

COVID-19

Tax Compliance and the CARES Act Planning in the Time of Coronavirus

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Things are changing rapidly. This information is accurate at the time of presentation.

Please note that this webinar and the material contained herein has been prepared for informational purposes only and is not intended to provide, nor should be relied upon for, tax advice. Please consult with a certified tax professional and/or certified lender for advice and recommendations.

FEDERAL & CALIFORNIA



UPDATES

✓ Federal & California Tax Updates

As of 4/9, the IRS extended more tax deadlines. The extensions generally now apply to all taxpayers who have a filing and/or payment deadline falling on or after 4/1/2020 and before 7/15/2020.

- Federal and California income tax filing due date automatically extended from April 15th to July 15th.
- Taxpayers can also defer federal and California income tax payments due on April 15th to July 15th, without penalties and interest, regardless of the amount owed.
 - Estimated tax payments due April 15th and June 15th now automatically extended to July 15th
- This deferment applies to all taxpayers, including individuals, trusts and estates, corporations and other non-corporate tax filers as well as those who pay self-employment tax.
- IRS will temporarily accept scanned digital signatures
- IRS temporarily allowing workers to send and receive documents by email
- Sales Tax
 - 2020 Q1 sales tax not due until July 31st
 - Extension is automatic unless you have a tax liability of \$1M or more.
 - 12-month interest-free payment plan available if you owe <\$50k
- Property tax payments in Santa Clara County were still due April 10th – could not extend deadline but may waive penalties & interest
 - Taxpayers must request waiver
 - San Mateo and San Francisco counties extended due date to May 4th
- Economic Impact Payments

The **Family First Coronavirus Response Act** (FFCRA)

- ✓ EPSLA
- ✓ FMLA+

✓ The Families First Coronavirus Response Act (FFCRA)

The Families First Coronavirus Response Act (FFCRA) went into effect on April 1, 2020, and had two key provision for employers, which expire on December 31, 2020

To help employers pay for the EPSLA and expanded FMLA:

- **Employers may claim a credit against their federal payroll taxes up to the amount paid to full and part time workers.**
- **If the payments to employees exceed the payroll taxes, the employer will receive a refund.**
- **Qualified sick and family leave wages for which a payroll credit is allowed under the FFCRA cannot be counted as wages for the Paycheck Protection Loans.**

✓ Emergency Paid Sick Leave Act (EPSLA)

The Emergency Paid Sick Leave Act (EPSLA), provides for up to 80 hours (\$5,110 per employee maximum) of paid sick leave to private and public sector employees due to specific coronavirus related situations.

The bill identified six instances where the EPSLA applies

1. The employee is subject to a State or local quarantine or isolation order related to COVID-19
2. The employee has been advised by a healthcare provider to self-quarantine due to concerns related to COVID-19
3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis
4. The employee is caring for an individual who is subject to an isolation order or has been advised by a healthcare provider to self-quarantine
5. The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed or is unavailable, due to COVID-19
6. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services. This needs to be further defined.

✓ Extended Family Paid Medical Leave Act (FMLA+)

An expansion of the Family Medical Leave Act (designated FMLA+), provides up to 10 weeks (capped at \$10,000 total) paid leave to care for a child or children because their care facility/school is closed.

✓ Expanded Economic Injury Disaster Loan Program

The background of the slide features a close-up, slightly blurred image of several US dollar bills. The bills are in various denominations, including \$100 and \$20. Overlaid on this background is the large, bold, white text "EIDL".

EIDL



Expanded Economic Injury Disaster Loan Program

- These loans are available between January 31, 2020 and December 31, 2020.
- Apply for these loans directly through the SBA at www.SBA.gov/disaster.
- Businesses are also eligible for a one-time grant of up to \$10,000 (must request at the time of application).
- More businesses will qualify under the new rules; approval requirements have been relaxed and payments can be deferred.
- EIDLs obtained after January 31, 2020 may be refinanced with proceeds of a Paycheck Protection Loan (PPL).
 - The maximum available PPL is increased by the amount of the EIDL, which then becomes subject to all the benefits and conditions of the PPL.
- Terms
 - Loans up to \$2M limit, 30-year max term
 - Interest rate is 3.75% for businesses and 2.75% for nonprofits
 - Automatic one-year deferment on repayment, so the first payment is not due for a full year
- Funds can be used to offset economic losses caused by the COVID-19 pandemic
 - Proceeds must be used for working capital needs such as fixed debt and payroll
- Approval time is 30-45 days
- No fees or prepayment penalties
- Not forgivable



The Paycheck Protection Program.

Paycheck Protection Program (PPP)

The Basics

- Paycheck Protection Loans (PPLs) used to provide working capital to cover primarily payroll and other operating expenses, and refinance certain EIDLs
- First tranche was \$349 billion and was used in less than 2 weeks
- Second tranche is \$310 billion and is running out
- Amount – up to the lesser of A) \$10 million and (b) 2.5 times the average monthly payroll plus (c) any EIDL Loan made between January 31, 2020 and April 3, 2020.
 - Work with your payroll provider to determine your ‘average monthly payroll costs.’
- Businesses can apply for both a PPL and an EIDL providing the proceeds are not used for the same purpose.
- The EIDL \$10,000 advance is excluded from the refi amount
- If a qualified EIDL loan was used to for payroll costs, your PPL must be used to refi those same costs.

Paycheck Protection Program (PPP)

The Terms

- Interest rate is 1%
- Loan term is 2 years
- Payments for the remaining loan amount after forgiveness will be deferred for 6 months.
 - Interest will accrue during that 6-month period.
- Use the loan proceeds for payroll costs, mortgage interest payments, rent, and utilities
 - In calculating payroll, the amount of salary paid to employees should be capped at \$100,000 per employee.
 - Self-employment income of general partners may be reported as a payroll cost, up to \$100,000 annualized, on a PPP application filed by or on behalf of the partnership (and an LLC filing taxes as a partnership).
- At least 75% of the proceeds must be used for payroll costs.

Paycheck Protection Program (PPP)

Eligibility

- **Who is eligible – business with fewer than 500 employees, or those larger than that which meet applicable size standards for the industry(ies) as prescribed by the SBA**
 - includes sole proprietorships, independent contractors, and other self-employed people
 - Includes 501(c)(3) and 501(c)(19) nonprofit organizations and tribal business concerns
 - **Affiliate rule – counts employees for all affiliated (power to control) companies**
 - Sole proprietorships, independent contractors and eligible self-employed individuals (no revenue requirement)

Loan Forgiveness

Paycheck Protection Program (PPP)

- Indebtedness will be forgiven, up to the principal amount of the loan, for payments made during the 8-week period after issuance of the loan for payroll, utilities, rent and mortgage interest.
 - Forgiveness of the non-payroll costs is limited to 25%.
 - i.e., the Feds expect 75% of these funds will be used to maintain company employment levels and payroll costs
 - More details on loan forgiveness to be released.
- The IRS recently released a notice that disallows any deduction for payroll costs, mortgage interest, rent and utility expenses paid for with the proceeds of a PPP Loan if that loan is forgiven.
 - The IRS says this treatment prevents a double tax benefit because PPP Loan forgiveness is not taxable income.
 - Senate Finance Committee Chair Chuck Grassle and Means Committee Chair Richard E. Neal would like to see this changed in the next set of legislation to allow for these items to be deducted.

Paycheck Protection Program (PPP)

Lenders

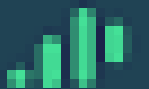
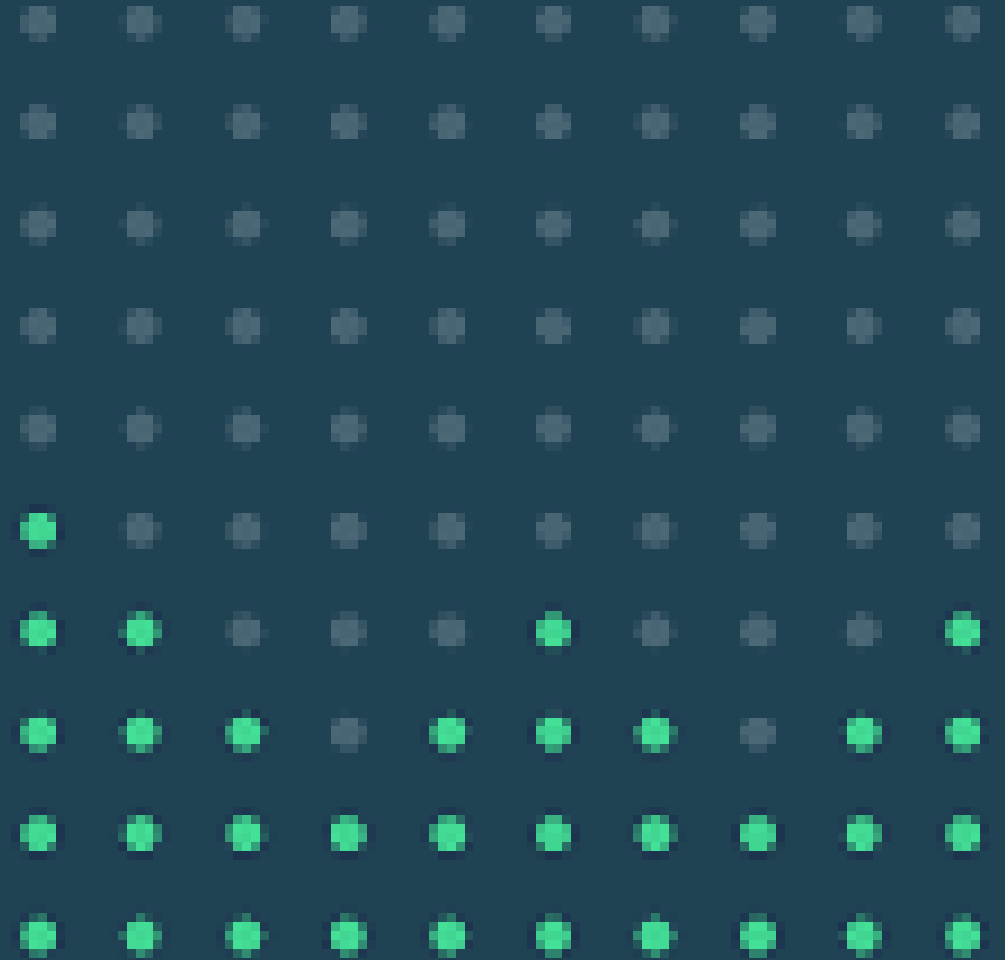
- All existing SBA-certified lenders will be given delegated authority to speedily process PPP loans.
 - Visit <https://www.sba.gov/paycheckprotection/find> to find a nearby lender
- The Treasury Secretary has authority to approve new lenders to make loans under the 7(a) program.
- Contact your bank or lending institution to determine their eligibility and begin the application process.

Paycheck Protection Program (PPP)

Lessons Learned

1. Ask your bank what info they want and how they want it
 - Then DO WHAT THEY SAY
2. The \$100k compensation limitation does not include Health Insurance or Pension contributions
3. If they request a calculation of how the funds are to be used, be sure that 75% is used for payroll
4. There is still uncertainty surrounding the forgiveness calculations and we await guidance
5. IT'S NOT TOO LATE TO APPLY

ADDITIONAL COVID-19 Resources



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Other Economic Resources Available

While these resources were accurate at the time of the presentation, some may have been exhausted or otherwise no longer available. This is meant for information only.

SBA Express Bridge Loan Pilot Program: allows small businesses who currently have a business relationship with an SBA Express Lender to access up to \$25,000 quickly.

SBA Debt Relief Program: As part of coronavirus debt relief efforts, the SBA will pay 6 months of principal, interest, and any associated fees that borrowers owe for all current 7(a), 504, and Microloans in regular servicing status as well as new 7(a), 504, and Microloans disbursed prior to September 27, 2020. This relief is not available for PPP loans or EIDLs. No need for borrowers to apply, this assistance will be automatically

California iBank has **allocated \$50M for loans up to \$50K.**

California iBank has created **the Small Business Disaster Relief Loan Guarantee Program** which has loan options up to \$1M. Eligible Applicants include Small Businesses located in California with 1-750 employees that have been negatively impacted or experienced disruption by COVID-19 and Eligible Nonprofits.

Federal Reserve Main Street Lending Program was created by the Federal Reserve to help businesses during the ongoing COVID-19 crisis. It's a great alternative to the SBA loan programs, many of which are running low on funds and is run by the Federal Reserve.



Other Economic Resources Available

Verizon Small Business Recovery Fund: \$2.5M investment from **Verizon** to the **Local Initiatives Support Corporation (LISC)**, offering grants to help small businesses fill urgent financial gaps until they can resume normal operations or secure permanent funding resource. Priority giving to minority-, women-, and veteran-owned businesses. ***NOTE: Round 3 for applications will open on May 14th. Round 2 is closed.***

COVID-19 Layoff Aversion Fund: The **Workforce Development Board (WDB)** of **Solano County** is issuing grants to help businesses with fewer than 500 employees in the county to avoid layoffs. Applicants must demonstrate a need for layoff aversion support due to the impacts of COVID-19.

Kiva US is offering small business applicants **expanded loan sizes**, now up to \$15,000 with accompanying grace periods between 1 to 6 months.

Intuit QuickBooks is teaming up with **GoFundMe** to create a **Small Business Relief Initiative** to help small businesses raise money to overcome challenges related to COVID-19. Small businesses can now create a fundraiser on the GoFundMe platform where they can share their story with the public and request financial support to help cover business and employee-related expenses.

Google **is donating \$340 million in free ads** to businesses with active Google ad accounts.

EMPLOYEE RETENTION CREDITS





Employee Retention Credits

- The CARES Act includes a 1-year credit against the 6.2% employer portion of Social Security payroll taxes for any employer forced to suspend or close operations due to COVID-19, provided the employer continues to pay employees during the shutdown.
- Businesses that remain open, but for which gross receipts during any quarter in 2020 were less than 50% of what they were for the same quarter in 2019 will be entitled to a credit each quarter until sales reach 80% compared to the prior year's quarter.
- Limitations on taking the Employee Retention Credit include the following:
 - The amount of qualified wages for each employee may not exceed \$10,000 in total.
 - The credit is equal to 50% of qualified wages, so a maximum credit of \$5,000 per employee.
 - The credit is refundable if it exceeds the employer's payroll tax liability.
 - Any wages used to calculate the new payroll tax credit for the expanded Family Medical Leave Act or the Emergency Paid Sick Leave Act, which were part of the recently enacted Families First Coronavirus Relief Act, may not be considered for the employee retention credit.
 - The employee retention credit will not be available to employers who take out a Payroll Protection Loan.





Employee Retention Credits

- **UPDATE** – Early response to this credit was that employers would have to wait to file payroll tax returns to get credit.
 - **LAW AMENDED**
 - All credits outlined here will offset not only the employer's share of SS taxes on payroll tax returns, but also federal income tax withholding and the full amount of the employer's share of payroll taxes, and
 - Employer will receive an immediate benefit equal to the anticipated credits by reducing the amount of the required payroll tax deposit by the computed credit
- **Deferred Payment of Employer Payroll Tax and Self-Employment Tax**
 - The "employer's share" of the 6.2% Social Security tax that would otherwise be due from March 27, 2020 to December 31, 2020, may be paid 50% on December 31, 2021, with the other 50% due on December 31, 2022.
 - This deferral is not available to an employer or self-employed individual who receives a payroll protection loan that is ultimately forgiven.



NET OPERATING LOSSES (NOL)

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Net Operating Losses

- The Tax Cuts and Jobs Act of 2017 (TCJA) eliminated the ability for taxpayers to carry back net operating losses (NOLs) and limited carry forwards to 80% of taxable income.
- The CARES Act allows 2018, 2019, and 2020 NOLs to be carried back up to 5 years.
- Alternatively, taxpayers may carry the NOLs forward to 2019 and 2020 without the 80% income limitation.



QUALIFIED IMPROVEMENT PROPERTY

✓ Qualified Improvement Property

- The CARES Act makes technical corrections to the TCJA with respect to qualified improvement property, making it 15-year property instead of 39-year property
- This makes it available for 100% bonus depreciation.
- The change is retroactive to January 1, 2018, so taxpayers may be able to file amended returns to claim a refund.

Changes to the Interest Expense Deduction Limitation Rules





Business Interest Expense Deduction Increased

- The TCJA limited business interest expense deductions to 30% of 'adjusted taxable income,' and allowed any excess to be carried forward to subsequent tax years.
 - The CARES Act increased that limit to 50% of adjusted taxable income for 2019 and 2020.
- To help 'even out' business income in 2019 with probable business losses in 2020, businesses can use 2019 income to calculate their 2020 interest expense deduction, generating an NOL and taking advantage of the less restrictive NOL rules under the CARES Act.
- Rules are different for partnerships.
 - Limitations are at the partner level.

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THANK YOU

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