



## **Is Your Nonprofit or Small Business Impacted by Coronavirus?** **Apply NOW for Economic Relief Programs**

New legislation, including the recently passed Coronavirus Aid, Relief, and Economic Security (CARES) Act, has created significant new resources for nonprofits, small businesses, and individual workers that have been negatively impacted by the COVID-19 pandemic.

### **Paycheck Protection Program: Forgivable Loans to Cover Two Months of Payroll and Other Expenses**

Through the new Paycheck Protection Program (PPP), nonprofits and small businesses with under 500 employees can receive low-interest business continuity loans that can be forgiven – essentially transforming them into a grant – if your organization (1) uses the loans for qualified expenses and (2) you maintain your staff and compensation levels for at least eight weeks after receiving the loan.

PPP provides a one-time payment worth 250 percent of your average monthly payroll expenses over the last year. In order to qualify for loan forgiveness, PPP money should primarily be used to cover ongoing payroll costs for eight weeks; however, 25 percent of the loan can also be used to cover rent, mortgage interest, and utilities.

**Timing:** Nonprofits and small businesses can apply for PPP beginning Friday April 3, 2020

from SBA-approved lenders, which include most banks and credit unions. Because demand is expected to exceed the program's capacity, interested organizations should contact their bank immediately to begin the application process. If your current bank is not a program participant, you can find a list of approved 7(a) lenders at [www.sba.gov](http://www.sba.gov).

*Other important details about PPP include:*

**Covered Rent Expenses:** Rent expenses are only covered if there is a valid lease in place. Organizations without an active lease (e.g. those paying month-to-month on an expired lease) may consider getting a new lease from their landlord.

**Covered Payroll Expenses:** PPP covers a wide range of payroll expenses including salary, wages, commissions, and tips (capped at \$100,000 per employee); employee benefits (including vacation, parental, family, medical, and/or sick leave); allowances for separation or dismissal; healthcare and retirement benefit-related expenses; and state/local employment taxes.

**Staff/Payroll Maintenance Requirements:** Your 100 percent loan forgiveness will be reduced if you decrease your full-time employee headcount or if you decrease salary/wages by more than 25 percent for any employee. You can avoid this penalty for

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employees who were terminated or had their salaries reduced between February 15 and April 26, if you rehire or restore the compensation of those employees by June 30, 2020.

Forgiveness & Repayment: Borrowers will apply for loan forgiveness from their lender/loan servicer. Make sure to keep detailed and accurate payroll records, and records pertaining to eligible mortgage, lease, and utility obligations, in order to qualify for loan forgiveness. Payment on non-forgiven loans will begin after six months, at a fixed interest rate of one percent, and are fully due in two years.

Application Requirements: Applicants must submit a two-page [application form](#) and payroll documents. Borrowers do not have to put up collateral, personally guarantee the loan, or seek money from other sources to receive a PPP loan.

More information is available on the [SBA's Paycheck Protection Program \(PPP\) Information Sheet: Borrowers](#).

### **Emergency Economic Injury Disaster Loan: Forgivable \$10,000 Cash Advance**

Nonprofits and small businesses can now receive a \$10,000 cash advance within three days of applying for an Economic Injury Disaster Loan (EIDL) from the SBA. The cash advance does not have to be repaid, even if the EIDL application is denied, and applicants can choose to apply only for the \$10,000 advance. The SBA has also released a [streamlined online application process](#) for EIDL applications. There are a limited number of \$10,000 advances available, so

interested entities should apply immediately.

As background, the EIDL program provides small businesses and nonprofits with low-interest working capital loans of up to \$2 million to pay fixed debts, payroll, accounts payable, and other bills that can't be paid because of the coronavirus pandemic's impact.

Applicants can apply for and receive both EIDL, including the \$10,000 advance, and PPP at the same time, although funds cannot be used for duplicative purposes. Nonprofits and small businesses affected by the pandemic should consider applying for an EIDL because (a) the \$10,000 advance will be approved and received much faster than PPP funds, and (b) EIDL can be used for non-payroll expenses (e.g. rent, other fixed costs) that are capped under PPP.

### **New \$5,000 Employee Retention Credit**

For employers who do not receive funds through PPP, the CARES Act establishes an employee retention payroll tax credit for entities impacted by COVID-19 to encourage keeping employees on the payroll. The credit is available to all employers, regardless of size, that either suspend operation during any calendar quarter in 2020 due to orders from an appropriate governmental authority limiting commerce, travel, or group meetings due to COVID-19 or experiences a significant decline in gross receipts during the calendar quarter.

The credit is equal to 50 percent of the first \$10,000 in qualified wages paid to employees between March 12, 2020, and January 1, 2021. Qualified wages for

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employers with 100 or less full-time equivalents are all employee wages paid during the applicable period, regardless of whether or not the employee is providing services to the employer. For employers with more than 100 full-time equivalents, qualified wages are wages paid to employees during the period that the employees are not providing services due to specified COVID-19-related circumstances.

For more information, see the IRS fact sheet, [FAQs: Employee Retention Credit under the CARES Act](#).

### **Payroll Tax Deferral**

Organizations may now defer paying their portion of social security payroll taxes (6.2 percent) otherwise due for the period ending December 31, 2020. Such deferred taxes will now be due at the end of 2021 and 2022 in 50/50 installments. [This tax deferral benefit will not be available to entities that receive PPP.](#)

### **Expansion of Unemployment Insurance**

The CARES Act substantially expands unemployment insurance eligibility, benefit amount, and length of benefits. First, self-employed individuals, freelancers, gig workers, and independent contractors that are unemployed or partially unemployed as a result of COVID-19 may now be eligible for unemployment compensation through the remainder of 2020. However, those able to telework or receiving paid leave benefits are not eligible for unemployment compensation.

Next, the Act provides for an additional \$600 of weekly benefit through July 31, 2020,

which is on top of each jurisdiction's ordinary benefit amount. Further, the Act extends benefits for an additional 13 weeks, for a total benefits period of 39 weeks in most jurisdictions.

Nonprofits that are self-insured reimbursable employers, meaning that they make quarterly payments to the jurisdiction's Trust Fund for the amount of unemployment benefits actually paid instead of paying into the regular UI program, will receive some relief under the CARES Act. The federal government will reimburse one-half of the amount paid into a jurisdiction's Trust Fund from March 13, 2020 to December 31, 2020.

### **Increased Charitable Deductions for Nonprofits**

To encourage increased charitable giving, the Act makes changes to the tax law for 2020 that may benefit nonprofits. First, individual taxpayers that take the standard deduction may also claim a deduction of up to \$300 for cash donations to charitable organizations. In addition, the limitation on charitable contributions by individual taxpayers who itemize is increased to 100 percent of adjusted gross income. Similarly, the limit for corporations was raised to 25 percent of taxable income.

**Additional information for nonprofits and small businesses impacted by the coronavirus pandemic is at the D.C. Bar Pro Bono Center's Coronavirus Legal Resources section at [www.probono.center/NPSB](http://www.probono.center/NPSB).**

**If you have questions about these programs or other legal issues, feel free to contact us at [cedinfo@dcb.org](mailto:cedinfo@dcb.org).**

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