

## Guidance for Small Businesses US Chamber of Commerce

Full Resource:

<https://www.uschamber.com/co/start/strategy/small-business-resources-for-surviving-coronavirus>

- **Guidance on loans, aid and financial support: Coronavirus Aid, Relief and Economic Securities Act (CARES)/ Payroll Protection Program (PPP); Economic Injury Disaster Loan (EDIL)**
- **Guidance on what and how to pay your people in this pandemic (quarantine/isolation order): Families First Coronavirus Response Act (FFCRA)**

### **Coronavirus Aid, Relief and Economic Security Act – CARES**

- **Payroll Protection Program (PPP):** incentive for organizations to not lay off employees through June. Funds delivered as a loan that can be forgiven based on specific criteria.
- **What types of businesses are eligible?**
  - The Paycheck Protection Program offers loans for small businesses with fewer than 500 employees, select types of businesses with fewer than 1,500 employees, 501(c)(3) non-profits with fewer than 500 workers and some 501(c)(19) veteran organizations. Additionally, the self-employed, sole proprietors, and freelance and gig economy workers are also eligible to apply. Businesses, even without a personal guarantee or collateral, can get a loan as long as they were operational on February 15, 2020.
- **How big of a loan can I get and what are the terms?**
  - The maximum loan amount under the Paycheck Protection Act is \$10 million, with an interest rate of 1%. No personal guarantee or collateral is required for the loan. The lenders are expected to defer fees, principal and interest for no less than six months and no more than one year. Loans are delivered through banks that are approved SBA lenders. The process is stated to be quicker if you have a business banking relationship with an SBA approved bank.
- **Can these loans be forgiven?**
  - Yes, small businesses that take out these loans can get some or all of their loans forgiven. Generally speaking, as long as employers continue paying employees at normal levels during the eight weeks following the origination of the loan, then the amount they spent on payroll costs (excluding costs for any compensation above \$100,000 annually), mortgage interest, rent payments and utility payments can be combined and that portion of the loan will be forgiven.

### **CARES Business tax changes**

- Businesses are eligible for an employee retention tax credit if 1.) your business operations were fully or partially suspended due to a COVID-19 shut-down order; or 2.) gross receipts declined by more than 50% compared to the same quarter in the prior year. Eligible businesses can get a refundable 50% tax credit on wages up to \$10,000 per employee. The credit can be obtained on wages paid or incurred from March 13, 2020, through December 31, 2020.
- Businesses and self-employed individuals can delay their payroll tax payments. These payments, the employer share of Social Security tax owed for 2020, can instead be deferred and paid over the next two years. Fifty percent must be paid by the end of 2021 and 50% must be paid by the end of 2022. (Note: The ability to defer these taxes does not apply to a business that has a Paycheck Protection loan forgiven.)
- Businesses that have net operating losses (NOLs) have some limitations relaxed. If your business had an NOL in a tax year beginning in 2018, 2019, or 2020, that NOL can now be carried back five years instead. This may improve cash flow and liquidity for some businesses. Pass-through businesses and sole proprietors will also be able to take advantage of the relaxed NOL limitations.
- Businesses that were due to receive corporate alternative minimum tax (AMT) credits at the end of 2021 can instead claim a refund now, in order to improve cash flow during the COVID-19 emergency.
- Businesses will be able to increase their business interest expense deductions on their tax returns. For 2019 and 2020, the amount of interest expense businesses are allowed to deduct on their tax returns is increased to 50% from 30% of taxable income.
- Businesses, especially those in the hospitality industry, will be able to immediately write off costs associated with improving facilities, increasing cash flow.
- The government will make a temporary exception from the excise tax normally applied to alcohol, if that alcohol was used to produce hand sanitizer in 2020.

### **Families First Coronavirus Response Act – FFCRA**

The CARES Act makes small changes to the Families First Coronavirus Response Act (FFCRA) in regards to paid sick leave, paid FMLA and more. These changes include:

- Paid family and medical leave (FMLA) under the FFCRA is capped at \$200 per day and \$10,000 total per employee.
- Paid sick leave under the FFCRA is capped at \$511 per day and \$5,110 total per employee. This amount drops to \$200 per day and \$2000 total for sick leave taken by an employee in order to care for a family member in quarantine or care for a child whose school has closed.
- Workers that were laid off after March 1, 2020, but then rehired, are eligible for paid FMLA leave provisions described in the FFCRA immediately instead of needing to be an employee for 30 days.

- Businesses can keep money that they would have deposited for payroll taxes in anticipation of refunds from the Treasury Department for paid sick leave and paid FMLA leave outlined by the FFCRA, including amounts that would have been refunded later.

### **FFCRA focus: Emergency Family and Medical Leave Expansion Act**

The first section of the FFCRA that applies to businesses pertains to an expansion of the U.S. Family and Medical Leave Act (FMLA). Until the end of 2020, employers with fewer than 500 employees will now be required to provide employees with up to 10 weeks of paid FMLA. The first two weeks of the normal 12-week FMLA leave may be provided unpaid, but an employee may be able to be paid through the paid sick leave provision or other paid leave the employee has available.

#### **Which employees are eligible?**

Paid FMLA will be available to any employee who has been employed for at least 30 days and must care for children whose schools have closed due to the coronavirus health emergency. The eligible employee must not be able work (or work remotely) while caring for children.

#### **How are employees paid during this time?**

First, employers are required to offer employees unpaid leave (or accrued paid leave or paid vacation) for 10 days. After this, paid leave kicks in and employees are compensated at two-thirds of their regular rate. Paid leave cannot exceed \$200 per day and \$10,000 total for the full 10 weeks.

#### **Are there exemptions?**

As mentioned above, businesses with fewer than 50 employees may be exempt from all of these requirements if they can prove that providing the leave would risk them going out of business. Other provisions of note include:

- Businesses with fewer than 25 employees are not required to reinstate an employee to their position after they return from leave but all businesses with more than 25 employees must do this.
- Businesses with fewer than 50 employees are exempt from civil actions brought by employees for violations regarding emergency paid FMLA.
- Healthcare and emergency response organizations may exclude employees from paid FMLA expansion due to the coronavirus crisis.

### **FFCRA focus: Emergency Paid Sick Leave Act**

The second leave provision of the FFCRA that affects businesses is emergency paid sick leave. Until the end of 2020, employers with fewer than 500 employees must offer paid sick leave to those who meet criteria associated with the public health emergency.

### **Which employees are eligible?**

The new FFCRA paid sick leave is available to any employee if they are unable to work (in-house or remotely) because they are:

- Subject to federal, state, or local quarantine or isolation related to COVID-19;
- Have been advised by their doctor to self-quarantine due to COVID-19;
- Experiencing symptoms of COVID-19 and seeking a medical diagnosis;
- Caring for a family member subject to a quarantine order or self-quarantine;
- Caring for children if schools are closed or their caregiver is unavailable because of the COVID-19 health emergency; or
- Experiencing substantially similar conditions as specified by the Secretary of Health and Human Services.

### **How are employees paid during this time?**

Full-time employees can receive up to 80 hours of paid sick leave, while part-time employees can receive pay based on the number of hours they would work during an average two-week period. If an employee qualifies based on the first three reasons above, they receive sick leave at their regular rate with pay capped at \$511 per day and \$5,110 total. If an employee qualifies based on the second three reasons above, they receive sick leave at two-thirds their regular rate of pay with amounts not exceeding \$200 per day and \$2,000 total. The Secretary of Labor is required to issue more guidelines to help employers formulate leave benefits by April 1.

### **How does this impact sick leave that's already offered?**

Emergency paid sick leave is offered in addition to any existing sick leave and/or paid time off that is already offered by an employer.

### **Are there exemptions?**

- Businesses with fewer than 50 employees may be exempt from all of these provisions if providing the leave could “jeopardize the viability” of your business.
- Healthcare and emergency response organizations may exclude employees from paid FMLA expansion due to the coronavirus crisis.

### **FFCRA focus: Tax Credits for Paid Sick Leave and Paid FMLA**

To help employers afford the new paid sick leave and paid FMLA benefits, companies are able to seek reimbursement through tax credits.

Each quarter, private companies are entitled to fully refundable tax credits for both paid sick leave and paid FMLA. The tax credits are applied against an employer's already-owed Social Security taxes. However, if that offset is not enough to cover these payouts to employees, then the Treasury Department is authorized to help cover the rest with cash payouts. In addition, the Treasury is directed to issue regulations to waive penalties for businesses not submitting their payroll taxes if they do so in anticipation of a refund under the new law. In addition, the Treasury Department has said they will soon be releasing a form for small businesses to request an expedited advance on their refund.

Additionally, an employer's tax credit is increased by the amount the employer pays to maintain health care related to new sick leave and FMLA benefits. This will allow a company to maintain health care benefits while the employee is on leave.

### **FFCRA focus: Emergency Unemployment Insurance Stabilization and Access Act of 2020**

Finally, the FFCRA also allocates \$1 billion in funds for state unemployment programs and gives state governments new flexibility when it comes to workers needing unemployment insurance. The FFCRA eliminates the need for employees to wait a week before they are eligible for UI and eases work search requirements, meaning employees will be able to apply for unemployment insurance more quickly. The law also provides more money to states to fund their UI programs.

These new rules may inform how businesses make decisions about their employees, especially those companies considering layoffs or staff changes in light of the coronavirus crisis.

### **Economic Injury Disaster Loan – EIDL - Through SBA**

- EIDLs are now also available to Tribal businesses, cooperatives, and ESOPs with fewer than 500 employees. They are also available to all non-profit organizations, including 501(c)(6)s, and to individuals operating as sole proprietors or independent contractors.
- EIDLs can be approved by the SBA based solely on an applicant's credit score.
- EIDLs that are smaller than \$200,000 can be approved without a personal guarantee.
- Borrowers can receive a \$10,000 emergency grant cash advance that can be forgiven 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 losses.
- Small businesses can get both an EIDL and a Paycheck Protection Program loan as long as they don't pay for the same expenses.

EIDL Loan Application: <https://covid19relief.sba.gov/#/>