



April 2020

COVID-19: New SBA Loans for Small Businesses—Maybe a Great Deal

The COVID-19 pandemic has upended all aspects of life around the world, including the world of business here in the U.S.

If your business is struggling, you may be able to get some help from the federal Small Business Administration (SBA), which is authorized to provide loans to small businesses on an as-needed basis.¹

There are two types of relief you can apply for—read on.

Economic Injury Disaster Loans

Traditionally, low-interest SBA Economic Injury Disaster Loans (EIDLs) have been available to small businesses following a disaster declaration; these are authorized by Section 7(a) of the Small Business Act.²

EIDLs are commonly granted on a local level following a natural disaster (such as a hurricane or a tornado). But right now they are authorized for small businesses in all U.S. states and territories due to the COVID-19 pandemic.

Currently, each disaster loan provides up to \$2 million to pay fixed debts, payroll, accounts payable, and other bills. The interest rate is fixed at 3.75 percent for small businesses and 2.75 percent for non-profits. EIDLs can be repaid over a period of up to 30 years.³

Additionally, due to COVID-19, the SBA is providing advances of up to \$10,000 on EIDLs for businesses experiencing a temporary loss of revenue. Funds are available within three days after applying, and the loan advance does not have to be repaid.⁴

Small business owners can apply for an EIDL and advance here: <https://covid19relief.sba.gov/#/>

New Paycheck Protection Program

The Paycheck Protection Program (PPP) is an expansion of the existing 7(a) loan program, authorized by the recently passed Coronavirus Aid, Relief, and Economic Security Act (CARES Act).⁵

Who's Eligible?

You are covered if your business was in operation as of February 15, 2020, and you had either (a) employees for whom you paid salaries and payroll taxes or (b) 1099-MISC independent contractors.⁶

Small businesses that employ 500 or fewer employees, including sole proprietors, independent contractors, certain non-profits, veterans' organizations, tribal businesses, and self-employed workers, are all eligible for PPP relief.⁷

"Self-employed" workers are who you would think they are, the sole proprietors who file Schedule C with their Form 1040. IRC Section 1402 identifies them as those who regularly carry on a trade or business within the meaning of tax code Section 1402.⁸

How Much Aid Is Available?

Small businesses can borrow 250 percent of their average monthly payroll expenses during the one-year period before the loan is taken, up to \$10 million.⁹

For example, if your monthly payroll average is \$10,000, you can borrow \$25,000 (\$10,000 x 250 percent). At \$1 million, you can borrow \$2.5 million.

The law defines "payroll costs" very broadly as

- employee salaries, wages, commissions, or "similar compensation," up to a per-worker ceiling of \$100,000 per year;
- cash tips or the equivalent;
- payment for vacations and parental, family, medical, or sick leave;
- allowance for dismissal or separation;
- payment for group health benefits, including insurance premiums;
- payment of any retirement benefit; or
- state or local tax assessed on employee compensation.¹⁰

What's specifically *not* included in payroll costs:

- Annual compensation over \$100,000 to any individual employee
- Compensation for employees who live outside the U.S.
- Sick leave or family leave wages for which a credit is already provided by the Families First Coronavirus Response Act (P.L. 116-127)¹¹

How Much of the Loan Is Forgiven?

Principal amounts used for payroll, mortgage interest, rent, and utility payments during an eight-week period (starting with the loan origination date) between February 15, 2020, and June 30, 2020, will be forgiven.¹²

If the full principal is forgiven, you are not liable for the interest accrued over that eight-week period—and, as an added bonus, the canceled amounts are not considered taxable income.¹³

Warning: Payroll Cuts Affect Loan Forgiveness

Because the whole point of the PPP is to help keep workers employed at their current level of pay, the loan forgiveness amount decreases if you lay folks off or reduce their wages.¹⁴

1. If you keep all your workers at their current rates of pay, you are eligible for 100 percent loan forgiveness.
2. If you reduce your workforce, your loan forgiveness will be reduced by the percentage decrease in employees.

Example. Last year, you had 10 workers. This year, you have eight. Your loan forgiveness will be reduced by 20 percent.

You are allowed to compare your average number of full-time equivalent employees employed during the covered period (February 15, 2020, to June 30, 2020) to the number employed during your choice of¹⁵

- February 15, 2019, to June 30, 2019, or
- January 1, 2020, to February 29, 2020.

3. If you reduce, by more than 25 percent (as compared to the most recent full quarter before the covered period) the pay of a worker making less than \$100,000 annually, your loan forgiveness decreases by the amount in excess of 25 percent.¹⁶

Example. Last quarter, Jim was earning \$75,000 on an annual basis. You still have Jim on the payroll but have reduced his salary to \$54,750 annually. Jim's pay has decreased by 27 percent, so the amount of your PPP loan forgiven is reduced by the excess 2 percent.

The good news: If you have already laid workers off or made pay cuts, it's not too late to set things right. If you hire back laid-off workers by June 30, 2020, or rescind pay cuts by that date, you remain eligible for full loan forgiveness.¹⁷

When Are Payments Due?

Any non-forgiven amounts are subject to the terms negotiated by you and the lender, but the maximum terms of the loan are capped at 10 years and 4 percent interest.

Also, payments are deferred for at least six months and up to one year from the loan origination date.¹⁸

What If You Already Applied for an EIDL for Coronavirus-Related Reasons?

No problem—if you took out an EIDL on or after January 30, 2020, you can refinance the EIDL into the PPP for loan forgiveness purposes, but you can't double-dip and use the loans for the same purposes.

Any remaining EIDL funds used for reasons other than the stated reasons above are a regular (albeit low-interest) loan that needs to be repaid.

How to Apply for a PPP

Unlike EIDLs, which run directly through the SBA, PPP loans go through approved third-party lenders. Talk to your bank or your local SBA office (given the current demands on the SBA, your bank may be a better place to start).

There's no fee to apply, and your burden for demonstrating need is low. In addition to the appropriate documentation regarding your finances, you need only make a good-faith showing that¹⁹

- the loan is necessary to support your ongoing business operations in the current economic climate;
- the funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments; and
- you do not have a duplicate loan already pending or completed.

If You're Going to Apply, Do It Now

The law allocates \$349 billion for PPP relief²⁰—a huge amount, but one that will presumably be in very high demand given the devastating effects of the COVID-19 pandemic.

There's no guarantee that more funding will be forthcoming, so act now to claim your share if you are eligible. It may be a while before the processes to grant these loans are actually up and running, but get things rolling at your end ASAP.

If you are in dire straits right now, you may additionally want to go ahead and apply for an EIDL loan and advance, as the machinery is already set up for those.

[Client Letter on This Article for Use by Tax Pros. Click Here.](#)

1 15 USC Section 636(a).

2 Ibid.

3 <https://www.sba.gov/disaster-assistance/coronavirus-covid-19>.

4 <https://www.sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources#section-header-2>.

5 CARES Act, Section 1102.

6 Ibid., Section 1102(a)(2).

7 Ibid.

8 Ibid; FFCRA, Section 7002(b).

9 CARES Act, Section 1102(a)(2).

10 Ibid.

11 Ibid.

12 Ibid., Section 1106(b).

13 Ibid., Section 1106(d)(6)(i).

14 Ibid., Section 1106(d)(2).

15 Ibid., Section 1106(d)(2)(A)(ii)(I).

16 Ibid., Section 1106(d)(3)(A).

17 Ibid., Section 1106(d)(5)(B).

18 Ibid., Section 1102(a)(2).

19 Ibid.

20 Ibid., Section 1102(b)(1).



April 2020

COVID 19: Important Tax Breaks from the CARES Act

Due to the COVID-19 pandemic, Congress wants to help you and your business survive financially.

And, of course, Congress decided to use the tax law to get cash in your pocket immediately.

Thanks to the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), just passed by Congress and signed by the president, we have new tax provisions—and some are retroactive to 2018, meaning you might find tax refunds from your previously filed tax returns!

We've plucked out the important tax breaks to help you get the most cash out of this law that Congress just passed.

The Check Will Be in the Mail

As you read this, the U.S. Treasury Department could be in the process of writing you a check, and it's possible you could have that check in your hands within three weeks, according to the Treasury secretary.

The check you receive this year is going to be your minimum amount. You don't have to repay it or pay taxes on it.

And next year, when you file your 2020 tax return—say, on April 15, 2021—you could receive more cash if the 2020 return shows a bigger credit than you receive this year.

Technically, the cash you're about to receive is an advance payment of a new refundable tax credit for your 2020 Form 1040 tax return.¹ (This is the return you will file in 2021.)

The advance tax credit (think cash) coming in the mail or electronically in the next three weeks or so is based on your 2018 or 2019 (if you filed it already) tax return. If your income qualifies for the full credit, you will receive

- \$1,200, or \$2,400 if you filed a joint return, plus
- \$500 for each dependent age 16 or less on December 31, 2020.

Your tax credit (the check in the mail) goes down by 5 percent of the amount your adjusted gross income (AGI) exceeds

- \$150,000 on a joint return,
- \$112,500 on a head of household return, or
- \$75,000 for all other filing statuses.

The advance credit amount is based on

- 2019 AGI; or
- 2018 AGI, if you have not yet filed your 2019 return; or
- 2020 Social Security benefits statement, if you did not file a 2018 or 2019 tax return.

You'll "true up" your advance tax credit on your 2020 Form 1040 (which you will file in 2021):

- If the tax credit (the cash you are about to receive) is lower than the credit you qualify for based on 2020 AGI, then you'll get the difference as a refundable tax credit in 2021 after you file your 2020 tax return.
- If the cash you receive this year is greater than the credit you qualify for based on 2020 AGI, you have a windfall. You don't have to pay the excess cash back to the IRS.

Your current tax debts will not interfere with the cash amount you are about to receive. There are no offsets for outstanding tax debts.

But there is an offset for past-due child support that is reported to the IRS by a state. In this case, the IRS will take the child support money from the advance tax credit before remitting any money to the taxpayer.

Planning tip. If you didn't file your 2019 tax return yet, calculate if your advance credit is higher with your 2018 AGI. If it is, wait to file your 2019 return until after you get the advance credit paid to you.

Example. You filed a 2018 Form 1040 with AGI of \$70,000 and no dependents. Your 2019 Form 1040, which you did not file yet, has an AGI of \$105,000 and no dependents.

If you file your 2019 return now, you will get no cash from the advance credit because your AGI would have phased out your entire credit.

But if you don't file your 2019 return now, you receive \$1,200.

Fast-forward to your 2020 tax return—say your 2020 Form 1040 has AGI of \$110,000. It's over the threshold. No problem. Under the rules, you keep the \$1,200.

Charitable Contributions

For tax year 2020 only, the CARES Act increases the limits on charitable contributions as follows:²

- For individuals, there is no AGI limit for contributions normally subject to the 50 percent and 60 percent limitations. The 2020 no-limit rule does not apply to contributions to donor-advised funds.
- For corporations, the 10 percent limitation goes up to 25 percent of taxable income.
- The limitation on deductions for contributions of food inventory goes from 15 percent to 25 percent.

If you are a non-itemizer, you may now deduct up to \$300 of cash charitable contributions above the line.³ This above-the-line deduction is a permanent change starting with tax year 2020.

Net Operating Losses

The CARES Act temporarily suspends some of the Tax Cuts and Jobs Act (TCJA) limitations on net operating losses (NOLs):⁴

- For NOLs that arise in tax years 2018, 2019, and 2020, you can now carry them back five years to obtain refunds of taxes previously paid.
- Under the TCJA, an NOL deduction in a tax year usually cannot exceed 80 percent of taxable income, but the CARES Act suspends that limitation and allows a 100 percent deduction for tax years 2018, 2019, and 2020.

The TCJA NOL rules weren't good for you, as we described in *Five Strategies for Your Business Losses after Tax Reform*.

These new, temporary changes allow you to fully utilize your NOLs and potentially amend prior-year tax returns to get refunds.

461(l) Limitation

The TCJA created a new loss limitation rule (a ceiling) that limited your ability to use business losses, which we told you about in TCJA Tax Reform Sticks It to Business Start-Ups That Lose Money.

The CARES Act retroactively eliminates the Section 461(l) limitation rule for tax years 2018, 2019, and 2020 and moves the start to tax year 2021.⁵

Once again, this change allows you to possibly amend prior-year tax returns to get refunds now.

Qualified Improvement Property

Finally! Congress fixed the TCJA error we outlined in Q&A: Improvement Property Update.

Qualified improvement property (QIP) is now 15-year property, and not 39-year property, for depreciation purposes.⁶

This means QIP is now eligible for bonus depreciation, where previously you could use only Section 179 expensing.

This change is retroactive as if Congress originally included it in the TCJA, so you can amend prior-year returns to fully expense the property and potentially secure refunds.

Takeaways

The CARES Act provides many tax benefits that can put cash in your pocket immediately:

- Advance payments of refundable tax credits
- Increased charitable contribution deductions
- Expanded ability to use and get refunds from NOLs
- Suspension of the rules limiting excess business loss

Fixed QIP depreciation

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If a tax change affects you now and moving forward, be sure to plan ahead to optimize your outcome—for example, get the biggest advance credit you can by knowing the right tax return on which to base it.

If the tax change affects you retroactively and you'll be filing an amended return to claim a refund, do it as fast as possible, as there will likely be IRS administrative delays. Also, you don't want to wait beyond the three-year statutory time period for filing an amended return.

[Client Letter on This Article for Use by Tax Pros. Click Here.](#)

1 CARES Act, Section 2201.

2 CARES Act, Section 2205.

3 CARES Act, Section 2204.

4 CARES Act, Section 2303.

5 CARES Act, Section 2304.

6 CARES Act, Section 2307.



April 2020

COVID-19: Significant Payroll and Self-Employment Tax Relief

If you are in business for yourself—say, as a corporation or self-employed—payroll taxes and self-employment taxes are likely two of your biggest tax burdens.

Due to the COVID-19 pandemic, individuals and business are suffering. Congress wants to help you individually and also keep small businesses afloat.

To do this, Congress decided that in addition to other measures, it should give you payroll tax and self-employment tax relief, as we describe in this article.

We'll tell you how the Families First Coronavirus Response Act (FFCRA) and the Coronavirus Aid, Relief, and Economic Security (CARES) Act will give you payroll and self-employment tax relief.

Payroll Tax Deferral

If you have employees (including yourself), then you can postpone payment of the employer share of payroll taxes incurred from the date of enactment of the CARES Act (March 27, 2020) through December 31, 2020.¹

You'll need to pay 50 percent of your 2020 postponed employer taxes no later than December 31, 2021, and the remaining 50 percent no later than December 31, 2022.

Note. This provision doesn't apply if you use the small business loan forgiveness provision under the CARES Act. For this alternative, see COVID-19: New SBA Loans for Small Businesses—Maybe a Great Deal.

Self-Employment Tax Deferral

If you owe self-employment tax in tax year 2020, you'll pay it as follows:²

- 50 percent on your 2020 Form 1040 return (which you file in 2021),
- 25 percent no later than December 31, 2021, and
- 25 percent no later than December 31, 2022.

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Example. On her 2020 Form 1040, Sue has a Schedule C and a self-employment tax liability of \$8,000. She'll pay that \$8,000 on the following schedule:

- \$4,000 with her 2020 Form 1040 when filed in 2021,
- \$2,000 no later than December 31, 2021, and
- \$2,000 no later than December 31, 2022.

Employee Retention Credit

The CARES Act gives you a refundable tax credit against the employer portion of employment taxes equal to 50 percent of wages paid to your employees after March 12, 2020, and before January 1, 2021.³

You are eligible if

- a government order fully or partially suspended your operations during a calendar quarter due to COVID-19, or
- your gross receipts for a calendar quarter are less than 50 percent of gross receipts from the same quarter in the prior year, in which case your credit ends in the quarter when gross receipts exceed 80 percent of gross receipts from the same quarter in the prior year.

If you have **more than 100** full-time employees, then you can take a credit for wages paid to your employees when they are not providing services due to COVID-19-related circumstances.

If you have **100 or fewer** full-time employees, then all your employee wages qualify for the credit, whether you are open for business or subject to a shutdown order.

The maximum creditable wage amount is \$10,000 per employee for all calendar quarters and includes the value of the health benefits you pay on their behalf.

Note. You cannot take the employee retention credit if you receive a Small Business Interruption Loan from the Small Business Administration. For this alternative, see COVID-19: New SBA Loans for Small Businesses—Maybe a Great Deal.

FFCRA Tax Credits—Overview

If the FFCRA requires you to provide paid sick leave or paid family leave to your employees, then you receive refundable payroll tax credits against your employer portion of your employment tax liability to offset the wage expense.⁴

You'll be able to reduce your federal tax deposits by the anticipated credit amount to get immediate cash in your pocket. If the credit amount exceeds your payroll tax deposit, the difference is refundable to you.⁵

You won't pay employer Social Security taxes on the paid leave, and you'll get an additional tax credit to offset your share of the Medicare payroll tax.⁶

In addition, if you pay self-employment tax, and if you would have qualified for paid sick or family leave if you had been employed by someone required to offer paid leave, then you get a refundable tax credit against self-employment tax.⁷

These provisions apply starting April 1, 2020, and ending on December 31, 2020.⁸

Who Must Provide Paid Leave?

In general, you must provide paid leave if your business or tax-exempt organization has fewer than 500 employees.

The Department of Labor has authority to exempt small businesses with fewer than 50 employees from the paid leave requirements if those requirements would jeopardize the viability of the business.

The fewer-than-50-employees exemption will be available on the basis of simple and clear criteria that make it available in circumstances involving jeopardy to the viability of an employer's business as a going concern.⁹

Paid Sick Leave Payroll Tax Credit

The Emergency Paid Sick Leave Act requires you to provide an employee with paid sick time to the extent that the employee is unable to work or telework due to a need for leave for any of the following reasons:¹⁰

1. The employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19.
2. A health care provider advised the employee to self-quarantine due to concerns related to COVID-19.
3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.

4. The employee is caring for an individual who is subject to an order described in clause (1) or an advisory described in clause (2).
5. The employee is caring for the employee's child due to closure of school or place of care, or the childcare provider of such son or daughter is unavailable due to COVID-19 precautions.
6. The employee is experiencing any other substantially similar condition specified by the Department of Health and Human Services in consultation with the Department of the Treasury and the Department of Labor.

For paid sick time qualifying under clauses (1), (2), or (3) above,¹¹

- your employee receives up to two weeks of paid sick leave at 100 percent of the employee's pay, and
- you receive a 100 percent payroll tax credit for qualified sick leave wages, but the credit may not exceed \$511 for any day (or any portion thereof) for which you pay the individual sick time.

For paid sick time qualifying under clauses (4), (5), or (6) above,¹²

- your employee receives up to two weeks of paid sick leave at two-thirds of the employee's pay, and
- you receive a 100 percent payroll tax credit for qualified sick leave wages, but the credit may not exceed \$200 for any day (or portion thereof) for which you pay the individual sick time.

The maximum number of COVID-19 creditable paid sick leave days is 10 per employee per calendar year.

Your credit also includes your qualified health plan expenses that are allocable to creditable qualified sick leave wages.

Self-Employed Sick Leave Credit

Remember, this credit applies if you were self-employed and would have qualified for paid sick leave if you had been employed by someone required to offer paid leave.

If you were unable to work under clauses (1), (2), or (3) above, your refundable tax credit is equal to the number of days you were unable to work, multiplied by the lesser of¹³

- \$511, or
- 100 percent of your average daily self-employment income for the tax year.

If you were unable to work under clauses (4), (5), or (6) above, your refundable tax credit is equal to the number of days you were unable to work, multiplied by the lesser of¹⁴

- \$200, or
- 67 percent of your average daily self-employment income for the tax year.

Your maximum number of COVID-19 creditable sick days is 10 days per calendar year.

Your average daily self-employment income under the provision is equal to your net earnings from self-employment for the taxable year, divided by 260.

Example. You have 2020 Schedule C net income from self-employment of \$100,000. You were sick and unable to work for five days because you experienced symptoms of COVID-19.

Your average daily self-employment income is \$385, which is \$100,000 divided by 260.

Your refundable tax credit is \$1,925, which is the lesser of

- \$2,555 (\$511 x 5 days), or
- \$1,925 (\$385 x 5 days).

Paid Family Leave Payroll Tax Credit

The Emergency Family and Medical Leave Expansion Act requires you to provide public health emergency leave to employees under the Family and Medical Leave Act of 1993 (FMLA).

This requirement generally applies when your employee is unable to work or telework due to a need for leave to care for a child under age 18 because the school or place of care is closed, or the childcare provider is unavailable, due to a public health emergency (defined as an emergency with respect to COVID-19 declared by a federal, state, or local authority).¹⁵

You can provide unpaid leave for the first 10 days of public health emergency leave required, but after that period, you must provide paid leave.

For paid family leave time,¹⁶

- your employee receives no more than 10 weeks of paid family leave at no less than two-thirds of the employee's pay for normally scheduled hours, and
- you receive a 100 percent payroll tax credit for qualified family leave wages, but the credit may not exceed \$200 for any day (or any portion thereof) for which you pay the individual family leave time, for an aggregate maximum of \$10,000.

Your credit also includes your qualified health plan expenses that are allocable to creditable qualified sick leave wages.

Self-Employed Family Leave Credit

Remember, this credit applies if you were self-employed and would have qualified for paid family leave if you had been employed by someone required to offer paid leave.

If you were unable to work for reasons listed in the section above, your refundable tax credit is equal to the number of days you were unable to work, multiplied by the lesser of¹⁷

- \$200, or
- 67 percent of your average daily self-employment income for the tax year.

Your maximum number of creditable family leave days is 50 days per calendar year.

Your average daily self-employment income under the provision is equal to your net earnings from self-employment for the taxable year, divided by 260.

No Double Benefits

For both the paid sick leave credit and the paid family leave credit, you'll include

the credit amount as income, and

- the qualifying expenses as a deduction.

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Example. You claim a credit of \$2,700 for \$2,500 of qualified family leave wages and \$200 of health plan expenses paid during the quarter. You will have an offsetting income inclusion amount of \$2,700, but you may deduct \$2,500 of qualified family leave wages and \$200 of health plan expenses.¹⁸

In addition, if you are self-employed but receive paid sick or family leave from an employer, then the amount you receive from the employer reduces the amount you can use toward the self-employed refundable tax credit.

Takeaways

In the legislation dealing with COVID-19, Congress gave you the possibility of significant tax credit and payroll deferrals for taking care of yourself and your employees. In this article, we explained the

- 2020 payroll tax deferral,
- 2020 self-employment tax deferral,
- employee retention credit,
- paid sick and family leave credits for employees, and
- paid sick and family leave credits for the self-employed.

The payroll deferral provisions complicate your accounting, but you keep the cash, so the annoyance is likely worth the trouble.

With the tax credits, the feds are covering or at least subsidizing your paid sick leave payroll during this COVID-19 business interruption.

If you are self-employed and qualify for a refundable tax credit because of your inability to work due to illness or family needs, be sure to thoroughly document that you qualified for the credit.

[Client Letter on This Article for Use by Tax Pros. Click Here.](#)

- 1 CARES Act, Section 2302(a); President Donald Trump signed the CARES Act into law on March 27, 2020.
 - 2 CARES Act, Section 2302(b).
 - 3 CARES Act, Section 2301.
 - 4 FFCRA, Sections 7001; 7003.
 - 5 IR-2020-57.
 - 6 FFCRA, Section 7005.
 - 7 FFCRA, Sections 7002; 7004.
 - 8 Notice 2020-21.
 - 9 IR-2020-57.
 - 10 FFCRA, Section 7001; JCX-10-20, ps. 8-11.
 - 11 Ibid.
 - 12 Ibid.
 - 13 FFCRA, Section 7002; JCX-10-20, ps. 12-14.
 - 14 Ibid.
 - 15 FFCRA, Section 7003; JCX-10-20, ps. 15-18.
 - 16 Ibid.
 - 17 FFCRA, Section 7004; JCX-10-20, ps. 19-21.
 - 18 JCX-10-20, p. 16.
-