

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

## ***Information for small businesses***

### **Small Business Administration (SBA) 7(a) Loan Program**

#### **Section 1102. Paycheck Protection Program**

- Increases the government guarantee of loans made for the Payment Protection Program under section 7(a) of the Small Business Act to 100 percent through December 31, 2020.
- Provides the authority for the Administrator of the U.S. Small Business Administration (SBA) to make loans under the Paycheck Protection Program.
- Defines eligibility for loans as a small business, 501(c)(3) nonprofit, veteran's organization, or Tribal business concern with 500 employees, or the applicable size standard for the industry as provided by SBA, if higher. Applies current SBA affiliation rules to eligible nonprofits.
- Includes sole-proprietors, independent contractors, and other self-employed individuals as eligible for loans.
- Allows businesses with more than one physical location that employs no more than 500 employees per physical location in certain industries to be eligible.
- Waives affiliation rules for businesses in the hospitality and restaurant industries, franchises that are approved on the SBA's Franchise Directory, and small businesses that receive financing through the Small Business Investment Company (SBIC) program.
- Defines the covered loan period as beginning on February 15, 2020 and ending on June 30, 2020.
- Increases the maximum 7(a) loan amount to \$10 million through December 31, 2020 and provides a formula by which the loan amount is tied to payroll costs incurred by the business to determine the size of the loan.
- Specifies allowable uses of the loan include payroll support, such as employee salaries, paid sick or medical leave, insurance premiums, and mortgage, rent, and utility payments.
- Outlines the treatment of any portion of a loan that is not used for forgiveness purposes. The remaining loan balance will have a maturity of not more than 10 years, and the guarantee for that portion of the loan will remain intact.
- Allows complete deferment of 7(a) loan payments for at least six months and not more than a year, and requires SBA to disseminate guidance to lenders on this deferment process within 30 days.
- Allows borrowers who have received an economic injury disaster loan (EIDL) between February 15, 2020 and March 31, 2020 to receive assistance under this program through a refinancing mechanism.

#### **Section 1105. Loan Forgiveness**

- Establishes that the borrower shall be eligible for loan forgiveness equal to the amount spent by the borrower during an 8-week period after the origination date of the loan on payroll costs,

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interest payment on any mortgage incurred prior to February 15, 2020, payment of rent on any lease in force prior to February 15, 2020, and payment on any utility for which service began before February 15, 2020.

- Amounts forgiven may not exceed the principal amount of the loan.
- The amount forgiven will be reduced proportionally by any reduction in employees retained compared to the prior year and reduced by the reduction in pay of any employee beyond 25 percent of their prior year compensation. To encourage employers to rehire any employees who have already been laid off due to the COVID-19 crisis, borrowers that re-hire workers previously laid off will not be penalized for having a reduced payroll at the beginning of the period.
- Canceled indebtedness resulting from this section will not be included in the borrower's taxable income.

### **Section 1109. Emergency Economic Injury Disaster Loans & Grants**

- Expands eligibility for access to Economic Injury Disaster Loans (EIDL) to include startups, cooperatives, and ESOPs with fewer than 500 employees or any individual operating as a sole proprietor or an independent contractor during the covered period (January 31, 2020 to December 31, 2020).
- Requires that for any SBA EIDL loans made in response to COVID-19 before December 31, 2020, the SBA shall waive any personal guarantee on advances and loans below \$200,000, the requirement that an applicant needs to have been in business for the 1-year period before the disaster, and the credit elsewhere requirement.
- During the covered period, allows SBA to approve and offer EIDL loans based solely on an applicant's credit score, or use an alternative appropriate alternative method for determining an applicant's ability to repay.
- Outlines that advance payment may be used for providing paid sick leave to employees, maintaining payroll, meeting increased costs to obtain materials, making rent or mortgage payments, and repaying obligations that cannot be met due to revenue losses.
- Establishes that applicant shall not be required to repay advance payments, even if subsequently denied for an EIDL loan.
- Requires that an advance payment be considered when determining loan forgiveness if the applicant transfers into the SBA's 7(a) loan program.

### **SBA Resource Partners**

#### **Section 1103. Entrepreneurial Development**

This section authorizes the SBA to provide additional financial awards to resource partners such as Small Business Development Centers and Women's Business Centers to provide counseling, training, and education on SBA resources and business resiliency to small business owners affected by COVID-19. Resource partners can use these grants to establish:

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- One online platform that consolidates resources and information available across multiple Federal agencies for small business concerns related to COVID-19; and
- A training program to educate Small Business Development Center, Women’s Business Center, Service Corps of Retired Executives, and Veteran’s Business Outreach Center counselors on the various federal resources available to ensure counselors are directing small businesses appropriately.

### **Section 1107. Minority Business Development Agency**

This section authorizes \$10 million for the Minority Business Development Agency within the Department of Commerce to provide grants to Minority Business Centers and Minority Chambers of Commerce for the purpose of providing counseling, training, and education on federal resources and business response to COVID-19 for small businesses. It also eliminates the Minority Business Center program’s non-federal match requirement for a period of three months and allows for centers to waive fee-for-service requirements through September 2021.

## **Additional Resources and Provisions for Employers**

### **Section 2103. Emergency Unemployment Relief for Governmental Entities and Nonprofit Organizations**

This section provides payment to states to reimburse nonprofits, government agencies, and Indian tribes for half of the costs they incur through December 31, 2020, to pay unemployment benefits.

### **Section 2108. Temporary Financing of Short-Time Compensation Payments in States with Programs in Law**

This section provides funding to support “short-time compensation” programs, where employers reduce employee hours instead of laying off workers and employees with reduced hours receive a prorated unemployment benefit. This provision would pay 100 percent of the costs they incur in providing this short-time compensation through December 31, 2020.

### **Section 2301. Employee Retention Credit for Employers Subject to Closure Due to COVID-19**

The provision provides a refundable payroll tax credit for 50 percent of wages paid by employers to employees during the COVID-19 crisis. The credit is available to employers whose (1) operations were fully or partially suspended, due to a COVID-19-related shut-down order, or (2) gross receipts declined by more than 50 percent when compared to the same quarter in the prior year.

The credit is based on qualified wages paid to the employee. For employers with greater than 100 full-time employees, qualified wages are wages paid to employees when they are not providing services due to the COVID-19-related circumstances described above. For eligible employers with 100 or fewer full-time employees, all employee wages qualify for the credit, whether the employer is open for business or subject to a shut-down order. The credit is provided for the first \$10,000 of compensation, including health benefits, paid to an eligible employee. The credit is provided for wages paid or incurred from March 13, 2020, through December 31, 2020.

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### **Section 2302. Delay of payment of employer payroll taxes**

The provision allows employers and self-employed individuals to defer payment of the employer share of the Social Security tax they otherwise are responsible for paying to the federal government with respect to their employees. Employers generally are responsible for paying a 6.2-percent Social Security tax on employee wages. The provision requires that the deferred employment tax be paid over the following two years, with half of the amount required to be paid by December 31, 2021, and the other half by December 31, 2022. The Social Security Trust Funds will be held harmless under this provision.

### **Section 2303. Modifications for Net Operating Losses**

The provision relaxes the limitations on a company's use of losses. Net operating losses (NOL) are currently subject to a taxable-income limitation, and they cannot be carried back to reduce income in a prior tax year. The provision provides that an NOL arising in a tax year beginning in 2018, 2019, or 2020 can be carried back five years. The provision also temporarily removes the taxable income limitation to allow an NOL to fully offset income. These changes will allow companies to utilize losses and amend prior year returns, which will provide critical cash flow and liquidity during the COVID-19 emergency.