

Employer Tax Credits and Relief under the Families First Coronavirus and CARES Act

April 6, 2020

Together, the Families First Coronavirus Response Act and the CARES Act (commonly referred to as the Coronavirus stimulus bill) provide a host of tax credits, loan options, and other potential relief for businesses during the COVID-19 crisis. Employers and organizations should quickly consult their financial and tax advisors to better understand what tax credits and relief might be available under the various programs outlined in both new laws. In addition, note that many programs have yet to be fully developed by the Federal Reserve Board and/or the Treasury Department, the entities tasked with most of the CARES Act provisions. Additional options, processes, and procedures are likely to become available in the coming weeks. Included below is summary information—current as of the date above—of certain tax credits and relief available that have a nexus to the employer/employee relationship. Note there are a number of pending Federal Reserve programs (involving bonds and loan issuance) that are or may become available, but are not covered here. Please consult your tax or financial advisor to learn more about the panoply of relief available to your business during the COVID-19 crisis.

	Employers/Organization Eligible for Tax Credit/Relief	Brief Description	Max Amount Available and Coordination	Claims/Application Process	Key Resources
Families First Coronavirus (FFCRA) Paid Leave Tax Credits					
<ul style="list-style-type: none"> Emergency Paid Sick Leave (EPSL) 	Employers, incl. tax-exempt organizations, with < 500 employees that provide (EPSL) under the FFCRA. Governmental employers are required to provide the leave but not eligible for the tax credit.	Dollar for dollar tax credit for wages qualified EPSL wages paid. Includes qualified health plan expenses. Daily and aggregate limit. Credits are available for EPSL provided beginning April 1, 2020, and through December 31, 2020.	Depends on reason for sick leave. Not to exceed an aggregate of \$200 or \$511/day, or an aggregate of \$2000 or \$5,110/employee.	Employer Quarterly Tax Return Form 941 and Form 7200 to request advanced payment.	IRS FFCRA Tax Credit FAQs Form 941 Form 7200
<ul style="list-style-type: none"> Expanded Family Medical Leave (EFMLA) 	Employers, incl. tax-exempt organizations with < 500 employees that provide EFMLA under the FFCRA.	Dollar for dollar tax credit for wages qualified EFMLA wages paid. Includes qualified health plan expenses. Daily and aggregate limit.	Not to exceed \$511/day or not to exceed an aggregate of \$10,000/employee.	Employer Quarterly Tax Return Form 941 and Form 7200 to request advanced payment.	IRS FFCRA Tax Credit FAQs Form 941 Form 7200

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	Governmental employers are required to provide the leave but not eligible for the tax credit.	Credits are available for EFMLA provided beginning April 1, 2020, and through December 31, 2020.			
Employee Retention Tax Credit	Employer of any size that carries on a trade or business during calendar year 2020 that either: (1) fully or partially suspends operation during any calendar quarter in 2020 due to orders from governmental authority limiting commerce, travel, or group meetings due to COVID-19; OR (2) experiences a significant decline in gross receipts during the calendar quarter. Includes: tax-exempt entities Does not include: governmental employers and self-employed individuals.	Tax credit for equal to 50% of qualified wages paid to their employees. Include qualified health plan expenses. Applies to qualified wages paid after March 12, 2020, and before January 1, 2021.	Maximum credit for each employee is \$5,000 (based \$10,000 on max wages for each employee for any calendar quarter).	Employer Quarterly Tax Return Form 941 and Form 7200 to request advanced payment.	IRS CARES Act Retention Credit FAQs Form 941 Form 7200
Paycheck Protection Program	Generally, small businesses with 500 or fewer employees—including nonprofits, veterans' organizations, tribal business concerns, self-employed individuals, sole proprietorships, and independent contractors—are eligible. Businesses with more than 500 employees are eligible in certain industries. ¹	Authorizes up to \$349 billion in forgivable loans ² to small businesses to pay their employees during the COVID-19 crisis—up to 8 weeks of payroll costs including benefits. Funds can also be used to pay interest on mortgages, rent, and utilities.	Loan amounts are limited in a number of different ways, but maximum amount available is \$10M . SBA will forgive portion of loan used for payroll costs and other designated operating expenses for up to 8 weeks if at least 75% of loan proceeds are used for payroll costs. Payroll costs are capped at \$100,000 on an annualized basis for each employee.	Starting April 3, 2020, businesses can apply for a loan directly from any approved SBA lender that has opted to participate in the Paycheck Protection Program.	https://www.sba.gov/document/sba-form--paycheck-protection-program-borrower-application-form https://www.sba.gov/size-standards/ https://www.sba.gov/document/support--table-size-standards

¹ Determining whether a business is small for this purpose depends on a host of factors, including industry, all employers should consult their financial advisors or the [SBA site](#) itself for additional information on [employer size](#).

² Loan amounts may be forgiven if loan proceeds are used to cover payroll costs, and most mortgage interest, rent, and utility costs over the 8 week period after the loan is made; and employee and compensation levels are maintained.

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	Must certify to certain conditions similar to those noted in FN3 below.		Any loan payments will be deferred for 6 months.		
CARES Act Direct Loans to Mid-Size Businesses	Eligible businesses employ between 500 and 10,000 employees and must certify in good faith a number of certain conditions. ³	Direct loans to be available through banks or other similar lending institutions. The interest rates on such loans will not exceed 2 percent annually and, for the first six (6) months, no principal or interest payments will be due on the loans.	Likely applicant dependent.	Neither U.S Treasury nor Federal Reserve System have issued guidance or procedures on loans available under this provision.	CARES Act Section 4003(c)(D) https://www.congress.gov/bill/116th-congress/house-bill/748/text?loclr=bloglaw

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³ (1) The uncertainty of economic conditions as of the date of the application makes necessary the loan request to support ongoing operations of the borrower; (2) the funds will be used to retain at least 90% of the workforce (including full compensation and benefits until September 30, 2020); (3) the borrower intends to restore not less than 90% of the workforce as of February 1, 2020 and to restore all applicable compensation and benefits within 4 months after the termination date of the public health emergency declared by the Secretary of Health and Human Services on January 31, 2020 related to Covid-19; (4) the borrower is an entity or business that is domiciled in the United States with significant operations and employees located in the United States; (5) the borrower is not a debtor in bankruptcy proceeding; (6) the borrower is created or organized in the US (or under the laws of the US) and has significant operations in and a majority of its employees based in the US; (7) the borrower will not pay dividends with respect to its common stock, or repurchase an equity security that is listed on a national securities exchange of the borrower or any parent company while the direct loan is outstanding, except to the extent required under a contractual obligation that is in effect as of the date of enactment of the CARES Act; (8) the borrower will not outsource or offshore jobs for the term of the loan and 2 years after completing repayment of the loan; (9) the borrower will not abrogate existing collective bargaining agreements for the term of the loan and 2 years after completing the repayment of the loan; and (10) the borrower will remain neutral in any union organizing effort during the term in which the loan is outstanding.