



# THE CARES ACT

## UNDERSTANDING THE FEDERAL COVID19 RELIEF PACKAGE

This summary of the CARES Act ("Act") is written to help individuals and small businesses understand what benefits they may be eligible for and what they need to do to receive them. Because further guidelines and changes are anticipated, you should keep updated on the latest information.

### WHAT IS THE CARES ACT?

CARES stands for Coronavirus Aid, Relief and Economic Security (CARES) Act. It was enacted in March 2020. It builds on earlier versions of the CARES Act and is intended to be a third round of federal government support in the wake of the coronavirus public health crisis and associated economic fallout, succeeding the public health support passed earlier and the Families First Coronavirus Response Act (FFCRA).

### WHO BENEFITS FROM THE CARES ACT?

The Act is intended to help: individuals, small businesses, big corporations, hospitals and public health programs, food security programs, state and local governments, and education and other programs.

### ARE FORMERLY INCARCATED PERSONS ELIGIBLE FOR BENEFITS?

Yes. Individuals are eligible. There are some restrictions on small business loans, but not as many restrictions as are normally in place with the Small Business Administration (SBA), which administers the loans.

### AID FOR INDIVIDUALS

#### THE CARES ACT PROVIDES THE FOLLOWING AID FOR INDIVIDUALS:

- Cash payment
- Increased unemployment benefits
- Extension of time to file your tax returns until July 15 (instead of April 15)
- Some student loan benefits
- Some COVID19 related health insurance benefits
- Retirement account early withdrawal penalty waiver
- Increased Tax Benefits for Charitable Donations
- Free Calls from Federal Prisons
- Paid Leave Benefits (under FFCRA, not CARES, included for reference)

## **CASH PAYMENTS**

**(“Economic Impact Payment” or “Recovery Rebates”)** Everyone is potentially eligible to receive a cash payment from the federal government. If you do not currently receive social security benefits, did not file a tax return last year, and do not plan to file a tax return this year – ***then you need to file a tax return this year*** (for tax year 2019) in order to get paid. Simplified forms are available on the IRS portal listed below.

- **What you need to do to get the cash payment:**
  - Nothing, if:
    - you currently receive social security benefits.
    - you filed a tax return last year (for tax year 2018).
    - you filed/plan to file a tax return this year (for tax year 2019).
  - If none of those apply, or you need to make changes to your address/bank account:
    - Go to: <https://www.irs.gov/coronavirus/economic-impact-payments>
    - Find forms to file a simplified tax return
    - Enter your bank information for direct deposit
    - update your address, if you moved since your 2018/2019 taxes were filed
- **Check your payment status:** <https://www.irs.gov/coronavirus/economic-impact-payments>
- **Amount**
  - Up to \$1,200 per adult and \$500 per dependent child
  - Individuals earning less than \$75,000 per year, get \$1,200
  - Individuals earning between \$75,000 to \$99,000 will receive a smaller payment
    - Online calculators are available, such as:  
<https://www.washingtonpost.com/graphics/business/coronavirus-stimulus-check-calculator/>
  - Individuals earning more than \$99,000 per year, get 0
  - Couples earning more than \$198,000 jointly, get 0
- **How to Qualify**
  - Have a social security number
  - Earn less than the income limit (explained above)
  - One of the following:
    - you filed a tax return for tax year 2018 or 2019; or
    - you are already receiving social security benefits; or
- **FAQ:** How can currently incarcerated people, who are getting out soon, receive the checks?
  - Apply online as soon as released – but by July 15, 2020
  - Go to: <https://www.irs.gov/coronavirus/economic-impact-payments>
  - Register your bank direct deposit information or your mailing address

- **How the government will determine how much you get**
  - Payments are based on *either* your 2018 or 2019 tax filings. (If you haven't filed for the 2019 tax year, yet, then it will be based on your filing for the 2018 tax year.), or
  - If you receive Social Security benefits but don't file tax returns, your check will be based on information provided by the Social Security Administration.
- **How you will receive the money**
  - Direct deposit: If your bank account is on file with the IRS.
  - Check in the mail: If your bank account is not on file with the IRS.

## **INCREASED UNEMPLOYMENT BENEFITS**

- **Unemployment benefits are increased.** Part of this comes from the state (UI) and part from the federal government (PUA), but in most states, including California, you should not have to worry about the source. You should just receive the benefit, once your application is accepted.
- **More money:** extra \$600/week for four months (3/29-7/31)
- **More time:** extra 13 weeks of benefits (at regular rate) (1/27-12/31/20)
- **More people eligible:** everyone who is unable to work due to pandemic; contract workers, gig workers, freelancers, independent contractors, the self-employed, and those with limited work history, the partially employed, etc.
- **California State Benefits** (not CARES)
  - **New call center to handle surge in unemployment insurance claims**
    - Starting 4/20/20, 8am-8pm, everyday
    - One stop shop to apply for both state UI & fed. PUA benefits
    - [https://www.edd.ca.gov/unemployment/filing\\_a\\_claim.htm](https://www.edd.ca.gov/unemployment/filing_a_claim.htm)
  - **Waivers & Waiting Times**
    - Federal portion of UI (PUA) will be issued w/in 24-48 hours (compared to the regular 21 days for UI claims)
    - 7-day waiting period for state claims is waived for claims made since 1/19/20
    - Work search waived (you don't have to look for work each week)
    - Notice of Reduced earnings (DE2063) for partially employed is waived
  - **Unemployment benefits for undocumented immigrants**
    - one-time cash benefit of \$500/adult, capped at \$1,000/household
    - applications available in May
    - Immigrant resource guide:<https://covid19.ca.gov/guide-immigrant-californians/>
  - **More Info:** <https://www.gov.ca.gov/2020/04/15/governor-newsom-announces-new-initiatives-to-support-california-workers-impacted-by-covid-19/>
- To Apply or find information specific to each state:  
<https://www.dol.gov/coronavirus/unemployment-insurance>

## **EXTENSION OF TIME TO FILE TAX RETURNS**

- Normal April 15 deadline is extended until July 15, 2020.
- NOTE: If your CARES cash payment is dependent on your filing your tax return this year, then the sooner you file, the sooner you get paid.

## **STUDENT LOAN BENEFITS**

- **Employer contributed repayment:** Employers can provide up to \$5,250 in tax-free student loan repayment benefits. That means an employer could contribute to loan payments and workers wouldn't have to include that money as income.
- **Temporary student loan relief:** All loan and interest payments would be deferred through Sept. 30, 2020 without penalty to the borrower for all federally owned student loans. Contact your student loan provider to confirm this.
- **Work-study funds:** It allows schools to turn unused work-study funds into supplemental grants and continue paying work-study wages while schools are suspended.
- **Students who are forced to drop out:** Students who drop out of school as a result of the coronavirus will not have that time away from school deducted from their lifetime limits on subsidized loan and Pell Grant eligibility. Those students would also not be asked to pay back any grants or other aid they've already received.

## **INSURANCE COVERAGE**

- All private insurance plans are required to cover COVID19 treatments, vaccines, and provide free coronavirus tests.
- Under the FFCRA there was also benefits regarding Coronavirus Testing: The FFCRA provides free testing for all Americans for COVID-19, regardless of insurance status or ability to pay. Private and public insurers (Medicare, Medicaid, CHIP, and other federal health programs) must cover COVID-19 diagnostic testing, including the cost of a provider, urgent care center, and emergency room visits.

## **RETIREMENT ACCOUNT EARLY WITHDRAWAL PENALTY WAIVER**

- Normally, if you withdraw funds from a retirement account early, you are subject to a 10% tax penalty. That penalty is waived for early withdrawals of up to \$100,000 from certain retirement accounts.

## **INCREASED TAX BENEFITS FOR CHARITABLE DONATIONS**

- The 50% of Adjusted Gross Income (AGI) limit is suspended for 2020.
- Allowance of partial above the line deduction for charitable contributions up to \$300 of cash contributions, whether taxpayer itemizes deductions or not.

## **FEDERAL PRISONS**

- Free phone and video calls in federal prisons

## **INCREASED PAID LEAVE BENEFITS**

- Under FFCRA, not CARES, but included for reference
- From 4/1/20 -12/31/20, if covid19 related
- For employers with less than 500 employees & government employers
- Some exclusions & salary caps (does not apply to businesses <50 employees)
- More Infor: <https://www.dol.gov/agencies/whd/fmla/employee-guide>
  
- **2 weeks Paid Emergency Sick Leave**
  - All employees immediately eligible
    - Regardless of accrued sick leave
    - Do not have to exhaust sick leave
  - Paid
    - at the employee's regular rate: if you are sick/quarantined
    - at 2/3 employee's regular rate (up to \$200/day)
      - to care for a family member for reasons related to covid19, or
      - to care for a child whose school/childcare closed due to the coronavirus
  - Should make written request to employer
  
- **10 weeks Paid Emergency Family and Medical Leave**
  - Purpose: need to care for a child because school/childcare closed due to coronavirus.
  - Must first use 2 weeks of Paid Emergency Sick Leave
  - Paid: 2/3 of usual pay, up to \$200 per day, up to \$10,000 total
  - Job protection (some exceptions)
  - Eligibility: employed for at least 30 days, and
  - First 10 days not paid (Sometimes it's referred to as 12 weeks paid, but because the first 10 business days are not paid, it's really 10 weeks paid leave, after a 2 week waiting period.)

## **AID FOR SMALL BUSINESSES**

**FUNDING ISSUES:** As of the revision date of this manual, the government is out of money for the small business forgivable loan, the Paycheck Protection Program. We are hopeful that the government will eventually refund this program, using the same scheme.

### **THE CARES ACT PROVIDES THE FOLLOWING AID FOR SMALL BUSINESSES:**

- PAYCHECK PROTECTION PROGRAM (PPP) (the “forgivable loan”)
- Economic Injury Disaster Loans (EIDL)
- SBA Express Loans
- Relief for Existing Loans
- Emergency Grants
- Increased tax benefits for Charitable Donations
- Payroll Tax Deferral
- Employee Retention Credits

**SIDE BY SIDE COMPARISON OF LOANS:** <https://www.councilofnonprofits.org/trends-policy-issues/loans-available-nonprofits-the-cares-act-public-law-116-132>

### **WHAT IS CONSIDERED A “SMALL BUSINESS”?**

- Companies with 500 or fewer employees; or
- Some other companies that meet SBA criteria. See: [www.sba.gov/size](http://www.sba.gov/size)

### **THE PAYROLL PROTECTION PROGRAM (PPP)** (“The Forgivable Loan”)

- **WHAT IT IS**
  - A forgivable loan program for small businesses to pay their employees during the crisis. The loan will be forgiven if: the loan proceeds are used to cover payroll costs, mortgage interest, rent, and utility costs over the 8-week period after the loan is made; and employee and compensation levels are maintained.
  - The loans are made by lenders certified by the SBA, guaranteed by the federal government, and administered by SBA as 7(a) loans.
- **WHERE TO APPLY ONLINE:**  
<https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Application-3-30-2020-v3.pdf>
- **WHEN TO APPLY**
  - April 3, 2020 – June 30, 2020: small businesses and sole proprietorships.
  - April 10, 2020 – June 30, 2020: independent contractors & the self-employed.
  - As soon as possible, once applications are accepted again.

- **AVAILABLE FOR THE FOLLOWING** (if impacted by Covid19)
  - Small businesses
  - Self-employed, sole proprietors, & independent contractors
  - Qualifying nonprofits: 501(c)3 organizations, Veterans groups, Tribal organizations, 500 or fewer employees
  - Some Formerly Incarcerated Business Owners
  
- **HOW CAN PEOPLE WITH CONVICTION HISTORIES RECEIVE SMALL BUSINESS ASSISTANCE?**
  - Businesses are only **ineligible** if the following applies to someone who owns 20% or more of the business:
    - **Presently:** incarcerated, on probation, on parole; subject to pending charges;
    - **Within the last 5 years:** was convicted; pleaded guilty; pleaded nolo contendere; been placed on pretrial diversion; or been placed on any form of parole or probation (including probation before judgment).
    - (Compared to: Normally the standard is that a business with an associate who is incarcerated, on probation, on parole, or has been indicted for a felony or a crime of moral turpitude, are ineligible for SBA loans)
  - Note: The limitation is on "owning" 20% or more of the equity. The language does not say own or control. It is not certain whether the board of nonprofits are subject to this 20% limitation.
  
- **TERMS**
  - Up to \$10M through 12/31/20
  - Interest maximum 4%
  - Zero fees & repayment penalties.
    - (SBA will establish application fees caps for lenders that charge.)
  - No collateral or personal guarantee requirements
  - Eligible for loan forgiveness if criteria met, otherwise up to 10-year repayment with 6-12 months deferral on principal and interest.
  - Payroll formula determines loan amount.
  
- **CALCULATING HOW MUCH YOU CAN BORROW**
  - **2.5 Times Monthly Payroll:**
    - 250% of average monthly payroll for one-year period before the loan is made
    - Seasonal employers' average payroll for 2/15/19-6/30/19
    - If new business (less than 1 year old), calculate 250% of average monthly payroll costs between 1/1/20-2/29/20

- **Payroll calculation**
  - **Costs eligible to be included in payroll calculation**
    - Compensation for: salary, wages for independent contractors, commission/similar compensation, payment of cash tips/equivalent.
    - Costs for: vacation, parental, family, medical, or sick leave; dismissal or separation; group health benefits, including insurance premiums; payment of any retirement benefits.
    - State or local tax payments, if based on employee compensation.
  - **Costs not eligible to be included in payroll calculation**
    - Employee compensation over \$100,000.
    - Employee compensation for employees whose principal place of residence is outside the US.
    - Taxes imposed/withheld under chapters 21, 22, and 24 of IRS code.
    - Qualified sick and family leave for which a credit is allowed under sections 7001 and 7003 of the Families First Coronavirus Response Act.
  
- **ALLOWABLE USES FOR LOAN PROCEEDS**
  - **NOTE: IF THE FUNDS ARE USED FOR OTHER PURPOSES, THEN THE ORGANIZATION WILL NOT QUALIFY FOR FORGIVENESS.**
    - Original Rules
    - Eligible Payroll costs (as explained above).
    - Costs related to the continuation of group health benefits during periods of paid sick, medical, or family leave, and insurance premiums.
    - Employee salaries, commissions, or similar compensations (see exclusions above).
    - Payments of interest on mortgages (not payment of principal on a mortgage).
    - Rent (including rent under a lease).
    - Utilities (electric, gas, water, transportation, telephone and internet access).
    - Utilities, rent and mortgages (only for obligations existing before 2/15/20).
    - Interest on any other debt obligations incurred before the covered period.
  
  - **UPDATE:** In early June 2020, legislation was passed making changes to the PPP (forgivable loans) for small businesses, called the H.R.7010 - Paycheck Protection Program Flexibility Act of 2020. Basically, small businesses who receive these loans will be able to use the funds for more purposes and still qualify for loan forgiveness. These expanded purposes include:



- Originally: Qualifying businesses could put the loan proceeds towards 8 weeks of qualifying expenses.
  - Change: Costs incurred over a 24 week period are eligible for loan forgiveness.
- Originally: Businesses were required to use 75% of the funds for payroll expenses
  - Change: they only have to use 60% for payroll
- Originally: borrowers had until June 30, 2020 to restore their workforce levels and wages to the pre-pandemic levels required for full forgiveness.
  - Change: borrowers now have until December 31, 2020.
- Originally: two year repayment plan
  - Change: 5 year repayment plan, if lender agrees. Interest remains at 1%.
- Originally: borrowers could not delay payment of payroll taxes
  - Change: borrowers can delay payment of payroll taxes
- The legislation includes two new exceptions allowing borrowers to achieve full PPP loan forgiveness even if they don't fully restore their workforce. Previous guidance already allowed borrowers to exclude from those calculations employees who turned down good faith offers to be rehired at the same hours and wages as before the pandemic. The new bill allows borrowers to adjust because they could not find qualified employees or were unable to restore business operations to Feb. 15, 2020, levels due to COVID-19 related operating restrictions.

○ **HOW TO GET THE LOAN FORGIVEN**

▪ **USE THE LOAN ONLY FOR ALLOWABLE PURPOSES**

▪ **MAINTAIN YOUR EMPLOYEES AND WAGES**

- not counting compensation over \$100,000

▪ **APPLY FOR FORGIVENESS THROUGH YOUR LENDER**

- Include documentation showing:
  - the number of employees on payroll and their pay rates;
  - IRS payroll tax filings;
  - state income, payroll and unemployment insurance filings;
  - documentation verifying payments on covered mortgage obligations;
  - lease obligations, and utilities;
  - Certification from the organization certifying that:
    - the documentation provided is true, and
    - the amount of forgiveness requested was used for the permissible purposed and is in accordance with the program's guidelines for use.

- **CALCUALTING HOW MUCH IS FORGIVEN**
  - Payroll costs incurred during the covered 8-week period. Includes:
    - payroll costs
    - payment on interest of covered mortgage obligations (not principal)
    - payment on covered rent obligations
    - covered utility payments
  - Proportionate to maintaining qualifying employees and wages.
  - What can reduce how if/how much your loan can be forgiven:
    - if you decrease your full-time employee headcount;
    - if you decrease salaries and wages by more than 25% for any employee that made less than \$100,000;
    - Re-Hiring: You have until June 30, 2020 to restore your full-time employment and salary levels for any changes made between February 15, 2020 and April 26, 2020 to still qualify for forgiveness.

## **OTHER AID FOR SMALL BUSINESSES UNDER THE CARES ACT**

### **ECONOMIC INJURY DISASTER LOANS (EIDL)**

- **Terms:** Up to \$2M, 30 year terms. Interest rate: 3.75% for small business; 2.5% for nonprofits.
- **Requirements:** Organizations: (1) with a "substantial economic injury" caused by the pandemic; and (2) located in a declared disaster area.
- **Allowed uses for funds:**
  - allows use for working capital to pay fixed debts, payroll, accounts payable, and other bills that could have been paid had the disaster not occurred;
  - cannot be used to replace lost sales or profits;
  - cannot be used for expansion;
  - business can receive both PPP loans and EIDL – so long as both loans are not used for the same purpose or otherwise duplicative
- **Nonprofits:** eligible, but collateral requirements may be an issue depending on existing debt. Religious and some charitable organizations may be exempted.

### **SBA EXPRESS LOANS**

- Loans up to \$1M processed on expedited basis.
- Nonprofits: Credit decisions made by SBA lenders; may require collateral.

### **RELIEF FOR EXISTING LOANS**

Small business with existing SBA loans may qualify for 6 months of forgiveness.

### **EMERGENCY GRANTS**

Grants of up to \$10,000 are available to provide emergency funds for small businesses to cover immediate operating costs.

### **INCREASED TAX BENEFITS FOR CHARITABLE DONATIONS**

The limits on deductions for charitable donations by both individuals and corporations is increased. (For individuals, the 50% of AGI limit is suspended for 2020. For corporations, the 10% limit is increased to 25% of taxable income.)

### **PAYROLL TAX DEFERRAL**

- **NOTE: If you apply for this, you are not eligible for PPP (forgivable) loans.**
- Employers can defer paying their portion of the social security payroll tax (6.2%) due through December 31, 2020 up to 50% by December 31, 2021 and 50% by 12/31/22.
- No requirement to show any specific COVID19 related impact.

## **EMPLOYEE RETENTION CREDITS**

- Refundable tax credit against employment taxes paid by eligible employers in an amount equal to 50% of the first \$10,000 of "qualified wages" paid to employees.
- **This credit is NOT available to employers that receive a PPP loan.**
- If, during any calendar quarter of 2020, the organization, has either: (1) operations fully or partially suspended due to a governmental order related to COVID19; or (2) a decline in gross receipts of more than 50% compared to same quarter in prior year.
- If more than 100 full time employees: "qualified wages" only covers wages paid to those employees who are not providing services due to a COVID19 related impact described above.
- If 100 or fewer full-time employees: "qualified wages" covers wages paid to all employees of the employer during any applicable quarter in which a COVID19 related impact as described above occurred, including employees who are continuing to provide services to the employer.

## **OTHER BENEFITS OF THE CARES ACT**

### **AID FOR BIG BUSINESS**

#### **THE CARES ACT PROVIDES THE FOLLOWING AID FOR BIG BUSINESSES:**

- **Loans must be repaid**
- **Stock buyback ban:** Any company receiving a loan under the program is barred from making stock buybacks for the term of the loan plus one year.
- **Reporting requirements:** All loans, their terms and any investments or other assistance provided by the government must be publicly disclosed.
- **Funding for the airlines.**
- **Oversight** of loans and other uses of taxpayer dollars.
- **No benefit for Trump:** The president, vice president, members of the Cabinet and members of Congress are barred from benefiting from the money carved out for corporations. That also extends to the "spouse, child, son-in-law or daughter-in-law."
- **Fully refundable tax credit** for businesses of all size, which are closed or distressed to help them keep workers on the payroll.

### **AID FOR PUBLIC HEALTH**

**THE CARES ACT PROVIDES ADDITIONAL FUNDING FOR:** hospitals; community health centers; diagnostics, treatments, vaccines; for FDA to prioritize and expedite approval of new drugs; CDC programs; Veterans' health; expansion of telehealth programs: expanding the Strategic National Stockpile to increase availability of equipment, including ventilators and masks; increasing vital health care jobs during the public health crisis; and developing vaccines, treatments and diagnostics.

### **AID FOR FOOD SECURITY PROGRAMS**

**THE CARES ACT PROVIDES ADDITIONAL FUNDING FOR:** child nutrition; food stamps (SNAP)(the funding will help cover the expected cost of new applications to the program as a result of the coronavirus); federal nutrition programs for American Indian reservations, Puerto Rico, Northern Mariana Islands and American Samoa; and food banks.

### **AID FOR STATE AND LOCAL GOVERNMENTS**

**THE CARES ACT PROVIDES ADDITIONAL FUNDING FOR:** specific COVID19 response efforts; aid for state and local governments running out of cash due to a large number of COVID19 cases; Community Development Block Grants; K-12 schools; higher education; and programs for children and families, including immediate assistance to child care centers.

### **AID FOR EDUCATION AND OTHER PROGRAMS**

**THE CARES ACT PROVIDES ADDITIONAL FUNDING FOR:**

- **Student Loan Benefits** (see page 4 above)
- **Other programs:** such as arts programs, universities and other institutions.

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This manual provides general legal information only. It does not give legal advice. The topics discussed are new and evolving. Please keep yourself updated on the latest information. You can find more information on line, such as at: <https://www.irs.gov/coronavirus>; <https://www.sba.gov/funding-programs/disaster-assistance>; <https://home.treasury.gov/policy-issues/top-priorities/CARES-act/assistance-for-small-businesses>; <https://home.treasury.gov/system/files/136/PPP--Fact-Sheet.pdf>; <https://www.councilofnonprofits.org/nonprofits-and-coronavirus-covid-19>

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