



Coronavirus Aid, Relief, and Economic Security (CARES) Act

April 1, 2020

Agenda

1. Families First Coronavirus Response Act Highlights
2. Money In Your Pocket
 - Paycheck Protection Program Loan
 - Economic Injury Disaster Loan & Emergency Economic Injury Grants
 - Employee Retention Credit
 - Recovery Rebate Credit
3. Tax Law Updates

Families First Coronavirus Response Act (FFCRA)

- Effective Date - April 1, 2020 and Leave Taken Between April 1 - December 31 (Q&A No.1)
- [DOL – 30 Day Temporary NON–Enforcement Period \(March 18-April 17\)](#)
- **Applies to Employers < 500 Employees (Q&A No. 2)**
 - 500 is counted the day leave is taken
 - Includes FT, PT, Employees on Leave, and Temp employees who are “joint Employed.”
 - Two or more Entities are separate unless they are “[joint employers.](#)”
 - Businesses with <50 Employees if an authorized “officer of the business has determined it would jeopardize the viability.” (Q&A No. 58 -59)
- **Eligible Employees**
 - Paid EFMLA - Employees Employed for at least 30 days (Only for School and Daycare closings)
 - Paid Sick Time – ALL Employees (FT and PT and NO employment timeframe requirement)

<https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>

Families First Coronavirus Response Act (FFCRA)

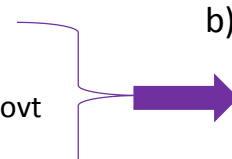
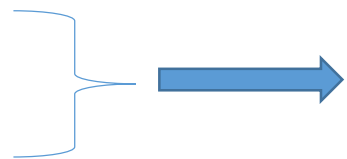
- **Paid EFMLA** - Employees Employed for at least 30 days.
 - First Two Weeks is unpaid unless paid by PTO or Paid Sick Time.
 - Up to 10 Weeks Paid at 2/3 regular rate (or minimum wage) up to \$200 day and \$12,000/12 weeks
 - Only for Reason #5 – Caring for a child whose school/daycare closed.
- **Paid Sick Time** – ALL Employees (FT and PT and NO employment timeframe requirement)
 - FT Paid 80 hours or two weeks for one of the 6 reasons provided.
 - PT – Calculation on the DOL website. Basically it is what they would work on average in 2 weeks timeframe
 - Maximum is 80 hours or 10 days

6 Qualifying Reasons for Leave

- (1) Govt Quarantine
- (2) Healthcare Quarantine
- (3) COVID Symptoms but no Diagnosis
- (4) Caring for Individual subject to (1) or (2)
- (5) Caring for child whose school/daycare closed
- (6) Other Substantially-similar conditions specified by Govt

2 Pay Types

- a) Regular Rate up to \$511/day and \$5,110 over 2 weeks
- b) 2/3 of their Regular Rate up to \$200/day and \$2,000 over 2 weeks
**also see above EFMLA for number (5)



Families First Coronavirus Response Act (FFCRA)

FAQ Covered by DOL Site

- What if a worksite closes or Employee hours are reduced due to less work needed/no customers? (Q& A No. 23-28)
- Do we have to pay leave for Employees on Furlough? No (Q&A No. 26)
- Must an employer continue health insurance for paid sick leave or EFMLA? Yes (Q &A No. 30)
- If we have an employee in our waiting period on paid sick leave can they still Enroll? Yes (Q&A No. 51)
- If we already provide sick/vacation time, can we require our employee to use that time first? No – This is separate from your current paid sick time or PTO policies. (Q&A 32 and 33)
- What Records or Documents Do I need to keep for EFMLA or Paid Sick Leave (Q &A No. 15 and 16)
- Is there Intermittent Leave? Yes if the Employer allows it. (Q&A No. 20-22)
- When do we need to post the notices/posters? [April 1, 2020](#)

Disclaimer

- This presentation and related materials are designed only to provide general information regarding the subject matter discussed during this presentation. The statutes, authorities, and other laws cited in this presentation are subject to change.
- This presentation and related materials are not intended to provide tax, accounting, legal, or other professional advice to any specific person or entity. Any advice or opinion regarding the application of the subject matter for a specific person or entity should be provided by a competent professional advisor based on an application of the appropriate law and authorities to the facts and circumstances applicable to that person or entity.



Paycheck Protection Program Loan

Paycheck Protection Loan

- \$350 billion in loans available to:
 - Businesses with fewer than 500 employees
 - Sole proprietors
 - Nonprofits
 - Must have been in operation on February 15, 2020
- “Covered period” runs from February 15, 2020 through June 30, 2020
- 100% guaranteed by the federal government through December 31, 2020 – no personal guarantee required
- Maximum maturity of 10 years and interest rate not to exceed 4%
- Proceeds can be used to cover payroll, mortgage payments, rent, utilities and any other debt service requirements
- Zero loan fees / Zero prepayment fee
- Payments for any loan amount not forgiven will be deferred for a total of 6 months to 1 year after disbursement

When to Apply

- Starting April 3, 2020, small businesses and sole proprietorships can apply for and receive loans to cover their payroll and other certain expenses through existing SBA lenders.
- Starting April 10, 2020, independent contractors and self-employed individuals can apply for and receive loans to cover their payroll and other certain expenses through existing SBA lenders.

How is the loan size determined?

- If you do not have seasonal employees, use the 1-year period before the date on which the loan is made
 - Max loan is 2.5 X your average monthly payroll costs during that time period
- If you have seasonal employees, use the 12-week period beginning February 19, 2019 and ending June 30, 2019
 - You can opt to choose March 1, 2019 as your time period start date
- If you were not in business between February 15, 2019 – June 30, 2019
 - Max loan is 2.5 X your average monthly payroll costs between January 1, 2020 and February 29, 2020

Small Business Loan Continued

- Payroll costs include:
 - Compensation - salary, wages, commissions, or similar compensation, payment of a cash tip or equivalent, capped at \$100,000
 - For a sole proprietor or independent contractor: wages, commissions, income, or net earnings from self-employment, capped at \$100,000 on an annualized basis for each employee
 - Payment for vacation, parental, family, medical or sick leave
 - Allowance for dismissal or separation
 - Payment for group health care benefits, including premiums
 - Payment of any retirement benefits
 - Payment of state or local tax assessed on the compensation of employees
- Payroll costs do not include:
 - Payroll taxes
 - Any compensation of an employee whose principal place of residence is outside the U.S.
 - Any qualified sick leave or family medical leave for which a credit is allowed under the new Coronavirus Relief Act

Small Business Loan Continued

- *Example:*

XYZ Company applies for a paycheck protection loan. The business had \$600,000 in payroll costs for the prior year, for a monthly average of \$50,000.

XYZ Company is entitled to a fully guaranteed federal loan —assuming it's made before December 31, 2020 — equal to the LESSER OF:

- *\$125,000 (\$50,000 in average payroll costs * 2.5)*
- *\$10 million*

How Can the Loan Be Used?

- Payroll costs (as noted before)
- Continuation of group health care benefits during periods of paid sick, medical or family leave and insurance premiums
- Employee salaries, commissions, or similar compensations (subject to limits)
- Payments of interest on any mortgage obligation
- Rent
- Utilities
- Interest on any other debt obligation that were incurred before the covered period

\$\$\$ Free Money? \$\$\$

- A portion of the Paycheck Protection Loan can be forgiven on a tax-free basis
- Forgiven amount is the sum of the following payments made by the borrow during the 8-week period beginning on the date of the loan:
 - Payroll costs – see definitions above
 - Mortgage interest
 - Rent
 - Certain utility payments
- To seek forgiveness, a borrower must submit to the lender an application that includes documentation verifying the number of employees and pay rates, and canceled checks showing mortgage, rent, or utility payments

Loan Forgiveness Continue

- *Example:*

Continuing the previous example with XYZ Company, in the first 8 weeks after the business borrows the \$125,000, the business pays \$100,000 in payroll costs, mortgage interest, and utility payments. XYZ Company is eligible to have the entire loan forgiven. The forgiveness will not create taxable income.

In addition, because of the deferment rules in the CARES Act, any payments due on the remaining \$25,000 will not be due for six months.

Loan Forgiveness Continue

- The amount that can be forgiven can be reduced if the employer:
 - Reduces its workforce during the 8-week period when compared to other periods in either 2019 or 2020
 - Reduces the salary or wages paid to an employee who has earned less than \$100,000 in annualized salary by more than 25% during the cover period
- The reduction can be avoided if the employer rehires or increases the employee's pay by June 30, 2020



Economic Injury Disaster Loan & Emergency Economic Injury Grants

Economic Injury Disaster Loan (EIDL)

- What is it?
 - Lower interest rate loans of up to \$2 million with potential deferment
- Who is Eligible?
 - Small businesses including sole proprietors
 - Independent contractors
 - Cooperatives and employee owned businesses
 - Private non-profits
 - Tribal small businesses

Economic Injury Disaster Grant (EIDG)

- If you have been in business since January 31, 2020, you will also qualify for the Economic Injury Disaster Grant (EIDG)
 - \$10,000 advance available within three days of applying for the EIDL
 - Does not need to be paid back under any circumstance
 - May be used for a variety of business costs (payroll, production costs, business obligations, rent and mortgage)

Additional details:

- Any loan made under this program before December 31, 2020 will not require a personal guarantee if less than \$200,000
- Apply for this loan – <https://disasterloan.sba.gov/ela/>



Employee Retention Credit

Employee Retention Credit

- Payroll tax credit for 50% of wages paid by “eligible employers” to certain “employees” March 13, 2020 to December 31, 2020
- If Business has more than 100 employees:
 1. The operation of the business was fully or partially suspended during any calendar quarter during 2020 due to orders from an appropriate government authority resulting from COVID-19
 2. Credit is 50% of the wages to employees who are furloughed or face reduced hours as a result of the closure, up to \$10,000 per employee
- If business has less than 100 employees:
 1. Point 1 above – or–
 2. The business remained open, but during any quarter during 2020, gross receipts for that quarter were less than 50% of what they were for the same quarter in 2019
 3. Credit is based on all employee wages (does not have to be furloughed), including health benefits, up to \$10,000 per employee

Employee Retention Credit

Other details:

- Credit refundable if it exceeds the business's liability for payroll taxes
- If you use a PEO, the Retention Credit belongs to the you not the PEO
- Can not double dip:
 - Wages must be reduced by the amount of the Retention Credit
 - If employer takes out a paycheck protection loan no credit will be available



Delay of Payment of Employer Payroll Taxes

Delay of Payment of Employer Payroll Tax and Self-Employment Tax

- Employer's share of the 6.2% Social Security tax that would otherwise be due from the date of enactment through December 31, 2020 can be paid on December 31, 2021 (50%) and December 31, 2022 (50%)
- Self-employed taxpayers can defer paying 50% of self-employment tax due from the date of enactment through the end of 2020 until December 31, 2021 (50%) and December 31, 2022 (50%)
- Employer can direct PEO to defer the applicable payments
- Not available to any business that takes out paycheck protection loan



Individual Recovery Rebate Credit

Recovery Rebate Credit

- How it will work:

1. IRS is going to look at your 2019 tax return
 - a. If you haven't filed, the IRS will look at 2018
 - b. If you didn't file either 2019 or 2018, but received Social Security, the IRS will look at your Social Security Benefit Statement
2. Once they look at your return, they will cut you a check
 - a. \$1,200 if single / \$2,400 if married filing joint
 - b. Plus \$500 for each child under age 17
 - c. This is not associated with your tax liability or dependent on you having earned a minimum amount of qualifying income – just based on your AGI
3. What you will need to get a check
 - a. Must have a valid social security number for yourself, your spouse and any qualifying children
 - b. If you are claimed as a dependent on someone else's return you will not receive a check
4. Phase out limits
 - a. Begin if your Adjusted Gross Income (AGI) exceeds \$75,000 if single / \$150,000 if married
 - b. Once over those thresholds, you lose \$5 of your payment for every \$100 your AGI exceeds thresholds
 - c. Single with no kids – due \$1,200 – completely phased out if your AGI exceeds \$99,000
 - d. Married with no kids – due \$2,400 – completely phased out if you AGI exceeds \$198,000
 - e. Married with two kids – due \$3,400 – completely phased out if your AGI exceeds \$218,000

Individual Stimulus Payments Continued

- Distributions
 - Will be made between now and December 31
 - Will be directly deposited if you put that information on your tax return
- Know that this is an advance credit you will compute again on your 2020 tax return
 - You will compute the credit again based on your 2020 return information
 - If your computation is more than the check you received now – you will get a credit on your 2020 return
 - If your computation is less than the check you received – we don't know
 - Potential income?
 - Potential taxes?
 - Free?



Tax Law Changes

Due Date Changes

- Any person with a Federal income tax return or payment due on April 15, 2020 is automatically extended to July 15, 2020
- Person is an individual, a trust, an estate, a corporation, or any type of unincorporated business entity
- What was not extended?
 - 706 – Estate Tax Returns
 - Any items due between April 15th and July 15th
 - Payroll tax returns

Using Retirement Funds for Coronavirus Costs

- If you take money out of a qualified plan before age 59 ½
 - You pay income tax on distribution (if not repaid)
 - No 10% penalty if distributed during 2020, is less than \$100,000 and is used by :
 - An individual diagnosed with SRS-COV-2 or COVID-19 by a test approved by the CDC
 - Your spouse or dependent is diagnosed with one of the two disease
 - who experiences adverse financial consequences as a result of being quarantined, furloughed or laid off or having work hours reduced, or being unable to work due to lack of child care
- Additional Benefits
 - Taxpayer can spread the income recognition over a 3-year period beginning in 2020
 - Taxpayer can avoid any income recognition by repaying the distribution to the retirement plan within three years of receiving it
- Additional Retirement Plan Points
 - Individuals may borrow from their employer sponsored plan up to \$100k (increase from \$50k) for the 180-day period after the Act passed
 - RMD's are temporary waived for 2020

Charitable Contributions

- CARES Act allows individuals to make cash contributions of up to \$300 and deduct the contribution “above-the-line” in computing AGI
 - In other words – you do not have to itemize to receive up to a \$300 benefit for a charitable contribution
- This is in place for 2020 and beyond
- If you do itemize, the Act temporarily lifts the limits on charitable contributions from 60% of AGI to 100% of AGI for 2020. Any excess can be carryforward over the next five years.
- Corporate donors limit has increased from 10% of adjusted taxable income to 25%

Exclusion from Income of Employer Payment of Employee Student Loan Debt

- CARES Act allows an employer to pay up to \$5,250 in 2020 of employee's student loan obligation on a tax-free basis
- This is now combined with the previous Section 127 provision which allowed an employer to pay up to \$5,250 of an employee's qualified educational expenses tax-free
- To the extent the employer pays for the employee's student loan, the employee cannot deduct the interest on the student loan under Section 221

Qualified Improvement Property Fix

- TCJA intended to speed up the depreciation on “qualified improvement property” (improvements made to the interior portion of a nonresidential building any time after the building was placed in service) by giving this type of property 15 year life and allowing 100% bonus depreciation, but the final law was not written like this
- CARES Act provides a technical correction giving QIP a 15 year life
- This change is **retroactive to January 1, 2018** and taxpayers should amend returns

Changes to Net Operating Loss Rules

Before CARES Act

- No NOL carrybacks
- Indefinite carryforward
- Could offset 80% of taxable income

After CARES Act

- Losses from 2018, 2019, and 2020 can be carried back for up to five years
- Losses carried TO 2019 and 2020 will be permitted to offset 100% of the taxable income

Temporary Removal of Excess Business Loss Limitation (Section 461(l))

Before CARES Act

- Amount of “net business loss” an individual may use in a year to offset other sources of income was capped at \$250,000 if single / \$500,000 if married filing joint
- Any excess loss is carryforward as an NOL, subject to the limitations identified in previous slide

After CARES Act

- Temporary halt on Section 461(l) for 2020 and retroactive to January 1, 2018
- Taxpayer who reported a loss limitation should amend their 2018 or 2019 return
- Provision does kick back in for 2021 and beyond and wages will not be considered business income, resulting in more losing being limited

Changes to Interest Limitation Rules

Before CARES Act

- Business interest expense deduction was limited to 30% of “adjusted taxable income” with any excess interest expense carried forward
- Who this applies to:
 1. Businesses with average annual gross receipts of \$25 million or more over the previous three years
 2. Tax Shelter – partnership or other entity (other than a corporation) if more than 35% of the losses are allocable to limited partners or limited entrepreneurs

After CARES Act

- Increases the limit to 50% of adjusted taxable income for 2019 and 2020
- Allows businesses to use their 2019 adjusted taxable income in computing its 2020 limitation
- Partnership does not get the 50% limit in 2019, but in 2020 50% of the suspended interest “frees up” and will be fully deductible, while other 50% will remain suspended until the partnership allocates excess taxable income or excess interest income to the partner

Continuing Education Credits

- HRCI Activity ID: 520276 (pending 1 credit hour)
- SHRM Activity ID: 20-T27SA
- TSBPA Provider Number: 010504





GUS BATES Coronavirus Resource Page

<http://gusbates.com/coronavirus-covid-19-resources>

