

Available Resources for Nonprofit Organizations Under the Federal CARES Act

April 1, 2020

1. Paycheck Protection Program Loan Guarantee

- a. Eligibility: Small businesses with fewer than 500 employees, select types of businesses with fewer than 1,500 employees, 501(c)(3) nonprofits with fewer than 500 workers, and some 501(c)(19) veterans' organizations. SBA backs small-business loans through local lenders.
- b. Maximum Loan Amount: Loans are given up to the maximum of the lesser of \$10 million, or 2.5 times the average monthly payroll costs – including wages for employees making under \$100,000, as well as expenses for paid sick leave, healthcare and other benefits – during the one-year period before the date on which the loan was made.
- c. Repayment Terms: Two-year term and payments are deferred up to six-to-12 months. There are no prepayment penalties or fees.
- d. Interest Rate: Fixed rate of 0.50%, but it is possible that this amount could increase to a maximum of 4%. No personal guarantee or collateral is required.
- e. Loan Forgiveness: Part of the loan may be forgiven and not counted as income to the borrower if it is spent during the first eight weeks on operating expenses. Loans are forgiven when proceeds are used for any of these costs:
 - i. Payroll costs, excluding prorated amounts for individuals with compensation greater than \$100,000.
 - ii. Rent pursuant to a lease in force before February 15, 2020.
 - iii. Electricity, gas, water, transportation, telephone, or internet access expenses for services which began before February 15, 2020.
 - iv. Group health insurance premiums and other healthcare costs.
- f. Restrictions on Loan Forgiveness:
 - i. In order for the amounts to be forgiven, the borrower must maintain the same average number of employees for the first eight-week period beginning on the origination date of the loan as it did from February 15, 2019 – June 30, 2019 *or* from January 1, 2020 – February 15, 2020.

- ii. Loan forgiveness is reduced proportionally if the employer reduces the number of FTEs.
- iii. Loan forgiveness also will be reduced if the borrower decreases salaries and wages by more than 25% for any employee that made less than \$100,000 annualized in 2019.
- iv. The borrower has until June 30, 2020 to restore full-time employment and salary levels for any changes made between February 15, 2020 and April 26, 2020.
- v. Due to likely high subscription, it is anticipated that no more than 25% of the forgiven amount may be for non-payroll costs.
- g. Requesting Loan Forgiveness:
 - i. The borrower must submit a request to the lender servicing the loan. The request must include documents that verify the number of full-time-equivalent employees and pay rates, as well as the payments on eligible mortgage, lease and utility obligations. The borrower must certify that the documents are true and accurate and that the borrower used the forgiveness amount to keep employees and make eligible mortgage interest, rent and utility payments. The lender must make a decision on the forgiveness within 60 days.
- h. Application: Borrower must apply through local banks that already offer Small Business Administration loans. You can apply through any existing SBA 7(a) lender or through any federally insured depository institution, federally insured credit union, and Farm Credit System institution that is participating. Other regulated lenders will be available to make these loans once they are approved and enrolled in the program. The application period for small businesses opens on April 3, 2020. While the loan program is open until June 30, 2020, it is recommended that you apply as soon as possible because there is a funding cap and lenders need time to process your loan.

2. Economic Injury Disaster Loan

- a. Eligibility: Open to small business owners, including private nonprofit organizations that are NGOs or entities that currently have an effective ruling letter from the IRS recognizing federal tax exemption under sections 501(c),(d), or (e) of the IRS Code (including 501(c)(6) and (c)(4) organizations), or satisfactory evidence from the State that the non-revenue

producing organization or entity is a nonprofit one organized or doing business under State law, or a faith-based organization.

- b. Maximum Loan Amount: Loans up to \$2 million to cover temporary loss of revenue.
- a. Repayment Terms: 30-year term. First month's payments are deferred for a full year from the date of the promissory note. Very favorable terms but *not* a forgivable loan like the Payment Protection Program.
- b. Interest rate: 3.75% for small businesses, and 2.75% for nonprofits.
- c. Application: <https://covid19relief.sba.gov/#/>

3. **Economic Injury Disaster Advance Loan**

- a. Eligibility: Open to small business owners, including private nonprofit organizations that are NGOs or entities that currently have an effective ruling letter from the IRS recognizing federal tax exemption under sections 501(c),(d), or (e) of the IRS Code (including 501(c)(6) and (c)(4) organizations), or satisfactory evidence from the State that the non-revenue producing organization or entity is a nonprofit one organized or doing business under State law, or a faith-based organization.
- b. Maximum Loan Amount: Up to \$10,000.
- c. Repayment Terms: Does *not* have to be repaid if spent on paid leave, maintaining payroll, increased costs due to supply chain disruption, mortgage or lease payments, or repaying obligations that cannot be met due to revenue loss.
- d. Application: <https://covid19relief.sba.gov/#/>

4. **Employee Retention Payroll Tax Credit**

- a. Eligibility: Available to small businesses and nonprofit organizations (including Section 501(c)(3), (c)(6) and (c)(4) organizations, among others).
- b. Program and Eligibility Terms:
 - i. Employers fully or partially shut down or with 50% drop in gross receipts in a quarter compared to prior year (until return to 80%).
 - ii. Shut down must apply to all aspects of the employer.

- iii. Refundable tax credit for 50% of the wages (including employer's health plan expenses) paid by the employer, up to \$10,000 per employee.
- iv. Employers are *not* eligible if they received a Paycheck Protection Program loan.

5. **Delay of Payroll Tax Remittance**

- a. Delays the payment of employer-paid payroll taxes between now and 1/1/2021.
- b. 50% due 12/31/2021 and 50% due 12/31/2022.
- c. Does not apply to employers which have loans forgiven under the Paycheck Protection Program.

6. **General FAQs**

- a. Where can I go to find out more information about these loan programs?
 - i. U.S. Small Business Administration:
<https://www.sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources>
 - ii. U.S. Treasury Department:
<https://home.treasury.gov/policy-issues/top-priorities/cares-act/assistance-for-small-businesses>
 - iii. U.S. Chamber of Commerce Foundation:
<https://www.uschamberfoundation.org/reports/coronavirus-emergency-loans-guide-and-checklist-small-businesses-and-nonprofits>
 - iv. American Society of Association Executives:
<https://www.thepowerofa.org/coronavirusadvocacy/>
- b. Can I apply for more than one type of assistance?
 - i. Yes, but only for the Paycheck Protection Program and an Economic Injury Disaster Loan – so long as the funds are used for *different* purposes; no double-dipping.
- c. Can I apply for these programs by myself or do I need assistance?

T E N E N B A U M
L A W G R O U P P L L C

- i. Applications for the Economic Injury Disaster Loan programs are completed online through the SBA website. Consult with your tax professional or legal counsel for additional assistance.
- ii. Applications for the Paycheck Protection Program must be done through an SBA-approved lender. Contact your tax professional or legal counsel for additional assistance.

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