

2020 Federal Coronavirus Aid, Relief and Economic Security Act (CARES Act):

<https://taxfoundation.org/cares-act-senate-coronavirus-bill-economic-relief-plan/>

These packages are intended to help employers cover their staffing costs during this crisis.

The first program is the Paycheck Protection Program. Through this program, you can obtain a loan that can potentially be forgiven (not repaid) if your business meets the qualifications and follows the rules. Don't brush this if you have no employees. It still might apply to you.

Paycheck Protection Program – SBA 7(a) - Small businesses (fewer than 500 employees) can take loans tied to payroll costs and certain other business expenses. The loans can potentially be forgiven if used for payroll, interest payments on mortgages, rent or utilities. Payroll includes up to \$100,000 of payments to partners or even distributions for sole proprietors. So even if you have no employees, you can potentially qualify for this. You also must retain your employees to qualify for the loan forgiveness. These loans are administered by banks. This bank loan needs to come from a SBA participant. Please reach out to your business bank for details. It is possible that your bank does not participate, and you will need use a different bank. If you need one, please contact us for a referral. Another advantage is that the forgiveness of this loan is not considered taxable income. Usually loan forgiveness is taxable.

The second program is the Economic Injury Disaster Loan. The CARES Act allows a company to utilize both the Economic Injury Disaster Loan and the Paycheck Protection Loan as long as you are not using both loans to pay the same costs. For example, you cannot use the Economic Injury Loan to cover payroll if you have already received the Payroll Protection Program.

Economic Injury Disaster Loan - SBA 7(b) – These are long-term low interest loans. There can be an immediate grant payment of up to \$10,000 authorized to be issued to your business to bridge a business while the loan is being approved. If you do get the advance payment, it is forgivable, but it would reduce the amount of forgiveness that you are eligible for the Paycheck Protection loan.

<https://www.pillsburylaw.com/en/news-and-insights/sba-loan-cares-act-covid-19.html>

If you do not feel that either the Paycheck Protection Program or the Economic Injury Disaster Loan are the best options for you, you still may be eligible for payroll tax relief. Two Federal Payroll Tax Credits have been put into place. These Payroll Tax Credits do not apply if you receive the loans detailed above:

1. Employers are eligible for a 50% refundable payroll tax credit (applies only to employer paid social security taxes – 6.2%, not the portion withheld from employees) on wages paid up to \$10,000 during the crisis. Available to employers whose business were disrupted due to virus-related shutdowns and firms experiencing a decrease in gross receipts of 50% or more compared to the same quarter last year. The credit is available

for employees retained but not currently working due to the crisis for firms with more than 100 employees, and for all employee wages for firms with 100 or fewer employees.

2. Employer-side Social Security payroll tax payments may be delayed until 01/01/21 with 50% owed on 12/31/21 and the other half owed on 12/31/22. Please be aware that this only applies to the employer portion of Social Security (6.2%). This does not apply to any taxes withheld from your employees.

Separate from the CARES Act, Federal Section 139 allows employers to make tax-free payments to employees for certain expenses. The payments are tax-free (not made through payroll) for the employees and fully tax-deductible to the employer. The amount is discretionary. Examples of what the payments can be used for are to help an employee cover medical costs, rent/mortgage payments, utilities or increased costs of setting up/maintaining a home office during this time of crisis.

https://www.forbes.com/sites/anthonymitti/2020/03/23/little-known-tax-law-allows-employers-to-make-tax-free-payments-to-employees-to-cover-covid-19-expenses/?utm_source=dlvr.it&utm_medium=twitter&fbclid=IwAR1l6kl3udKCNvJms2BgbfFkF3F2o6bJ1ETIJTw2tpAFY4ddDclQH1CJyg#e286f944cfcc

During the period covered by the act, employer payments of an employee's student loans of \$5,250 for the year are excluded from the taxable income of the employee, and they are deductible by the employer. This cannot be done for children of the employer.

NYC has created an Employee Retention Grant Program (application link below). Because this is sponsored by NYC and not the Federal Government, this can be applied for and received in addition, to the Federal Paycheck Protection Program and Economic Injury Disaster Loan. This grant is available for employers of 1-4 employees.

<https://www1.nyc.gov/nycbusiness/article/nyc-employee-retention-grant-program>

NYS has expanded Sick Leave, Paid Family Care and Disability Benefits (see below).

<https://www.natlawreview.com/article/new-york-governor-enacts-emergency-paid-sick-leave-bill-to-address-coronavirus-us>

- Employers with 10 or fewer employees (as of January 1, 2020) and a net income of less than \$1 million should guide their employees to NYS Paid Family Leave and Disability Insurance.
- Larger employers may be mandated to provide paid sick time.

Net Operating Losses (NOL)

The CARES Act temporarily removes the taxable income limitation to allow a net operating loss (NOL) to fully offset income. Losses from 2018, 2019 or 2020 may be carried back 5 years.

