market value and access to capital markets will be able to make the required certification in good faith" that the loan is necessary to support the company's ongoing operations. As such, many large corporations have been returning their loan proceeds, and the Treasury Department has said that any such company that repays its loan by May 7 will be treated as if it had acted in good faith. On the same day, Congress passed the Paycheck Protection Program and Health Care Enhancement Act, allocating an additional \$310 billion toward the fund, \$60 billion of which will be designated for small, midsize, and community lenders. During an online panel discussion on April 24, Neil Bradley, executive vice president and chief policy officer of the U.S. Chamber of Commerce, recommended that small businesses that had previously applied for a loan but had not yet received approval should reach out to their lenders to ask about the status. He noted that funds are expected to run out quickly, and that further guidance is expected from the Treasury Department on various aspects of the loan program.*

Economic Injury Disaster Loan (EIDL) program

Details: As part of the Coronavirus Preparedness and Response Supplemental Appropriations Act signed on March 6, 2020, Congress set aside additional funding for small-business disaster assistance. The EIDL program offers low-interest federal disaster loans to small businesses throughout the United States that suffer substantial economic injury due to COVID-19. Loans of up to \$2 million can be used for many different types of expenses, including payroll, accounts payable, fixed debts, real estate payments, and other bills. Interest rates are 3.75% for small businesses with no other available credit and 2.75% for nonprofits. Payment can be spread over long time periods, as much as 30 years. The program is scheduled to last through December 31, 2020.

Subsequently, a provision in the CARES Act allowed for EIDL loan advances of up to \$10,000 to small businesses facing a temporary loss of revenue. The loan advance does not have to be repaid (i.e., it is essentially a grant) and is intended to provide a much-needed influx of cash more quickly than the EIDL loans. These grants can be used to meet certain immediate expenses, including rent or mortgage and paying sick leave to employees affected by COVID-19.

Eligible employers: Businesses that may apply are those with fewer than 500 employees, including sole proprietors, independent contractors, and self-employed individuals affected by COVID-19. Businesses with more than 500 employees may be eligible if they meet the SBA's industry size standards.

Status: This program was also put on hold earlier in April after initial funding was exhausted. Due to the Paycheck Protection Program and Health Care Enhancement Act, the program will receive an additional

Client Bulletin

\$60 billion. Farmers and ranchers with 500 or fewer employees are now eligible for the EIDL program. As of this writing, the SBA website says, "SBA will resume processing EIDL loan and advance applications that are already in queue on a first-come, first-served basis. We will provide further information on the availability of the EIDL portal to receive new applications (including those from agricultural enterprises) as soon as possible."

SBA Express Bridge Loan program

These loans allow small businesses that currently have a relationship with an SBA Express lender to quickly access up to \$25,000 to help replace a loss of revenue. They can be either term loans or used to bridge the gap while business owners await disbursement on an EIDL. The loans will be paid in full or in part by proceeds from the EIDL loan.

SBA Debt Relief program

The SBA will automatically pay the principal, interest, and fees of 7(a), 504, and microloans for six months for both current loans and new loans issued before September 27, 2020. The program also provides assistance to businesses that held an SBA-serviced disaster (home and business) loan that was in regular servicing status on March 1, 2020. The SBA is providing automatic deferments through December 31, 2020.

Note: Interest on the disaster loans will continue to accrue during the deferment period. Borrowers who have set up an automatic payment program will need to cancel those payments if they choose to take advantage of the deferment program and will need to reestablish the automatic payments.

Employee leave and associated employer tax credits

The Family First Coronavirus Response Act (FFCRA) signed on March 18, 2020, ushered in provisions designed to protect employees affected by COVID-19, while providing relief to their employers.

Family and medical leave

The Family and Medical Leave Act (FMLA) was expanded to cover employees who are unable to work due to a need to care for a child whose school or day care is closed, or whose provider is unavailable due to a "public health emergency." Employees will receive at least two-thirds of their regular pay, up to \$200 per day and \$10,000 over the benefit period. The first 10 days may be taken unpaid, but the employee may use other available paid leave during that time frame.

Up to 10 weeks of leave may be taken toward the family leave credit. The provision is in effect from April 1, 2020, through December 31, 2020, and applies to employees covered by Title I of the FMLA. Applicable employers include private businesses with fewer than 500 employees and all public employers.

Note: Employers with fewer than 50 employees may be exempt if compliance would jeopardize the viability of the business. Health-care and first-responder employees may be excluded.

Emergency paid sick leave

This provision covers qualified employees who are unable to work (or telework) because they are subject to a quarantine or isolation order, have been advised by a health-care provider to self-quarantine due to

Client Bulletin

coronavirus concerns, or are experiencing symptoms of coronavirus and are seeking a medical diagnosis. Employees will receive up to two weeks (80 hours) of their regular pay (or, if higher, the federal, state, or local minimum wage), up to \$511 per day for a maximum of \$5,110 over the benefit period.

An employee who is caring for someone with coronavirus, or caring for a child because the child's school or day care is closed or whose child-care provider is unavailable, may receive up to two weeks (80 hours) of sick leave at two-thirds of the employee's regular pay (or the federal, state, or local minimum wage, if higher), up to \$200 per day for a maximum of \$2,000.

The provision covers the same period as the expanded FMLA (April 1, 2020, to December 31, 2020) and applies to the same employers.

***Note:** Employers may exclude certain health-care workers and first responders. Small businesses with fewer than 50 employees are exempt from the requirement to provide paid sick leave to employees who are caring for their child due to the applicable reasons if compliance would jeopardize the viability of the business.*

Associated tax credits

Eligible employers can receive a tax credit for the full amount of coronavirus-related sick and family leave, plus related health plan expenses and the employer's share of Medicare tax on the leave for the covered period. The refundable credit is applied against certain employment taxes on wages paid to all employees.

Self-employed individuals may be eligible for qualified sick leave equivalent tax credits (also for a maximum of 10 days):

- Lesser of \$511 or 100% of average daily self-employment income due to COVID-19 symptoms or a local quarantine/isolation order
- Lesser of \$200 per day or 67% of average daily self-employment income if caring for someone with coronavirus or caring for a child due to a coronavirus-related reason (including child's school closure)

Employee Retention Tax Credit

Employers whose operations have been partially or fully suspended due to mandated shutdowns, or whose gross receipts have experienced a significant decline year-over-year compared to 2019, are eligible for an employee retention credit equal to \$5,000 per employee (50% of up to \$10,000 in qualified wages, including health plan expenses) paid after March 12, 2020, and before January 1, 2021.

The credit applies against certain employment taxes on wages paid to all employees. Employers may reduce federal employment tax deposits in anticipation of this credit and may request an advance for any amounts not covered by this reduction.

***Note:** According to the U.S. Chamber of Commerce, businesses cannot take associated tax credits and receive a PPP loan.*

Client Bulletin

Employer Payroll Tax Deferral

A CARES Act provision allows employers to defer the employer's share of Social Security taxes and self-employed individuals to defer payment of certain self-employment taxes. Deferrals may occur between March 27, 2020, and December 31, 2020.

Note: Businesses may not defer the deposit and payment of these taxes after the employer receives loan forgiveness under the PPP.

State, regional, and local assistance

In addition to the numerous federal initiatives, many states and localities are implementing their own programs. Small businesses in need of support should reach out to these agencies to research opportunities that may be available. The U.S. Chamber of Commerce has an [online resource](#) designed to help small-business owners investigate state programs.

Additional resources

For information on the Paycheck Protection Program, review the U.S. Treasury Department [Information Sheet](#). For more information on other SBA-backed programs, visit the

[Small Business Administration](#). For more information on coronavirus-related employer tax credits, visit the [IRS](#).

Finally, the U.S. Chamber of Commerce has launched the Save Small Business Initiative, a nationwide program to provide supplemental funding, resources and webinars, research, and advocacy to support small businesses affected by the COVID-19 crisis. For more information, visit the [Save Small Business Initiative website](#).

Sources: U.S. Department of the Treasury; Small Business Administration; Kaiser Family Foundation; National Federation of Independent Businesses; *Inc.* magazine; U.S. Chamber of Commerce; and *The Wall Street Journal*