Nonprofits and coronavirus relief

Cheat sheet

***Please note that an organization cannot get both EIDL and PPP loans at the same time.  You can apply for the EIDL loan now and the PPP loan starting on April 3rd.  If you qualify and accept the EIDL loan, and you subsequently qualify for the PPP loan, you can re-finance the EIDL loan with the PPP loan, OR you can apply for both loans and decide which one you take if you qualify for both.  Loans are limited to one per Taxpayer Identification Number.***

1. **Paycheck Protection Program** – Please refer to the attached PPP Borrower Information Fact Sheet published by the [U.S. Department of Treasury](https://home.treasury.gov/policy-issues/top-priorities/cares-act/assistance-for-small-businesses) on March 31, 2020, for all pertinent details with respect to this loan program, including eligibility, terms, approved uses, etc.
	1. **What is it?** Loans to small businesses, 501(c)(3) and 501(c)(19) tax-exempt organizations with up to 500 employees. Congress has appropriated $349 billion for the Program as part of the CARES Act. These low-interest Small Business Administration (SBA) loans can be for up to two months of your average monthly payroll costs from the last year plus an additional 25% of that amount. That amount is subject to a $10 million cap. These loans may be forgiven entirely if the borrower follows all guidelines outlined by the SBA related to use of funds and staffing/payroll levels over the eight weeks after getting the loan.
	2. **What actions can you take now?**
		1. Start gathering the documentation that may be needed to apply for a PPP loan. Applications are open starting April 3, 2020.

			1. Organizational documents such as charter, certificate of formation, bylaws, and operating agreements
			2. W-9s
			3. Copies of drivers’ licenses for controlling owners
			4. Bookkeeping general ledger report on all entries that relate to payroll. This includes Salaries, Wages, Commissions, Vacation Pay, Parental Leave, Family Leave, Sick Leave, Allowance for Dismissal/Separation (Severance Agreement), Group Health Care Payments/Premiums, Retirement Benefits, State & Local Tax assessed on Compensation
			5. Recent IRS payroll tax filings (which includes number of employees)
			6. Invoices for utilities and/or mortgage/rent
			7. Reports detailing the trailing 12-month compensation for each employee
		2. Businesses with existing loans should also consider whether consent is needed from your existing lender in order to incur this additional debt and begin to go ahead and socialize any requests with your lender now.
		3. Figure out how much of that maximum you will spend on allowable costs (including making payroll and paying rent) within eight weeks of receiving the loan (that’s the amount that can be forgiven). If you’ll use it all, consider requesting the maximum amount. Remember, if you borrow more than you end up spending on Permitted Uses in eight weeks, you can, without prepayment penalties, repay the outstanding/unforgiven balance.
		4. Begin preparing to incorporate a system to document how you use the loan proceeds to ensure you can get the loan forgiven. This could include:

			1. Documentation verifying the number of FTE employees on payroll and pay rates for the applicable periods, including payroll tax filings; and state income, payroll, and unemployment insurance filings; and
			2. Documentation verifying payments on mortgage obligations, lease obligations and utilities, including canceled checks, payment receipts, transcripts of accounts, or other documents.

1. **Economic Injury Disaster Loans (EIDLs)**
	1. **What is it?** On top of the new Paycheck Protection Program, the CARES Act expanded the existing disaster lending program maintained by the SBA. Loans of up to $2 million with interest set at 2.75% for nonprofits (and grants of a quick $10,000).
	2. **Who is eligible?** Eligible entities include Employee Stock Ownership Plans (ESOPs) and, for 2020 only, small agricultural cooperatives and “private nonprofit organizations.” “Private nonprofit organizations” are not limited to 501(c)(3) tax-exempt organizations. They include 501 (c) trade associations, advocacy organizations, unions and social clubs. Remember, these organizations are excluded to participate in the Paycheck Protection Program. The CARES Act removed standard EIDL Program requirements that the borrower not be able to secure credit elsewhere or that the borrower have been in business for at least one year, as long as it was in operation on January 31, 2020.
	3. **What is the loan amount available?** The maximum loan amount is $2 million. Maximum term loan is up to 30 years and interest is set at 2.75% for nonprofits (and grants of a quick $10,000). Payments of principal and interest may be deferred for up to four years. The SBA will place a UCC lien against the assets of the business as collateral for the loan. EIDLs do not require personal guarantees for advances of loans of less than $200,000.
	4. **What can the loan be used for?** The loan proceeds may only be used for expenses that could have been met had the disaster not occurred, such as payroll and other operating expenses (accounts payable, fixed debts, and other bills due to the virus).
	5. **What is the deal with loan forgiveness?** EIDLs are not eligible for loan forgiveness and must be repaid according to the terms of the loan.
	6. **What about the $10k grants?**
		1. An EIDL applicant may request that up to $10,000 of the amount it has applied for be given as a grant, which the SBA is required to pay within three days after the SBA receives the EIDL application provided that the applicant certifies, under the penalty of perjury, that it is an eligible entity.
		2. The funds can be used for any allowable purpose, including but not limited to, (1) providing sick leave to employees unable to work due to the direct effects of COVID-19; (2) maintaining payroll to retain employees during business disruptions or substantial slowdowns; (3) meeting increased costs to obtain materials due to interrupted supply chains; (4) making rent or mortgage payments; (5) and repaying other obligations that cannot be met.
		3. The grant does not have to be repaid even if the EIDL application is denied.
	7. **What actions can you take now?** Eligible nonprofit entities may apply for a EIDL at a local [SBA District Office](https://www.sba.gov/local-assistance/find/?type=SBA%20District%20Office&pageNumber=1) or online at <https://disasterloan.sba.gov/ela/>. Alternatively, call SBA disaster assistance customer service center at 1-800-659-2955 or email disastercustomerservice@sba.gov. Supporting documentation could include the business' most recent tax returns, a personal financial statement, and/or a schedule of liabilities that lists all of your current debts.

1. **Reimbursements for "Reimbursable Employees"**
	1. **What is it?** Nonprofits and government entities have the ability to either be a reimbursable employer (i.e., reimburse a state for unemployment benefits paid to a former employee) or, like most, pay into a state unemployment trust fund. It is uncommon for nonprofits to choose to be a reimbursable employer and the vast majority elect the certainty of paying a set amount into the state unemployment trust fund and knowing that this is the extent of their unemployment tax liability (rather than the uncertainty of reimbursing the state an undetermined amount later for amounts paid to a former employee by the state unemployment insurance trust fund). The CARES Act provides that nonprofits that have chosen to be reimbursable employers may be reimbursed for one-half of the amounts paid into a state unemployment trust fund between March 13, 2020, and December 31, 2020.
2. **Employee Retention Payroll Tax Credit**

	1. **What is it?** Part of the CARES Act, it is a credit against an employer’s portion of payroll tax for an eligible business that is forced to suspend or close operations due to COVID-19, or otherwise has a significant revenue decrease, and continues to pay its employees while not currently working.
	2. **Who is eligible?** The act applies to wages paid from March 13, 2020, through December 31, 2020, and is available to qualified employers, which are employers who carried on a trade or business during 2020 and 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% compared to the same quarter in the prior year. The organization cannot have received a Payroll Protection Program loan.
	3. **What is the credit amount available?** The amount of the tax credit is equal to 50% of the first $10,000 in qualified wages (including health benefits) paid to each employee, up to a maximum tax credit of $5,000 per employee.  For eligible employers with more than 100 employees, those are wages paid to an employee even though the employee is unable to work due to a full or partial suspension of operations due to a governmental “stay at home” or other order. For eligible employers with 100 or fewer employees, “qualified wages” include all wages paid whether the employer is open for business or subject to a shutdown order. Qualified wages do not include sick leave wages or family leave wages paid pursuant to the Families First Coronavirus Response Act.

1. **Tax Credits for Paid Sick Leave and Paid FMLA Benefits**
	1. **What is it? Organizations are able to seek reimbursement through tax credits to help afford the new paid sick leave and paid Family and Medical Leave Act (FMLA) benefits outlined in the Families First Coronavirus Response Act. Employers receive 100% reimbursement for paid leave pursuant to the Act; health insurance costs are also included in the credit and employers face no payroll tax liability. Reimbursement will be quick and easy to obtain – an immediate dollar-for-dollar tax offset against payroll taxes will be provided, and where a refund is owed, the IRS will send the refund as quickly as possible. For more information, visit** <https://www.irs.gov/coronavirus>.
	2. **Please note: Organizations with fewer than 50 employees are eligible for exemptions from the requirements to provide leave to care for a child whose school is closed, or child care is unavailable in cases where the viability of the business is threatened.**
2. **Charitable Giving Incentives**
* For tax years beginning in 2020, a $300 above-the-line charitable deduction is available for charitable gifts of cash made to a qualifying charitable organization. Note this deduction is not available for those who itemize deductions and is not available for gifts to a private foundation or a donor advised fund.
* For cash gifts to qualifying charitable organizations in calendar year 2020, the 60% deduction limit on cash contributions has been suspended (donors could receive a dollar for dollar deduction). Note this 100% deduction is not available for cash gifts to a private foundation or a donor advised fund.
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2. **For cash gifts to qualifying charitable organizations in calendar year 2020, the 60% deduction limit on cash contributions has been suspended (donors could receive a dollar for dollar deduction). Note this 100% deduction is not available for cash gifts to a private foundation or a donor advised fund.**
3. **Industry Stabilization Fund**
	1. **What is it?** The CARES Act creates a $500 billion Industry Stabilization Fund (the Fund), $454 billion of which has been allocated to “nonprofit organizations” and businesses (other than airlines, air cargo companies, and national security businesses) that have between 500 and 10,000 employees (deemed “mid-sized businesses”). The Treasury Department and the Federal Reserve will implement a special Federal Reserve facility that provides financing to the banks and other lenders that will make these loans. Loans will be subject to annualized interest rates of no more than 2% and no principal or interest payments are due for at least the first six months after the loan is made.

**Please note:** Neither UBS Financial Services Inc. nor any of its employees provide tax or legal advice. You should consult with your personal tax or legal advisor regarding your personal circumstances.

**Sources:**

* [U.S. Small Business Administration](https://www.sba.gov/local-assistance/find/?type=SBA%20District%20Office&pageNumber=1) website
* Waller, [How to apply for a SBA Paycheck Protection Program](https://www.wallerlaw.com/news-insights/3543/How-to-apply-for-a-SBA-Paycheck-Protection-Program-loan?utm_source=hs_email&utm_medium=email&utm_content=85537889&_hsenc=p2ANqtz-_3DZCTnZ2BfD-tsA6Ly0_e8NNN79q90-6UvfABzsw-kz7lXCyYBV5eAqP6eb5igH-1kw6M9VRiIFfpYZxM8UDSVV2-bw&_hsmi=85537889)
* Seyfarth Shaw LLP, [Nonprofit Guide to CARES Act](https://www.lexology.com/library/detail.aspx?g=a02c2a36-1975-4e69-98ec-66f5b0b37aaa)
* Venable LLP, [CARES Act Provides Financial Relief for Nonprofit Organizations](https://www.venable.com/insights/publications/2020/03/cares-act-provides-financial-relief-for-nonprofit)
* Krost CPAs, [The Economic Injury Disaster Loan (EIDL) Program vs The Paycheck Protection Program (PPP)](https://www.krostcpas.com/news/the-economic-injury-disaster-loan-eidl-program-vs-the-paycheck-protection-program-ppp)
* US Chamber of Commerce, [Families First Coronavirus Response Act: What Businesses Need to Know](https://www.uschamber.com/co/start/strategy/families-first-coronavirus-response-act-guide)
* US Chamber of Commerce, [How to get an SBA Coronavirus Emergency Payroll Protection Loan](https://www.uschamber.com/co/run/business-financing/coronavirus-emergency-loans)
* [IRS Coronavirus Tax Relief](https://www.irs.gov/coronavirus) website
* The Nonprofit Times, [7 Ways CARES Act Financially Supports Nonprofits](https://www.thenonprofittimes.com/npt_articles/7-ways-cares-act-financially-supports-nonprofits/)
* Independent Sector, [Families First Coronavirus Act Summary for Nonprofits](https://independentsector.org/resource/families-first-coronavirus-response-act-summary-for-nonprofits/)