



Coronavirus Aid, Relief and Economic Security *(CARES) Act FAQs*



Read our answers to *the questions we're hearing the most.*

8020 Consulting's team has put together this document to answer frequently asked questions about the CARES Act. We hope this document is insightful and helps you in this unprecedented time.

If your business has been impacted by the current pandemic, and you'd like to leverage the skills of our 90+ Los Angeles-based consultants, *we can help.*

Paycheck Protection Program (PPP)

Loan Characteristics

What is the PPP?

The Paycheck Protection Program (PPP) allows small businesses to borrow up to \$10 million, with the potential for a substantial portion of the loan to be forgiven based on certain requirements being met. With loan forgiveness, these proceeds are essentially turned into a grant from the U.S. government. [\[Small Business Association \(SBA\) PPP\]](#)

When can I apply for the loan?

- Applications open April 3, 2020 for small businesses and sole proprietorships.
- Applications open April 10, 2020 for independent contractors and self-employed individuals.
- The program runs until June 30, 2020 or the \$359 billion appropriated is exhausted.

[\[PPP Fact Sheet, p. 1-2\]](#)

How much can I borrow?

Companies can borrow either:

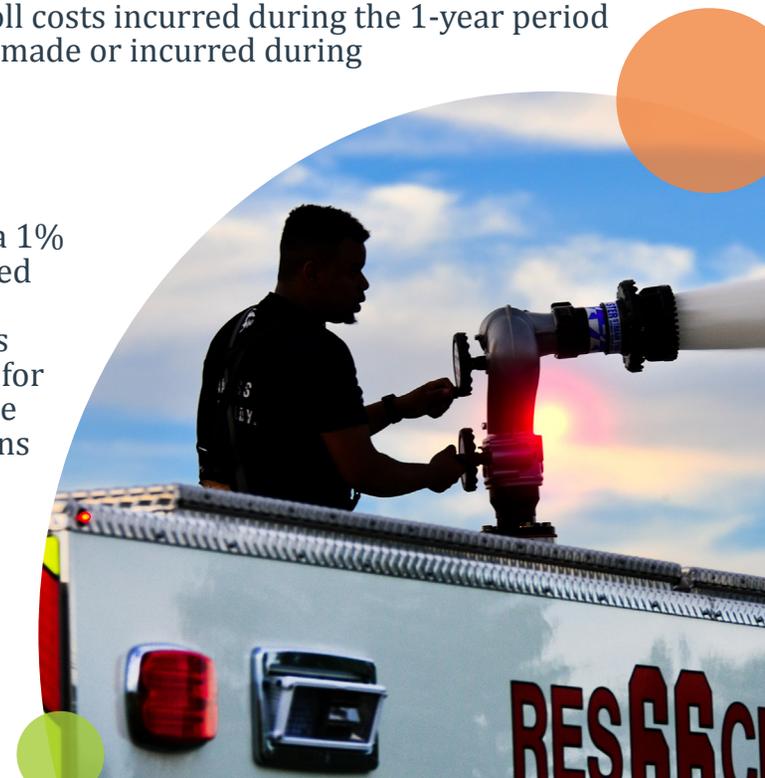
1. 2.5 times the average monthly payroll costs incurred during the 1-year period before the date on which the loan is made or incurred during calendar year 2019 OR
2. a maximum of \$10 million.

[\[CARES Act § 1102 \(a\)\(E\)\]](#)

What are the PPP loan terms?

The loan has a maturity of 2 years and a 1% interest rate. Loan payments are deferred for the first 6 months. Interest accrues immediately but can be waived if loan is forgiven. There are no penalties or fees for prepayment, no origination fees, and the loan may be forgiven if certain conditions are met. [\[PPP Fact Sheet, p. 3\]](#)

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Paycheck Protection Program (PPP)

Loan Characteristics (cont'd)

What can I use the loan for?

Proceeds can be used for payroll expenses, rent, mortgage interest, utilities, and interest on any other existing debt obligations. [[CARES Act § 1102 \(F\)\(i\)](#)]

Can I apply for PPP if we have an existing EIDL loan?

Yes, but the Economic Injury and Disaster Loan (EIDL) is not forgivable and has a higher interest rate. An existing EIDL loan will be refinanced into the PPP loan if it was funded between January 31, 2020 – April 3, 2020.

If you accept the EIDL loan, and you subsequently qualify for the PPP loan, you can re-finance the EIDL loan with the PPP loan. However, you cannot apply for an EIDL and PPP loan at the same time, for the same purpose (e.g., it is acceptable to use the PPP loan for payroll, while the EIDL loan can be used for other expenses). [[SBA Guidance - PPP Interim Final Rule § 2.r.vii](#)]

Application

How do I qualify?

1. Small businesses with less than 500 or less full-time, part-time or hourly employees OR
2. Businesses in certain industries may have more than 500 employees if they meet the Small Business Association (SBA) size standards for those industries found here: [[Code of Federal Regulations CFR § 121.201](#)]

What if my company exceeds 500 employees and the SBA size standards?

Any business with a North American Industry Classification System (NAICS) Code that begins with 72 (Accommodations and Food Services), that has more than one physical location, and employs less than 500 per location is still eligible. [[Small Business Association \(SBA\) PPP](#)]

How can I apply for the loan?

The SBA is administrating the loan, but loans must be applied for directly with SBA certified lenders or through any federally insured depository institution, federally insured credit union, and Farm Credit System institution that is participating. [[Fact Sheet, p. 1-2](#)]

Paycheck Protection Program (PPP)

Application (cont'd)

What documentation do I need to apply for the loan?

1. Loan application
2. Payroll documentation, W-2, 1099-MISC for sole proprietors/independent contractors
3. Quarterly payroll tax filings and any additional third-party payroll documentation
4. List of owners with 20% or more equity

[\[Paycheck Protection Program Borrower Application Form\]](#)

[\[PPP Fact Sheet, p.2\]](#)

Where can I find a list of SBA-approved lenders?

A list of approved lenders can be found here: [SBA Lenders](#).

Based on the Financial Industry Regulatory Authority (FINRA) Rule 2090 “Know Your Customer,” it is recommended that you contact your bank directly. Most banks are not accepting new clients who apply for these loans.

Loan Calculation

Do I include independent contractors in either the headcount or loan value calculation?

No. Independent contractors have the ability to apply for a PPP loan on their own, so they do not count for purposes of a borrower’s PPP loan calculation.

[\[PPP Interim Final Rule § 2.h.\]](#)

What time period should be used to calculate headcount and payroll costs?

For non-seasonal businesses:

1. (1) Payroll costs from the last trailing 12 months OR
2. (2) From calendar year 2019.

[\[Final PPP FAQs 04-08-20 Q.14\]](#)

Paycheck Protection Program (PPP)

Loan Calculation (cont'd)

What if my business is considered seasonal?

Use the headcount and payroll data from:

1. February 15, 2019 through June 30, 2019 OR
2. March 1, 2019 through June 30, 2019.

[\[Final PPP FAQs 04-08-20 Q.14\]](#)

What if I was not in business in 2019?

Use the headcount and payroll data from January 1, 2020 through February 29, 2020.

[\[Final PPP FAQs 04-08-20 Q.14\]](#)

Do we include both domestic and foreign employees in the employee count?

Employees principal place of residence must be the United States. As such, include only domestic employees in the headcount calculation. Furthermore, the company must be domiciled in the U.S. [\[Final PPP FAQs 04-08-20 Q.3\]](#)

What is included in payroll expenses?

The sum of payments of any compensation with respect to U.S. based employees that is a:

1. Salary, wage, commission, or similar compensation
2. Payment of cash tip or equivalent
3. Payment for vacation, parental, family, medical, or sick leave
4. Allowance for dismissal or separation
5. Payment required for the provisions of group health care benefits, including insurance premiums
6. Payment of any retirement benefit and
7. Payment of State or local tax assessed on the compensation of employees.

[\[PPP Interim Final Rule § 2.f\]](#)

Paycheck Protection Program (PPP)

Loan Calculation (cont'd)

- What payroll expenses are not included?** Payroll costs that are excluded:
1. Compensation of an employee whose principal place of residence is outside of the US,
 2. Compensation of an individual employee in excess of an annual salary of \$100,000, prorated as necessary,
 3. Federal employment taxes imposed or withheld between February 15, 2020 and June 30, 2020, and
 4. Qualified sick and family leave wages for which a credit is allowed under sections 7001 and 7003 of the Families First Coronavirus Response Act.
- [\[PPP Interim Final Rule § 2.g\]](#)
- What is the cap on payroll expenses that can be included?** Payroll costs are capped at an annual cash compensation of \$100,000 per employee. [\[PPP Interim Final Rule § 2.g\]](#)
- Does the \$100,000 cap include benefits?** No. The exclusion of compensation in excess of \$100,000 annually applies only to cash compensation, not to non-cash benefits, including:
1. employer contributions to defined-benefit or defined-contribution retirement plans,
 2. payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums, and
 3. payment of state and local taxes assessed on compensation of employees.
- [\[Final PPP FAQs 04-08-20 Q.7\]](#)

Paycheck Protection Program (PPP)

Loan Forgiveness

How can I be granted loan forgiveness?

Loan Forgiveness Requirements:

1. Proceeds are spent within 8 weeks after receipt of the funding and within the period from February 15, 2020 through June 30, 2020
2. Use proceeds for payroll, rent, mortgage interest, or utilities
3. 75% must be spent on payroll expenses
4. You must present payroll processor records and payroll tax filings for lender review

[\[CARES Act § 1106 \(a\)-\(b\)\]](#)

Loan Forgiveness Restrictions:

Two factors impact loan forgiveness amount:

1. Headcount: Maintain or restore the average monthly headcount by June 30, 2020 to the same level as compared to period:
 - a. February 15, 2019 through June 30, 2019 or
 - b. January 1, 2020 through February 29, 2020.

The period is determined by the borrower. If you do not maintain or restore monthly headcount, loan forgiveness will be reduced by the inverse of the retention ratio defined below. [\[CARES Act § 1106 \(d\)\(2\)\]](#)

2. Salary/Wage Reduction: If an employee whose salary or wages are less than \$100,000 annualized is reduced by more than 25%, the amount of loan forgiveness will be reduced by the dollar amount defined below. The comparison periods for the salary or wage reduction is from:
 - a. The covered period of the loan which is 8-week period beginning on the date of the loan origination versus
 - b. The most recent full quarter during which the employee was employed before the covered period. [\[CARES Act § 1106 \(d\)\(3\)\]](#)

Note: Rent, mortgage, and debt agreements must have been in place on February 15, 2020

Paycheck Protection Program (PPP)

Loan Forgiveness (cont'd)

How do I calculate the retention ratio for employees to determine its impact on the loan forgiveness amount?

If you do not maintain or restore employee headcount by June 30, 2020:

- Calculate the average number of full-time equivalent employees (FTEs) for the 8-week period beginning at receipt of loan = numerator
- Calculate the number of FTEs from Feb 15, 2019 through June 30, 2019 or from January 1, 2020 through February 29, 2020 = denominator. The company may elect which period to use.

Divide the numerator by the denominator. The amount of the loan that can be forgiven is equal to the loan amount multiplied by this ratio.

[\[CARES Act § 1106 \(d\)\(2\)\(A\)\]](#)

[\[PPP Fact Sheet, p.3\]](#)

How do I calculate the average number of employees?

The average number of FTEs is determined by calculating the average number of FTEs for each pay period falling within a month. [\[CARES Act § 1106 \(d\)\(2\)\(B\)\]](#)

How do I calculate the loan forgiveness impact if I reduce employees' salaries?

The amount of loan forgiveness is reduced by the amount an employee who earns less than \$100,000 annualized is decreased in excess of 25%. Employees who earn more than \$100,000 are excluded from this calculation. The amount of loan forgiveness is reduced dollar for dollar by the salary reduction in excess of 25% when comparing the "covered period," defined below, to the most recent full quarter during which the employee was employed before the covered period. [\[CARES Act § 1106 \(d\)\(3\)\(A\)\]](#)

What is the loan forgiveness "covered period?"

Regarding loan forgiveness, the "covered period" means the 8-week period beginning on the date of loan origination. [\[CARES Act § 1106 \(a\)\(3\)\]](#)

Paycheck Protection Program (PPP)

Other

Can PE/VC firms apply for this loan?

If it is determined that PE or VC firms are affiliated with other businesses all of those businesses' headcount must be included. With this affiliation rule per the SBA many PE and VC firm's headcount is likely over the 500 employee threshold.

[\[13 C.F.R. § 121.301.f.\]](#)

What does the SBA consider affiliation?

For determining affiliation based on equity ownership, a concern is an affiliate of an individual, concern, or entity that owns or has the power to control more than 50% of the concern's voting equity.

SBA will deem a minority shareholder to be in control, if that individual or entity has the ability, under the concern's charter, by-laws, or shareholder's agreement, to prevent a quorum or otherwise block action by the board of directors or shareholders, or can exert control over the day to day operations of the entity.

[\[13 C.F.R. § 121.301.f.\]](#)

If I am deemed a minority shareholder, can I still apply for the loan?

If you are deemed a minority shareholder and have the ability to prevent a quorum or block action, you must irrevocably waive or relinquish any existing rights in order to not be affiliated with the concern. After there is no affiliation considered, then you are able to apply for the loan.

[Final PPP FAQs 04-08-20 Q.6](#)

If I take advantage of the PPP, can I still obtain the Employee Retention Credit?

No, if an employer receives a PPP loan under the CARES Act then the employer is not eligible for the Employee Retention Credit.

[IRS.gov – Employee Retention Credit](#)

Employee Retention Credit

- What is the employee retention credit?** The act provides a refundable payroll tax credit to eligible employers for 50% of “qualified wages” paid to employees. [\[CARES Act § 2301\]](#)
- What are “qualified wages?”**
1. > 100 full-time employees, wages paid to employees when they are not providing services
 2. < 100 full-time employees, all employee wages qualify for the credit, whether the employer is open for business or subject to a shut-down order
- [\[IRS FAQs EE Retention Credit\]](#)
- How do I qualify?**
- Employers:
1. whose operations are fully or partially suspended due to a COVID-19 order or
 2. who have received 50% less gross receipts from prior year’s quarter qualify for a refundable payroll tax credit.
- [\[IRS FAQs EE Retention Credit\]](#)
- Are there any restrictions?** This credit is not available to Companies who receive a Paycheck Protection Program loan. [\[IRS.gov – Employee Retention Credit\]](#)
- How much is the credit?** The credit is for Payroll taxes of 50% of the compensation to those employees with qualified wages, up to \$10,000 of total compensation per employee annually. [\[CARES Act § 2301 \(b\)\(1\)\]](#)
- What period does this credit apply?** Beginning the quarter in which the company receives 50% less gross receipts than the prior year’s current quarter and ending following the first calendar quarter for which gross receipts of such employer are greater than 80% of gross receipts for the same calendar quarter in the prior year. [\[CARES Act § 2301 \(b\)\(ii\)\]](#)
- Is the credit refundable?** Yes, the credit is refundable and if in excess of the quarterly tax payment required by the IRS, will be paid by the US government. [\[IRS.gov – Employee Retention Credit\]](#)

Social Security Tax Postponement

What is the social security tax postponement?

Employers are responsible for paying a 6.2% Social Security tax on employee wages, this provision allows for delay of payment—essentially this is an interest free loan. [\[CARES Act § 2302\]](#)

How do I qualify?

All employers and self-employed individuals qualify – except for those who have received a loan under the PPP. [\[CARES Act § 2302 \(a\)\]](#)

What period does this postponement apply?

Social security tax from March 27, 2020 through December 31, 2020 can be postponed over a two-year period with:

- Half due by December 31, 2021
- Half due by December 31, 2022

[\[CARES Act § 2302 \(d\)\(3\)\]](#)

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Net Operating Loss (NOL) Changes

NOL Carryback

What changes did the CARES Act implement for NOL carryback?

NOLs incurred in 2018, 2019 and 2020 can now be carried back five taxable years. [\[CARES Act § 2303 \(b\)\(1\)\(D\)\(i\)\(I\)\]](#)

What changed from last year?

- The 2017 Tax Cut and Jobs Act (TCJA) no longer allowed any carrybacks.
- NOLs arising in 2018, 2019 and 2020 can now be carried back as far as 2013, 2014, and 2015, respectively.

[\[TCJA § 13302 \(b\)\(1\)\(A\)\]](#)

[\[CARES Act § 2303 \(b\)\(1\)\(D\)\(i\)\(I\)\]](#)

What period does this impact?

The CARES Act provides for an elective five-year carryback of net operating losses (NOLs) generated in taxable years beginning after December 31, 2017, and before January 1, 2021. [\[CARES Act § 2303 \(b\)\(1\)\(D\)\(i\)\(I\)\]](#)

NOL Carryforward

What changes did the CARES Act implement for NOL carryforward?

The CARES Act allows the NOL deduction to apply to 100% of taxable income 2018-2020. [\[CARES Act § 2303 \(b\)\(1\)\(D\)\(i\)\(II\)\]](#)

What changed from last year?

The TCJA limited the NOL deduction to 80% of income. [\[TCJA § 13302 \(a\)\(a\)\(2\)\]](#)

What happens after 2020?

After 2020, the NOL deduction returns to 80% of taxable income. [\[CARES Act § 2303 \(a\)\(2\)\(B\)\(ii\)\]](#)

Bring in the *Professionals*

This is a unique opportunity to obtain immediate liquidity for your business at a time when the need state may be acute, under programs that are designed to deliver financing rapidly at highly favorable rates and terms—and in some cases, post loan forgiveness will closely resemble a grant.

8020 can guide you through the process of ensuring the successful continuation of your business operations by securing low-cost funding relief and credits at this opportune moment and implementing tools to support cash management until program relief is received and/or circumstances begin their return to something resembling a normally functioning economy—**now is the time.**



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Learn more
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CARES Act *Finance Consulting*

8020 Consulting can guide you through the process of ensuring the successful continuation of your business operations through our CARES Act-related services. Learn more in our free service sheet:



Coronavirus Aid, Relief
and Economic Security
(CARES) Act



Guidance on how **new legislation** can help your business

On March 27, 2020, the CARES Act was signed into law in order to address the unprecedented public health and economic crisis. This act is the third round of the government's coronavirus economic stabilization legislation and totals \$2 trillion.

If your business has been impacted by the current pandemic, **we can help.**