

KEY PROVISIONS OF THE CARES ACT

On March 27, 2020 President Trump signed the [Coronavirus Aid, Relief, and Economic Security \(CARES\) Act](#) into law. This \$2 trillion package is aimed at stabilizing American businesses as the global COVID-19 pandemic takes its toll. If you prefer more of an overview, the US Senate Committee on Small Business and Entrepreneurship has created an [11-page summary](#) of its main provisions.



Loans for Businesses

The Senate Committee has also created a [Frequently Asked Questions \(FAQs\) document on Small Business Administration \(SBA\) loans](#) related to the CARES Act and COVID-19. The document focuses largely on the new SBA 7(a) Paycheck Protection Program (PPP) loans, as well as issues related to Economic Injury Disaster Loans (EIDLs) and converting these into PPP loans. There is a side by side comparison of these provisions in the next few pages.

Increased Unemployment Benefits

The CARES Act will provide eligible employees an extra \$600 per week in unemployment benefits in addition to what they are eligible for under existing state programs. The goal of this payment is to fill the gap between when the person becomes unemployed and when their state-level unemployment benefits would begin paying. This boosted payment will last for approximately four months until its current expiration date of July 31, 2020.

The CARES Act also provides for an additional 13 weeks of continued \$600 weekly payments for individuals who remain unemployed after exhausting their state unemployment benefits. This means eligible workers will be able

to receive unemployment benefits for up to 39 weeks rather than the 26-week cap under most state programs.

Workers should be aware of the possible implications of receiving the additional \$600 benefit. For example, the expanded benefit will count as income when determining eligibility for certain means-tested programs, including Supplemental Nutrition Assistance Program (SNAP). They should not be counted for Medicaid or the Children's Health Insurance Program.



Expanded Unemployment Eligibility

The CARES Act expands unemployment eligibility to include individuals who are able and available to work as defined by applicable state law, but due to COVID-19 related issues are, in fact, unemployed, partially unemployed or unable or unavailable to work.

To receive benefits, the individual must self-certify that:

- the individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
- a member of the individual's household has been diagnosed with COVID-19;
- the individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;
- a child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of the COVID-19 public health emergency and such school or facility care is required for the individual to work;
- the individual is unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID-19 public health emergency;
- the individual is unable to reach the place of employment because the individual has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- the individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;
- the individual has become the breadwinner or major supporter for a household because the head of the household has died as a direct result of COVID-19;
- the individual has to quit his or her job as a direct result of COVID-19; or
- the individual's place of employment is closed as a direct result of the COVID-19 public health emergency.

The CARES Act also expands coverage to include individuals who historically have been ineligible for unemployment benefits, including individuals who are self-employed, "gig" workers, freelancers, independent contractors and part-time workers. New hires who could not begin their employment are also covered even if they do not have a sufficient work history to qualify under their normal state unemployment eligibility rules.



Displaced workers wait in line at the Las Vegas unemployment office.

Who Is Not Eligible for Expanded Unemployment?

Based on the specified list of qualifying reasons for eligibility, it does not appear that an individual who stops working in response to a general fear of contracting COVID-19 would be eligible for the increased benefits under the CARES Act. Other ineligible individuals under the CARES Act include:

- those who can telework with pay;
- those who are already receiving paid leave under their employer's plans/policies;
- those who are already receiving paid leave under an applicable federal, state, or local law; and
- new entrants to the workforce who cannot find employment.

What Should Employers Do to Maximize Benefits for Workers They Release?

Employers who are considering COVID-19 related operational changes that will impact their workforces may want to take into account the expanded and increased unemployment benefits potentially available to their employees under the CARES Act. Whether affected employees will be eligible for these benefits will depend not only on the reason their normal work is unavailable but also on whether the affected employees will be receiving some form of paid leave at the time they apply for unemployment benefits.

Paid leave could derive from an applicable federal, state or local law or an employer-provided plan or policy. Accordingly, employers should understand these various sources of paid leave and be able to communicate them to their employees.

Direct Cash Payments to Taxpayers

To boost the economy and create a financial bridge for hard-hit workers, the federal government will be sending cash payments to most taxpayers. The payments will be \$1,200 per person and \$500 per child under age 16 for taxpayers making \$75,000 or less in adjusted gross income (line 7 on the 2018 and 2019 Form 1040). Thus, a married couple, each making \$40,000 per year, with two children under age 16, should receive a one-time payment of \$3,400.

- For individuals making between \$75,000 and \$99,000, and for couples making between \$150,000 and \$198,000, payments are reduced until they stop altogether when those upper limits are reached.



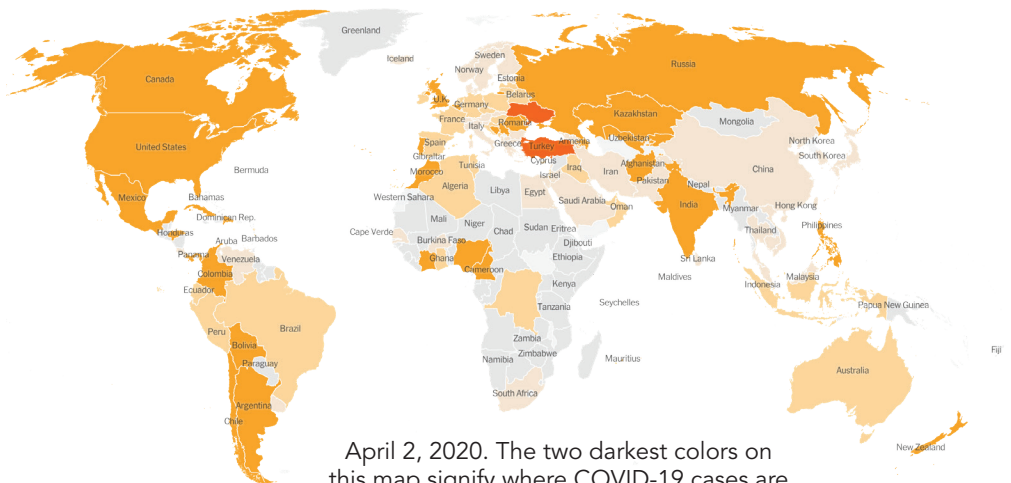
- If taxpayers have already filed their 2019 taxes and they use electronic funds transfer (EFT), they will likely receive their payments first.
- The IRS will use the 2018 returns for those who have not yet filed for 2019. These 2018 taxpayers, and those who do not use electronic funds transfer, will likely be served after that.
- Taxpayers do not need to do anything to make these payments happen.
- No information is yet available about what to do if banking information has changed since taxes were last filed or if a person who receives a paper check has moved.
- At this point the government is saying that all payments should be out in about 3 weeks. It remains to be seen if that will be possible, but that is the estimate at this point.

Tax returns: If you have not filed your 2019 tax returns, the CARES Act gives you more time. The deadline has been extended to July 15, 2020. The IRS also says that people who have or plan to file can still expect to receive a refund if they are owed one.

Student loans: Most student loan borrowers will be allowed to halt their payments through September 30, 2020. Through December 31, 2020, employers can provide up to \$5,250 in tax-free student loan repayment benefits. That means an employer could contribute to loan payments and workers wouldn't have to include that money as income.

Insurance coverage: The CARES Act requires all private insurance plans to cover COVID-19 treatments and vaccine and makes all COVID-19 tests free.

There is a lot more in the full 880-page Act, and the summary here hits only the high points. Many of the details are not yet out. Of course, the media will make more information available as they receive it, and the PSAI will continue to cover and discuss the aspects that relate to Members' businesses at our weekly Roundtables. Stay tuned!



April 2, 2020. The two darkest colors on this map signify where COVID-19 cases are doubling every 3–5 days.

Loans Available for Small Businesses in the CARES Act

Program	Paycheck Protection Program (Emergency SBA 7(a) Loans) Secs. 1102, 1106	Expanded EIDL & Emergency Grants (SBA 7(b) Loans) Sec. 1100	Mid-Sized Loan Program Sec. 4003
Description	Emergency loan program for companies to secure funds to pay staff and operating costs for two months, and secure full loan forgiveness under certain circumstances.	Existing Economic Injury Disaster Loan (EIDL) program expanded to more for-profit entities, applies looser credit standards, and creates a rapid grant procedure.	Largely undefined loan program to be created by the Treasury Department to fill the gap between the Paycheck Protection Program for smaller employers and the industry stabilization loans to big business.
Size Eligibility	500 or fewer employees	Existing EIDL limits	500–10,000 employees
Dollar Amount	The lesser of \$10 million or 2.5 times the average total monthly payroll costs from the one-year period (look back) prior to the date of application. Express 7(a) loans available up to \$1 million.	Normal EIDL loans available up to \$2 million. EIDL advances of \$10,000 paid within 3 days.	Unspecified
Loan Processor	Local financial institutions	Small Business Administration	Local financial institutions
Eligibility	Must have been in operation on 2/15/2020 and had paid employees and/or paid independent contractors. Expressly available for firms with 500 or fewer employees, but requires that employees of affiliated companies be counted toward the 500 employee cap, depending on the degree of control of the parent.	In operation before 1/31/2020. Loans can be based solely on credit score. To be eligible for EIDL assistance, small businesses must have sustained economic injury and be located in a disaster declared county or contiguous county.	A mid-sized business includes any business (including a nonprofit organization) that has between 500 and 10,000 employees.
Personal Guarantee	No collateral or personal guarantee required.	Waives personal guarantee up to \$200,000, and requirement of inability to obtain credit elsewhere.	Unspecified
Certification	Good-faith certification that need for the loan is based on economic conditions; funds to be used to retain workers and maintain payroll or make mortgage, lease, and utility payments; and no duplicate application or receipt of funds for same purposes.	Self-certification under penalty of perjury.	Good-faith certification that need is based on economic conditions; funds to be used to retain and restore employment, won't abrogate collective bargaining agreements and will remain neutral in union organizing efforts, among other things.

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Loan Use	Payroll costs, mortgage interest payments, rent, utilities, and interest on prior debt during the 8-week period following loan origination.	\$10,000 advance: Paid sick leave, meeting payroll, increased costs due to disrupted supply chain, mortgage, debt service.	To retain 90% of workforce at full wages and benefits through 9/30/2020 and intention to restore 90% of workforce in place on 2/1/2020.
Loan Terms	4% interest rate; first 6 months of payments (principal and interest) automatically deferred. Maximum: 10 years.	\$10,000 advance treated as a grant; available within 3 days of a successfully completed application.	Interest capped at 2% with no principle or interest paid for first 6 months.
Loan Forgiveness	Employers that maintain employment for the 8 weeks after origination of loan, or rehire employees by June 30, will have loans forgiven in whole or part, essentially turning the loan into a grant. Section 1106.	\$10,000 advance forgiven even if borrower denied EIDL loans. If loan goes through, repayment terms are determined by your ability to repay the loan.	Expressly prohibited in statute. Section 4003(d)(3)
Key Definitions	Covered Period means the 8-week period following loan origination. Employee means an individual working on a full-time, part-time, or other basis. Payroll Costs include compensation (including benefits costs) paid to employees and contractors, capped at \$100,000 per year per individual (prorated over the "covered" period), and state/local payroll taxes.	Covered Period means 1/31/2020 through 12/31/2020. Eligible entity means a business with 500 or fewer employees.	
Application and Documentation	SBA Instructions and sample application (posted 3/31/2020)	For emergency EIDL Grant, apply here now. For normal EIDL loans, complete SBA Form 5 online	To be announced.

Please note: The charts on these pages are neither official nor legal advice for any specific organization. The data is an analysis of the new law prior to rules and regulations. March 31, 2020.