

Breaking Down the CARES Act



The Stimulus and How It Affects You

On Friday, March 27, 2020, the President signed into law the CARES Act, which contains several opportunities for you to consider as you work through the COVID-19 crisis. This summary is intended to help you better understand some of the opportunities that exist today, including forgivable (in whole or part “eligible business”) Small Business Administration (SBA) loans under the Paycheck Protection Program, and substantial tax relief through various forms.¹

The \$2 trillion stimulus package is intended to stabilize the American economy during the COVID-19 crisis:

- **Roughly \$350 billion has been earmarked for small businesses** (generally, “eligible businesses”, which are those with fewer than 500 employees, including sole proprietorships).
- **The approved stimulus package includes several opportunities** for eligible businesses struggling during the COVID-19 pandemic, including opportunities for loans with no cost and favorable rates including loan forgiveness for many, and several tax benefits.
- **Interest among small business owners will be high.** We strongly recommend that you speak with your local banker or lender as soon as possible about whether you are eligible and the process of applying.

In the following, you’ll find information on:

- [Loan Opportunities for Eligible Businesses](#)
- [Payroll Costs](#)
- [Loan Forgiveness \(Not Taxable\)](#)
- [Credit Profiles](#)
- [Applying for Loans](#)
- [Tax Benefits](#)
- [Helpful Resources](#)

¹ This is intended as a summary and not legal or accounting advice. Please consult the law in its entirety and discuss at greater length with your personal legal and tax professionals to determine how the stimulus bill can help you and your team.

Loan Opportunities for Eligible Businesses

The legislation calls for the loan money to be distributed using the existing framework of the SBA's 7(a) program, the agency's flagship loan offering. The 7(a) program is a partnership between private financial lenders, which issue the loans, and the SBA, which guarantees them.

Who Is Eligible for the Loans?

Eligible businesses are ones that have been in business as of February 15, 2020 and through June 30, 2020, and paid employee salaries and payroll taxes, or paid independent contractors. To be eligible for a loan, a firm must maintain an average monthly number of employees during the covered period that's no less than the number it had before the crisis began.

How Much Can I Borrow (Assuming I Am an Eligible Business)?

The size of the loans would equal 250% (two-and-a-half times) of an employer's average monthly payroll (*more broadly defined within the law*) incurred during the one-year period before the date on which the loan is made. The maximum loan amount would be \$10 million. If a business was not in operation between February 15, 2019 and June 30, 2019, the maximum loan amount will be the average total monthly payroll costs incurred between January 1, 2020 and February 29, 2020, multiplied by 2.5.

Payroll Costs

Loans can be used to cover payroll costs, mortgage payments, rent, and utilities incurred between February 15, 2020 and June 30, 2020. It also includes interest on any other debt obligations incurred before February 15, 2020.

Payroll costs include:

- ✓ Wages, salaries and commissions
- ✓ Paid vacation, parental, family, medical or sick leave
- ✓ Severance pay
- ✓ Cost of group healthcare benefits (including premiums)
- ✓ Payments for retirement benefits
- ✓ Payments for state or local taxes on employees' compensation

If an employee makes more than \$100,000 annually, the loan can only cover wages up to \$100,000, which would be prorated over the period from February 15, 2020 to June 30, 2020.

Eligible expenses don't include:

- Amounts for qualified sick leave or qualified family leave for which a tax credit is allowed under the Families First Coronavirus Response Act
- Compensation for employees whose principal residence is outside of the United States.

Loan Forgiveness (Not Taxable)

A portion of the loan described previously may be forgiven.

“Expected forgiveness amount” means the amount of principal used between February 15, 2020 and June 30, 2020, to cover the following: payroll; payments of interest on any covered mortgage obligation, which cannot include any prepayment of or payment of principal on a covered mortgage obligation; covered rent obligation; and covered utility payments.

Eligible payroll cost means salary, wage, commission, or similar compensation including:

Payment of cash tips, retirement, vacation or sick leave; payment of state or local tax assessed on the compensation of employees; healthcare and retirement benefits. Sole proprietor or independent contractor compensation means wages, commission, income, net earnings from self-employment, or similar compensation, and not more than \$100,000 in one year, as prorated for the covered period.

Forgiveness of indebtedness on a covered loan shall be considered canceled indebtedness.

Loan forgiveness cannot exceed the principal amount financed. The loan forgiveness will be reduced, but not increased, by multiplying the loan forgiveness amount by the ratio of reduced number of employees during the covered period divided by the average number of employees during February 15, 2019 and ending on June 30, 2019, or during January 1, 2020 and ending on February 29, 2020. The reduction to loan forgiveness does not apply if employees are rehired by June 30, 2020.

Documentation will be required to be provided to the lender to obtain loan forgiveness. The forgiveness of debt amounts will not be included in taxable income. Loan recipients must maintain existing employment levels “to the extent practicable” during the loan term and cannot reduce their employment levels by more than 10%.

Credit Profiles

The kind of credit profile needed to borrow will be determined soon, but we understand that the main underwriting standards for eligibility will be proof of payroll costs and will be significantly relaxed compared with 7(a) loans issued during typical times. Watch for the SBA to release detailed guidelines in the coming days on underwriting and application criteria.

Moreover, we understand that unlike other SBA-backed loans, eligible business owners won't have to provide personal guarantees or use all their available assets—from real estate to equipment—as collateral. There are no fees, and interest rates are capped at 4%.

The cost of participation in the program would be reduced for both borrowers and lenders by providing fee waivers, an automatic deferment of payments for one year, and no prepayment penalties.

Applying for Loans

The SBA will guarantee the loans, and borrowers will have the opportunity to apply through most national and local banks (FDIC-insured banks), credit unions, and other lenders, including formal SBA lenders.

Consider approaching your local banker or lender soon to inquire about applying for a 7(a) small business loan. We anticipate interest among small business owners will be exceedingly high, so we encourage you to take action quickly if you want to pursue this route.

We understand the application process will include:

Certification and/or acknowledgement that:

due to the uncertain economic conditions that currently exist, the loan is necessary to support the ongoing operations; the funds will be used to retain employees and maintain payroll or make mortgage, lease, and utility payments; the borrower has not received any other loan for the same purpose and duplicative amounts; and the borrower does not have a loan application pending for the same purpose and duplicative amounts.

Documentation that verifies the number of full-time employees on the payroll and pay rates for the periods identified under the reduction for loan forgiveness above. This

includes:

- Payroll tax filings to the IRS, state payroll, and income filings, and unemployment insurance filings
- Financial statements and proof of payments for lease, mortgage, and utility payments, including cancelled checks, payment receipts, and account statements
- Any other documents the SBA may ask for

Resources

For more on the small business opportunities, refer to the SBA's [Coronavirus: Small Business Guidance and Loan Resources](#) page.

You may also qualify for other SBA loan opportunities, including:

- [Economic Injury Disaster Loan Program](#)
- [SBA Express Bridge Loans](#)

Please review each loan's terms and conditions closely as limitations apply, including the Paycheck Protection Plan.

The [U.S. Chamber of Commerce Small Business](#) page is also a good resource.

Tax Benefits

Payroll Tax Relief²

Who's Eligible: Businesses that continue to employ or hire back workers they recently terminated through the coronavirus crisis.

Relief: The stimulus bill allows a business to defer payroll taxes so they can continue paying employees. Businesses are allowed to delay (not avoid) paying payroll taxes for 2020 by paying 50% in 2021 and the remaining 50% in 2022, essentially allowing for an interest free loan until payment due as extended to December 31, 2021 (50%) and 2022 (remaining 50%).

Payroll Tax Credits

Who's Eligible: Qualified employers would be eligible for a payroll tax credit as long as they keep workers employed through the crisis.

Relief: Employers are eligible for a 50% refundable payroll tax credit on wages paid up to \$10,000 during the crisis. The credit would be available to employers whose businesses were disrupted due to virus shutdowns and those that had a decrease in gross receipts of 50% or more when compared to the same quarter last year. The credit can be claimed for employees who are retained but not currently working due to the crisis for firms with more than 100 employees, and for all employee wages for firms with 100 or fewer employees.

Caveat: Employers that apply for small business loans would not receive the credit.

Net Operating Loss Incentives

Who's Eligible: All businesses may take net operating losses (NOLs) earned in 2018, 2019, or 2020 and carry back those losses five years. This now once again permits the use of NOL carry-back losses taken away for all except farming businesses under the Tax Cuts and Jobs Act of 2017.

Relief: The NOL limit of 80% of taxable income is also suspended, so firms may use NOLs they have to fully offset their taxable income. The bill also modifies loss limitations for non-corporate taxpayers, including rules governing excess farm losses, and makes a technical correction to the treatment of NOLs for the 2017 and 2018 tax years.

Net Interest Deduction Limits Expanded

Who's Eligible: All businesses.

² Consult and confirm with your personal tax professional.

Relief: The net interest deduction limitation, which currently limits businesses' ability to deduct interest paid on their tax returns to 30% of earnings before interest, tax, depreciation, and amortization (EBITDA), has been expanded to 50% of EBITDA for 2019 and 2020. This will help businesses increase liquidity if they have debt or must take on more debt during the crisis.

Individual 'Recovery Checks'

Who's Eligible: Individual tax filers.

Relief: Checks to certain individuals, which will serve as advance refunds against 2020 tax year tax returns, will be issued. Single filers may receive up to \$1,200, and joint filers receive \$2,400 with a \$500 credit for each eligible child. These amounts are reduced by \$5 for each \$100 of adjusted gross income in excess of \$75,000 for single filers, \$112,500 for head of household, and \$150,000 for joint filers. The Treasury Department, without the necessity of any application, will issue checks based on 2018 calendar year tax returns, unless a 2019 return has already been filed.

Extended Tax Return Filing and Contribution Dates

Who's Eligible: All tax filers.

Relief: All federal tax returns (including estimated tax returns) otherwise due on April 15, 2020 have their tax filing date extended to July 15, 2020. This applies to individual, trust, estate, corporate, and non-corporate tax returns. Penalty and interest would only apply after July 15, 2020.

The deadline to make contributions to an Individual Retirement Account (IRA), Health Savings Account (HSA) and Medical Savings Account has been extended to July 15, 2020.

Student Loans

Who's Eligible: Student loan recipients.

Relief: Student loan payments due through September 30, 2020 are suspended without penalty and interest. Additionally, student loans being repaid by employers are excluded from employee taxation up to \$5,250.

Charitable Contributions

Who's Eligible: Individuals.

Relief: Individuals who claim the standard deduction may now take an above-the-line deduction of up to \$300 for a charitable deduction. Additionally, a charitable contribution will be deductible in full and not subject to the current 60% adjusted gross income limitation.

Qualified Plans

Who's Eligible: Qualified plan participants.

Relief: For participants in a defined contribution plan (401(k), 403(b), or 457(b)) who have been impacted by COVID-19 and took a distribution will be waived the normal 10% early withdrawal fee. This applies to the participant and affected spouse when they are diagnosed with COVID-19. It also includes individuals who experience adverse financial consequences as a result of being quarantined, furloughed, laid off, or having their work hours reduced.

Additionally, those who are unable to work due to lack of childcare or are subject to reduced hours of a business operated by the participant are included. The Treasury Department will be issuing further guidance to other factors to be included as well. Participants whose plans provide loans are now eligible to borrow from their plans the lesser of 100% of the vested balance or \$100,000 (reduced by outstanding loans).

Further Treasury Department guidance is forthcoming.

Required Minimum Distributions

Who's Eligible: Individual participants.

Relief: All 2020 required minimum distributions (RMDs) from IRAs and Qualified Retirement Plans are waived. This include RMDs from inherited IRAs—both traditional and Roth. The waiver includes 2019 RMDs that were previously due by April 1, 2020.

Helpful Resources

You may wish to contact your own tax professional for specific individual application of the above. At Cetera, you can send your questions to the following teams:

- **Loans:** Business Consulting Group, 619.702.9651 | businessconsulting@cetera.com
- **Retirement Plans:** Retirement Plan Solutions, 844.881.PLAN | retirementplans@cetera.com
- **Tax-Related:** Advanced Planning Group, 866.489.3100 ext. 77600

For more information on tax opportunities, please refer to the [IRS Coronavirus Tax Relief](#) page.

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