

Business Provisions of the CARES Act of 2020

Small Business Provisions

Access to Capital

- \$349 billion for forgivable loans to small businesses to pay employees and keep them on the payroll.
 - These loans are open to most businesses under 500 employees, non-profits, the self-employed, startups, and cooperatives.
- \$17 billion for debt relief for current and new SBA borrowers.
 - SBA will pay the principal and interest for the next 6-months on SBA-backed loans.
 - Today, that would help 320,000 small businesses and any new borrowers in the 7(a) or 504 programs.
- \$10 billion in immediate disaster grants.
 - Using the current economic injury disaster loan program, SBA can provide up to \$10,000 to applicants within 3 days of applicants self-certifying they are eligible.

Small Business Support

- \$265 million in funding for resource partners, including Small Business Development Centers and Women's Business Centers to provide training and counseling to businesses impacted by COVID-19.
- A waiver of the WBC matching requirement to alleviate the need to fundraise during the emergency.
- \$10 million for Minority Business Development Agency grants to train and counsel minority-owned firms impacted by COVID-19.

Federal Loan and Grant Programs

Section 1102: The Paycheck Protection Program establishes a new guaranteed loan program at SBA for small businesses to cover payroll during the immediate crisis.

- Supports \$349 billion in 100 percent guaranteed, low interest, no fee loans of up to \$10 million with repayment deferred for at least six months.
- Forgives up to 100% of the loan if the borrower has retained the same number of employees as when they received the loan.

Who is eligible? Small and Medium sized businesses up to 500 employees, non-profits, independent contractors and the self-employed. This includes churches, but only to cover payroll costs of an associated business, like a thrift store.

What about franchises and hotels? The program temporarily waives SBA "affiliation rules" to allow businesses with multiple locations that normally are not considered small, to qualify. This is especially important for our restaurant and lodging sector. They are still limited to the same maximum loan size - \$10 million - as a business with one location.



How are loans made? The SBA's network of 2,500 7(a) lenders will be used to process these loans. There is also authority to fast track additional lenders to process and disburse these loans to reach as many small businesses as quickly as possible.

Are these grants? Yes and No. The amount of the loan forgiven at the end of the year will be determined by how many employees were retained on the company's payroll, up to 100 percent for full retention. There are safeguards built in to protect against employers gaming the program, as well as recognizing some employers will be forced to do temporary furloughs but bring their employees back on.

What is covered? This bill allows firms to get a loan to cover up to 2.5 months of payroll and any new EIDL loan balances incurred because of COVID-19 but cannot exceed \$10 million.

How long does the program last? The program is open until June 30, 2020, as it is intended for immediate payroll relief to ensure businesses do not do mass layoffs during this crisis.

Loan Forgiveness

Section 1106: This section lays out the process by which borrowers will be forgiven on loans taken out under the paycheck protection act.

- The amount of the loan forgiven at the end of the covered period will be determined by how many employees were retained on the company's payroll.
- There are safeguards built in to protect against employers gaming the program, and well as recognizing some employers will be forced to do temporary furloughs but bring their employees back on.
- Allows forgiveness for additional wages paid to tipped workers.
- Forgiven amounts will not be considered income for tax purposes.
- Any amounts not forgiven will be covered in the ongoing loan for a term of 10 years, not to exceed 4% interest with the 100% guarantee.

Section 1110: Emergency Economic Injury Grants

- The bill creates a new \$10 billion grant program, leveraging SBA's Office of Disaster Assistance infrastructure, to provide small businesses with quick, much needed capital.
- Small businesses, cooperatives, ESOPS, private non-profits, independent contractors and the self-employed would be eligible to receive up to \$10,000 to cover immediate payroll, mortgage, rent, and other operating expenses while they wait for additional relief to be processed.

Who is eligible? Independent contractors, the self-employed, private non-profits, and small businesses and medium sized businesses with up to 500 employees, including startups, cooperatives, and ESOPs.

How quickly will grants be made? The legislation requires SBA to disburse within 3 days of verifying the eligibility of a business.

Are grant recipients eligible for other SBA programs? Yes, businesses remain eligible for the paycheck protection program, disaster loans, and regular SBA-backed loans.

- 6 months of Principal and Interest Relief - Section 1112
- Small businesses in industries heavily impacted by COVID-19—such as travel, tourism, and hospitality—are experiencing dramatic cash flow problems. The government is ultimately responsible for guarantees on these loans and has a vested interest in averting mass defaults.

- To provide immediate relief to small businesses with SBA-backed loans, the bill would:
 - Provide small businesses with relief from SBA loan payments, including principal, interest, and fees, for six months.
 - Encourage banks to provide further relief to small business borrowers by enabling them to extend the duration of current loans beyond existing limits.
 - This will provide \$17 billion in relief to SBA borrowers.

Who is covered? Current and new 7(a) and 504 borrowers, under current SBA eligibility requirements. Those include small businesses, sole proprietors, cooperatives, and ESOPs.

Is eligibility expanded for this program? No, this uses current, long-standing eligibility criteria.

How does it work? The SBA will pay a borrower's principal and interest for the next 6 months on an SBA-backed loan. *A detailed guide for small business provided by the House Small Business Committee can be found at [The Small Business Owners Guide to the CARES Act](#).

General Business Provisions

Section 2301: *Employee retention credit for employers subject to closure due to COVID-19.* 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
 1. whose operations were fully or partially suspended, due to a COVID-19 related shut-down order. Or
 2. whose gross receipts declined by more than 50 percent when compared to the same quarter in the prior year.
- The credit is based on qualified wages paid to the employee.
- For employers with greater 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 eligible 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.

Section 2302: *Delay of payment of employer payroll taxes.*

- The provision allows employers and self-employed individuals to defer payment of the employer share of the Social Security tax they otherwise are responsible for paying to the federal government with respect to their employees.
- Employers generally are responsible for paying a 6.2-percent Social Security tax on employee wages.
- The provision requires that the deferred employment tax be paid over the following two years, with half of the amount required to be paid by December 31, 2021 and the other half by December 31, 2022.
- The Social Security Trust Funds will be held harmless under this provision.

Section 2303: *Modifications for net operating losses.*

- The provision relaxes the limitations on a company's use of losses.
- Net operating losses (NOL) are currently subject to a taxable-income limitation, and they cannot be carried back to reduce income in a prior tax year. The provision provides that an NOL arising in a tax year beginning in 2018, 2019, or 2020 can be carried back five years.
- The provision also temporarily removes the taxable income limitation to allow an NOL to fully offset income.
- These changes will allow companies to utilize losses and amend prior year returns, which will provide critical cash flow and liquidity during the COVID-19 emergency.

Section 2304: *Modification of limitation on losses for taxpayers other than corporations.*

- The provision modifies the loss limitation applicable to pass-through businesses and sole proprietors, so they can utilize excess business losses and access critical cash flow to maintain operations and payroll for their employees.

Section 2305: *Modification of credit for prior year minimum tax liability of corporations.*

- The corporate alternative minimum tax (AMT) was repealed as part of the Tax Cuts and Jobs Act, but corporate AMT credits were made available as refundable credits over several years, ending in 2021.
- The provision accelerates the ability of companies to recover those AMT credits, permitting companies to claim a refund now and obtain additional cash flow during the COVID-19 emergency.

Section 2306: *Modification of limitation on business interest.*

- The provision temporarily increases the amount of interest expense businesses can deduct on their tax returns, by increasing the 30-percent limitation to 50 percent of taxable income (with adjustments) for 2019 and 2020.
- As businesses look to weather the storm of the current crisis, this provision will allow them to increase liquidity with a reduced cost of capital, so that they are able to continue operations and keep employees on payroll.

Section 2307: *Technical amendment regarding qualified improvement property.*

- The provision enables businesses, especially in the hospitality industry, to write off immediately costs associated with improving facilities instead of having to depreciate those improvements over the 39-year life of the building.
- The provision, which corrects an error in the Tax Cuts and Jobs Act, not only increases companies' access to cash flow by allowing them to amend a prior year return, but also incentivizes them to continue to invest in improvements as the country recovers from the COVID-19 emergency.