

Impact of Federal Government Coronavirus Response on Businesses



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Introduction

To support small business operations during and after COVID-19, the Federal legislation has passed several regulations that provide aid. Your small business should take full advantage. On the following pages, we summarize several stimulus packages and their eligibility requirements. We provide action steps to get the process started and then provide a recap of each program with more detail.

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COVID Phase-1 - Coronavirus Preparedness and Response Supplemental Appropriations Act

- Economic Injury Disaster Loan program (EIDL)
 - Eligibility: Standard Small Business Administration (SBA) Provisions Apply
 - All employers with less than 500 employees; exceptions available if the number established by SBA is greater than 500

COVID Phase-2 - Families First Coronavirus Response Act

- Emergency Paid Sick and Emergency Family Medical Leave
- Eligibility: Less than 500 employees as defined by current FMLA rules
 - Including integrated employer concept
 - 80 hours of Sick and 12 weeks of FMLA
 - Some employees at \$511 per day maximum*, some at \$200 per day maximum
 - Employees may fair better under unemployment when including the additional \$600 per week approved in COVID Phase-3 (see below)

COVID Phase-3 - Coronavirus Aid, Relief and Economic Security Act

- Paycheck Protection Program (PPP)
 - Eligibility: all employers with less than 500 employees; exceptions available if the number established by SBA is greater than 500 or if the industry is considered in the Accommodation and Food Service Industry
 - Forgivable SBA Loans
 - **BUSINESSES SHOULD APPLY, IF ELIGIBLE**
- Employee Retention Credit
 - Not eligible if PPP loan is received (Prefer PPP loan)
 - All others are eligible, but different rules apply for employers with over or under 100 employees as determined by standard IRS attribution rules
- Many income tax related provisions for both individuals and corporations
 - Expanded Net Operating Loss deductions
 - Depreciation rules surrounding qualified improvement property
- Unemployment benefits - additional \$600 per week per claimant

Loan Comparisons: EIDL (COVID Phase-1) vs PPP (COVID Phase-3)

- EIDL may be eligible to be rolled into PPP
- EIDL: Maximum 30-year amortization; 3.75%; full underwriting; more cumbersome; can't be used for payroll if you want PPP loan; originates with SBA; not forgivable
- PPP: **Forgivable**; 2-year amortization; 0.50% fixed interest rate; minimal underwriting; originates with local bank

Recommended Action Plan for Employers

Step 1: Paycheck Protection Program Loan (PPP)

- Contact your preferred bankers to see if they are participating and indicate your intention to apply for a Paycheck Protection loan
- Gather information likely to be needed to apply for the loan when applications are available
- Gather information needed to determine what actions will need to be taken to maximize loan forgiveness if loan is awarded
- See Pages 4-5

Economic Injury Disaster Loan (EIDL)

- In fewer situations, you can also apply for an EIDL loan. This loan is eligible to be rolled into a PPP loan, but is not eligible for forgiveness
- Electronic loan application available here: <https://disasterloan.sba.gov/apply-for-disaster-loan/index.html>

Employee Retention Credit

- If PPP loan is not granted, understand Section 2301 of COVID Phase-3 - Employee Retention Credit for Employers Subject to Closure Due to COVID-19
- See Page 6

Step 2: Furloughing Employees

- If employees have not already been furloughed, consider furloughing if unproductive
 - Consider the additional \$600 weekly unemployment payments* they will receive under COVID Phase-3
 - Are they better off on unemployment?
 - Waived Unemployment Requirements for Pennsylvania
 - Claimants aren't immediately required to register for work search
 - One week waiting period has been removed

Sick Leave and FMLA provisions

- Consider re-hiring any employees that are furloughed that you want to be eligible
- Determine eligibility of existing employees
- Due to lack of clarity regarding eligibility and increased unemployment payments, in most circumstances this provision is not as desirable as once thought

*The Pennsylvania Office of Unemployment Compensation website states special instructions will be provided to these individuals.

Recap of Section 1102 of COVID Phase-3 Paycheck Protection Program

Applying for and Calculating Your Maximum Loan

- See loan application at: <https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Application-3-30-2020-v3.pdf>
- Loan facilitated by banks, not the SBA
 - Contact or re-contact banks to identify who will be participating and indicate your interest
- Maximum loan amount based on a formula tied to payroll costs
 - Generally, 2.5x average monthly payroll costs during the 1 year-period prior to origination of loan
 - Compensation portion of payroll costs limited to \$100,000 per employee
 - Loan not to exceed \$10,000,000
 - Special rules exist if you were not in business during the period February 15, 2019 through June 30, 2019
- Loan terms
 - Loan repayments are deferred for the first 6 months
 - The loan term is 2 years
 - All collateral and personal guarantees have been waived
- Payroll costs **DO** include:
 - Salaries, wages, commissions, bonuses; cash tips; vacation, parental, family, medical, or sick leave; allowance for dismissal or separation; payments required for group health benefits including insurance premiums; retirement benefits; state unemployment taxes; and wage like payments to independent contractors (1099s)
- Payroll costs **DO NOT** include:
 - Compensation of employee or independent contractor to extent it exceeds \$100,000 on an annual basis pro-rated for the covered period; Federal taxes paid; individuals residing outside the United States; and qualified sick or FMLA leave for which credits are being applied for under FFCRA provisions
- If you're self-employed, an independent contractor or a sole proprietor without payroll costs you may still be eligible for a PPP loan. You can use the proceeds in the same way as other qualifying business entities. Documentation to support your eligibility includes income and expenses from your business
- Regulations are being written and not yet available. We encourage you to review the application at the link above and begin gathering data necessary to complete the application
- See PPP loan fact sheet: <https://home.treasury.gov/system/files/136/PPP--Fact-Sheet.pdf>

Recap of Section 1102 of COVID Phase-3 (cont.) Paycheck Protection Program

Calculating Amount Eligible for Forgiveness

- Goal is to have as much forgiven as possible up to 100% of loan
 - Amount forgiven is tax-free
 - Certain documentation required to apply for forgiveness
 - Advanced planning should make this as effective and efficient as possible
- Regulations will be issued by the Treasury Department to provide specific guidance on this process

Maximum Amount Eligible for Forgiveness

- Based on the information available on March 28, to determine forgiveness amount, you will need the following for the 8-week period beginning with the origination date of the loan:
 - Payroll costs (as defined above)
 - Interest on eligible mortgages (in place before 02/15/2020)
 - Rent (on leases in place as of 02/15/2020)
 - Utilities (electricity, gas, water, transportation, telephone, or Internet access in place prior to 02/15/2020)

Reduction in Amounts Eligible for Forgiveness

- Amount of loan forgiven impacted by any decrease in full time equivalents (FTEs) and/or decrease in wages
 - Provisions in place to allow for re-hires no later than June 30, 2020
 - Includes furloughs completed before the enactment of COVID Phase-3 in forgiveness calculation
- FTE test documentation
 - Average number of FTEs per month during 8-week period beginning with origination date of loan
 - Average number of FTEs is determined on a per pay period basis
 - Average number of FTEs per month from February 15, 2019 through June 30, 2019
 - Average number of FTEs per month from January 1, 2020 through February 29, 2020
- Wage test documentation
 - Total salary or wages per employee for 1st quarter of 2020
 - Determine which employees received annualized rate of pay in excess of \$100,000 for any pay period during 2019
- Documentation needed to apply for forgiveness
 - Proof of FTEs such as payroll tax filings with the IRS or the State
 - Proof of Payment for interest, rent, and utilities such as canceled checks, payment receipts, account transcripts, etc.

Recap of Section 2301 of COVID Phase-3 **Employee Retention Credit**

All Employers

- Not available if employer receives a PPP loan under COVID Phase-3
- 50% refundable tax credit up to \$10,000 in wages per employee
 - Includes group health insurance costs
- Refundable credit applied quarterly against federal employer social security taxes (6.2%)
 - Comes after any credits taken for Emergency Paid Sick Leave/FMLA
- Refundable if exceeds tax liability for quarter
- Eligible Employers
 - Carrying on a trade or business in 2020 **AND**
 - Operations of business were partially or totally suspended during quarter due to orders from an appropriate government authority due to COVID-19 **OR**
 - In a calendar quarter after December 31, 2019, gross receipts are less than 50% of gross receipts for same quarter in prior year
 - Once eligible under this provision, you remain eligible until your gross receipts for a quarter exceed 80% of the gross receipts for the same quarter in the prior year

Under 100 Employees (on an aggregated basis with affiliated companies)

- Qualified Wages - all wages paid during shutdown as well as entire quarter that had gross receipts drop referenced above for eligible employers

Over 100 Employees (on an aggregated basis with affiliated companies)

- Qualified Wages - all wages paid to employees not providing services during the shutdown and cannot exceed what employee made in the 30 days immediately preceding the shutdown



Recommended Resources

U.S. Treasury: *How the Treasury Department is Taking Action*

- <https://home.treasury.gov/cares>
- includes links to loan applications, fact sheets, and information on COVID scam alerts and health updates

U.S. Chamber of Commerce: *How to Get a Coronavirus Emergency Paycheck Protection Loan*

- <https://www.uschamber.com/co/run/business-financing/coronavirus-emergency-loans>
- describes all loan programs currently available for small businesses

U.S. Chamber of Commerce: *CORONAVIRUS EMERGENCY LOANS - Small Business Guide and Checklist*

- https://www.uschamber.com/sites/default/files/023595_comm_corona_virus_smallbiz_loan_final.pdf
- downloadable (PDF) small business guide and checklist for emergency loans

U.S. Department of Labor: *CORONAVIRUS RESOURCES*

- <https://www.dol.gov/coronavirus>
- information to help workers and employers prepare for COVID-19

U.S. Department of Labor Occupational Safety and Health Administration: *COVID-19*

- <https://www.osha.gov/SLTC/covid-19/>
- provides guidance and other resources for preventing exposures and infection

IRS: *Coronavirus Tax Relief*

- <https://www.irs.gov/coronavirus>
- informs taxpayers and businesses the tax implications from COVID-19

U.S. Department of Treasury: *How the Treasury Department is Taking Action*

- <https://home.treasury.gov/coronavirus>
- describes how the treasury department is taking action against COVID-19

Pennsylvania Department of Health: *Coronavirus (COVID-19)*

- <https://www.health.pa.gov/topics/disease/coronavirus/Pages/Coronavirus.aspx>
- general health guidance for Pennsylvanians