



COVID-19
BUSINESS UPDATE
03/29/20

This document is for **solely** for **information** purposes. It is not intended to be authoritative and is not authoritative. Many of the laws and regulations are voluminous and complicated. The primary purpose is to inform our clients. Reliance should not be placed on this information. We recommend you contact your advisors to fully discuss facts and circumstances prior to implementing your strategy.

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FEDERAL ACTS
AND STATE
INITIATIVES

Income Tax Changes – IRS and State
of Georgia

Families First Coronavirus Response
Act (FFCRA)

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

SBA Existing Products & New State
Initiatives

EXECUTIVE SUMMARY



Businesses should consider applying for assistance provided under the CARES Act through Payroll Protection, EIDL Loans, and Employer Payroll tax deferral; Additional Assistance through existing SBA EIDL loans are also available



Federal income tax payment and filing deadlines delayed
Employer payroll tax filing still required, but certain employer matching taxes are deferred under the CARES Act



Employers must offer Paid Sick leave to affected employees under the Families First Coronavirus Response Act (FFCRA or “Families First Act”). Consideration should also be given to employment or partial unemployment.



Under the Families First Act, if you don't have enough work for your workforce, employers should file partial unemployment claims online rather than employees



Georgia state income tax return deadline has been delayed, but sales tax, employee withholding and state information returns retain original due date

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- SBA EIDL PROGRAM

INCOME TAX FILINGS AND PAYMENT CHANGES

FEDERAL UPDATES FROM IRS

STATE UPDATES FROM GEORGIA

COUNTY CONSIDERATIONS FOR CERTAIN OTHER FILINGS

Business Owners: Federal Tax Filing

Key Takeaway: Federal income tax filing and payment deadlines delayed

The IRS delayed April 15, 2020 tax filing and payment dates until July 15, 2020

Taxpayers who have filing or payment due dates other than April 15 (May 15 or June 15) have not been granted relief at this time

Normal filing, payment, and deposit due dates continue to apply to both payroll and excise taxes, except for certain provisions under CARES Act

Business
Owners: GA
State Taxes

The State of Georgia has extended income tax filing and payment deadlines to July 15, 2020

No extension for sales tax, employee withholding, or state information returns

Business Owners: County Tax Filing

Each county is independently determining whether to extend deadlines.



Assume the standard April 1, 2020 deadlines remain in place for:

Business
Personal
Property Tax
Returns

Homestead
Exemption
Applications

Freeport
Exemptions

Conservation
Use Value
Assessment
(CUVA)
applications

Forest Land
Protection Act
(FLPA)
applications

FFCRA

FEDERAL, STATE, AND COUNTY IMPACT

EMPLOYER REQUIREMENTS

EMPLOYER-DRIVEN UNEMPLOYMENT CLAIMS

SICK LEAVE,
UNEMPLOYMENT,
CLOSURES,
PAYROLL TAXES

EMPLOYER
REQUIREMENTS
UNDER FAMILIES
FIRST ACT

Employers must offer
Paid Sick leave to
affected employees



If employer's don't have
enough work for your
workforce, they can file
partial unemployment
claims online

What Is
Changing
under
Families First
Act?

Expanded Family & Medical Leave and Emergency Sick Leave Provisions (FFCRA)

Key Takeaway: Employers must offer Emergency Paid Sick leave to affected employees (REQUIRED UNDER FFCRA)

Requires employers with fewer than 500 employees to provide emergency paid sick leave or expanded family and medical leave for specified reasons related to COVID-19 (FFCRA)

Employees are eligible for two weeks of paid emergency sick leave if:

- the employee is subject to a federal, state or local quarantine or isolation order related to COVID-19,
- the employee has been advised by a health care provider to quarantine due to concerns related to COVID-19,
- the employee is experiencing symptoms of COVID-19 and seeking a diagnosis,
- the employee is caring for an individual who is subject to a quarantine order or has been advised to quarantine as outlined above,
- the employee is caring for a son or daughter if the school or place of care has closed or is unavailable due to COVID-19, or
- the employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretaries of Treasury and Labor.

Expanded Family & Medical Leave and Emergency Sick Leave Provisions (continued)

Key Takeaway: Employers must offer Emergency Paid Sick leave to affected employees (REQUIRED UNDER FFCRA)

Up to an additional 10 weeks of paid expanded family and medical leave (@ 2/3 employee's regular rate of pay) for employees employed for at least 30 calendar days, for leave to care for a child under 18 if school/place of care is closed or childcare provider is unavailable due to COVID-19

Employers are eligible for payroll tax credits in connection with providing paid leave from April 1, 2020 to December 31, 2020

Paid sick leave is NOT subject to OASDI (6.2%) portion of FICA and any amount subject to the HI (1.45%) portion of FICA are offset by increase in payroll tax credits

Information from the US Dept of Labor can be found here:
<https://www.dol.gov/agencies/whd/pandemic>

Key Takeaway: If you don't have enough work for your workforce, file partial unemployment claims online

Employers are required to file partial claims on behalf of their employees whenever it is necessary to temporarily reduce work hours or there is no work available for a short period

Employees for whom you file a partial claim are NOT required to report to a Georgia Department of Labor career center or register for employment services.

You must file a partial claim for each pay period. A week of partial unemployment consists of an employer's established pay period week. Once a pay period is established, it should remain the same.

Employer Filed Unemployment Claims Requirements

Employer Filed Unemployment Claims: How to File & Other Information

Note – Terminations under the normal course of business are handled as in the past and are not included under this act.



In Georgia, you can file partial claims online at:
<https://eresponse.gdol.ga.gov/idp/sso/employer/login>



Accurately report the employee's name, social security number (SSN), and date of birth. They must match the Social Security Administration's records.



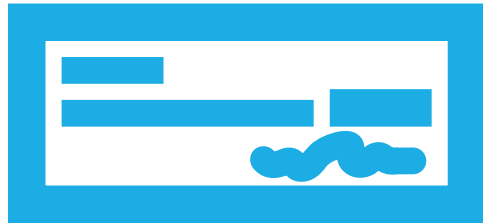
There must be seven (7) days between payment week ending dates.



Employees have two options of receiving their UI benefits: direct deposit or a debit card

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CARES Act

PAYCHECK PROTECTION PROGRAM

EIDL LOANS UNDER SBA EIDL LOAN PROGRAM

EMPLOYER PAYROLL TAX DEFERRAL

EMPLOYEE RETENTION CREDIT

PAYCHECK PROTECTION PROGRAM

SECTION 1102
UNDER CARES ACT:
ADMINISTERED BY
BANKS

Loans to small businesses through banks,
guaranteed by the government through
the Small Business Administration

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graph TD; A[Loans to small businesses through banks, guaranteed by the government through the Small Business Administration] --> B[Loans are determined by average payroll costs]; B --> C[Loans are to be used for specific costs employers and self-employed incur (payroll, rent, utilities)]; C --> D[All or portion of loans can be forgiven based on use of funds];
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Loans are determined by average payroll
costs

Loans are to be used for specific costs
employers and self-employed incur
(payroll, rent, utilities)

All or portion of loans can be forgiven
based on use of funds

Paycheck Protection Program: What Is It?

Paycheck Protection Program: Eligibility

What Business Are Eligible?

- A small business with fewer than 500 employees
- A small business that otherwise meets the SBA's size standard
- A 501(c)3 with fewer than 500 employees
- An individual who operates as a sole proprietor
- An individual who operates as an independent contractor
- An individual who is self-employed who regularly carries on any trade or business
- A tribal business concern that meets the SBA size standard
- A 501(c)(19) Veterans Organization that meets the SBA size standard

Special Rules on Eligibility

- If the business is in the accommodation and food services sector (NAICS 72) the 500-employee rule is applied on a per physical location basis.
- If you are operating as a franchise or receive financial assistance from an approved SBIC the normal affiliation rules do not apply.
- 500 Employee threshold includes all employees – full-time, part-time and other status.

Paycheck Protection Program:

What will Lenders Ask For?

Good faith Certification:

- The uncertainty of current economic conditions makes the loan request necessary to support ongoing operations
- The borrower will use the loan proceeds to retain workers and maintain payroll or make mortgage, lease, and utility payments
- Borrower does not have an application pending for a loan duplicative of the purpose and amounts applied for here
- From Feb. 15, 2020 to Dec. 31, 2020, the borrower has not received a loan duplicative of the purpose and amounts applied for here (Note: There is an opportunity to fold emergency loans made between Jan. 31, 2020 and the date this loan program becomes available into a new loan)

Specific requirements for self-employed:

- If you are an independent contractor, sole proprietor, or self-employed individual, lenders will also be looking for certain documents (final requirements will be announced by the government) such as payroll tax filings, Forms 1099-MISC, and income and expenses from the sole proprietorship

Paycheck Protection Program:

How Much Can I Borrow?

See following slide for “payroll costs”

KEY Takeaway

- Loans can be up to 2.5X the borrower’s average monthly payroll costs, not to exceed \$10 million
- See following slide for what “payroll costs” include

Non-seasonal employers:

- Operational in 2019
 - Maximum loan = 2.5 X Average total monthly payroll costs incurred during the year prior to the loan date
- Not Operational in 2019
 - Maximum loan = 2.5 X Average total monthly payroll costs incurred during January and February 2020

Seasonal employers:

- Operational in 2019
 - Maximum loan = 2.5 x Average total monthly payments for payroll costs for the 12-week period beginning February 15, 2019 or March 1, 2019 (decided by the loan recipient) and ending June 30, 2019

Paycheck Protection Program: Payroll Costs

Employer payroll cost include:

- salary, wage, commission, or similar compensation;
- payment of cash tip or equivalent;
- payment for vacation, parental, family, medical, or sick leave;
- allowance for dismissal or separation;
- payment required for the provisions of group health care benefits, including insurance premiums;
- payment of any retirement benefit;
- payment of state or local tax assessed on the compensation of the employee;
- Payments to independent contractors that is considered a wage, commission, income, net earnings from self-employment or similar compensation.

Self-employed payroll costs include:

- The sum of payments of any compensation to or income of a sole proprietor or independent contractor that is a wage;
- Commission, income, net earnings from self-employment, or similar compensation and;
- Does not exceed more than \$100,000 in payroll in one year, as pro-rated for the covered period

Paycheck Protection Program: Certain Payroll Costs Are Excluded

- Excluded Costs
 - Compensation of an individual employee in excess of an annual salary of \$100,000, as prorated for the period February 15, to June 30, 2020
 - Payroll taxes, railroad retirement taxes, and income taxes
 - Any compensation of an employee whose principal place of residence is outside of the United States
 - Qualified sick leave wages for which a credit is allowed under section 7001 of the Families First Coronavirus Response Act (Public Law 116– 5 127); or qualified family leave wages for which a credit is allowed under section 7003 of the Families First Coronavirus Response Act

Paycheck
Protection
Program:
How Is the Loan
Forgiven?

CARES § 1106

Loan can be forgiven based on amounts spent in certain areas during Covered Period (first 8 weeks after loan origination)

Businesses provide evidence of payments during the Covered Period related to (1) Payroll (2) Rents/Mortgage Interest and (3) Utilities to calculate forgiveness amount

Paycheck Protection Program: Possible Forgiveness Reductions

Reductions in
forgiveness amount
based on employee
reductions

- There are also ways to remedy reductions if employers have already taken these actions (see following slide)

Two measures to
consider:

- Avg FTE prior to loan (specific periods are defined) vs Avg FTE during Covered Period
- Salary and Wages Reduction in excess of 25% of any individual employee during Covered Period

Paycheck Protection Program: How to Avoid Forgiveness Reductions?

If employers reduced FTE already or reduced salary of individual employees by more than 25%, as long as this is corrected by June 30, 2020, it will not impact forgiveness amount

You can apply for the loan regardless, and then remedy number of FTEs and/or any salary reductions by June 30, 2020

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EMERGENCY EIDL LOANS

SECTION 1110
UNDER CARES ACT

ADMINISTERED BY
SBA

SUMMARY OF EIDL PROGRAM AND UPDATES FROM CARES ACT

What are EIDL loans: Provides assistance loans from the SBA during disasters, such as COVID-19 event, up to \$2 million

What are EIDL Loans: As part of CARES Act, applicants for an EIDL loan can receive \$10,000 within 3 days of application that does not have to be repaid even if application is denied

Who can apply: Small businesses with less than 500 employees in operation before January 31, 2020

Fund Requirements: Funds must be used for payroll, rent/mortgage, or other obligations that cannot be met specifically related to revenue losses

EIDL Loans: Refer to SBA EIDL Loan section of this presentation for further specifics on this program

NOTE – Cannot be combined with PPP

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EMPLOYEE RETENTION CREDITS

SECTION 2301
UNDER CARES ACT

Employee Retention Credit: Who is Eligible?

CARES Act
§2301

Key Takeaway: Employers may receive a retention credit provided by a refundable quarterly payroll tax credit

Businesses which are fully or partially suspended during the calendar quarter due to government response, or;

Businesses who have a 50% decrease in gross receipts over the same calendar quarter of the prior year

This does not apply to governmental employers

Employee
Retention
Credit: How is
the credit
determined?

CARES § 2301

The credit is limited to 50% of
qualified wages paid to an employee

Applies to wages paid between March
12, 2020 and before January 1, 2021

Maximum of \$10,000 of qualified
wages per employee

Excess credits are refundable

DELAY OF EMPLOYER PAYROLL TAXES

SECTION 2302
UNDER CARES ACT

DELAY OF EMPLOYER PAYROLL TAX SUMMARY

WHO: All employers subject to US payroll taxes

WHAT: All employer payroll taxes can be deferred beginning on 3/27/20

HOW: The CARES Act defers deposit or payment of all employer payroll taxes beginning on 3/27/20 through 12/31/20

WHEN: 50% of all deferred payroll taxes due at 12/31/21 and remaining balance due at 12/31/22

DELAY OF EMPLOYER PAYROLL TAX: HOW TO ACT?



Understand this is just a deferral



Coordinate with payroll providers to implement



Make this deferral work for you without threatening future cash flows



Develop plan to repay on time

MODIFICATIONS FOR NET OPERATING LOSSES

SECTION 2303
UNDER CARES ACT

Net Operating Losses

Key takeaway: Amends the current tax laws allowing carryback of net operating losses.

Allows for business losses in 2018, 2019 and 2020 to be carried back to each of the five taxable years preceding the taxable year of such losses

Suspended the 80% limitation rule until January 1, 2021

This will require amended returns for those with Net Operating Losses

Special rules apply on foreign income

EXCESS BUSINESS LOSS LIMITATIONS

SECTION 2304
UNDER CARES ACT

Excess Business Loss Limitations

**Key takeaway: Suspends the
excess business loss
limitations for 2018 - 2020**

**Noncorporate taxpayers can
deduct 100% of business
losses against other income.**

BUSINESS INTEREST LIMITATIONS

SECTION 2306
UNDER CARES ACT

Business Interest Limitations

Key takeaway: Amends the business interest expense limitations for 2019 and 2020

Allows for business interest deductions under new rules with the deduction the sum of:

- (1) Business interest income
- (2) 50% of adjusted taxable income (ATI); up from 30% (taxpayers may substitute 2019 ATI for 2020 ATI) and
- (3) Floorplan financing interest expense


Partnerships - the rules only apply for 2020 (may use 2019 ATI)

EMPLOYER
STUDENT LOAN
REPAYMENT
BENEFITS

SECTION 2206
UNDER CARES ACT

Business Provision – Student Loan Repayment Benefits

Key takeaway: Employers may provide student loan repayment benefit to employees on a tax-free basis




\$5,250 annually per employee



Non-taxable to the employee



May include other education assistance (e.g. tuition, fees and books)



The provision applies to payments after date of enactment and before January 1, 2021

CHARITABLE CONTRIBUTIONS LIMITATIONS

SECTION 2205
UNDER CARES ACT

Charitable Contributions Limit Increase

Charitable contributions from a C Corporation increased from 10% to 25% of taxable income.

Also increased the contribution limit on food inventory from 15% to 25%

QUALIFIED IMPROVEMENT PROPERTY

SECTION 2307
UNDER CARES ACT

Key Takeaway: Immediate write-off costs associated with improving facilities

Don't have to depreciate those improvements over the 39 year life of the building

Primarily impacts hospitality and restaurant industries



Other Relevant Details:

Corrects error in Tax Cuts and Jobs Act

Can amend previous returns to take advantage

Qualified
Improvement
Property

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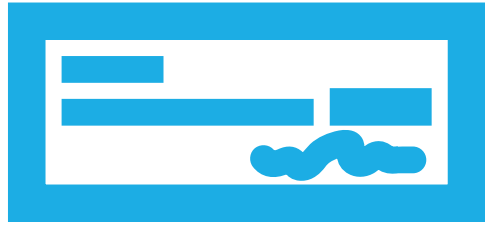
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EXISTING SBA PRODUCTS FOR DISASTER RELIEF

SBA EIDL LOAN PROGRAM

LOAN PROGRAM: ECONOMIC INJURY DISASTER LOANS (EIDL)

ADMINISTERED BY
SBA

EIDL Application Information

Apply Directly with SBA – Site for applying has been modified and streamlined.

Apply Online (<https://covid19relief.sba.gov/#/>)
Apply via mail (see mailing instructions online)

You do not have to accept the funds if application is accepted, and can still benefit from EIDL Loans of \$10,000 under the CARES Act

Summary of EIDL Program

Small businesses and Non-Profit Organizations directly affected by the disaster are eligible to apply

Businesses cannot have access to other credit & must have physical presence in disaster area (all businesses are presumed to have this under COVID-19 disaster)

Businesses can borrow up to \$2MM @ 3.75% with up to 30 years for repayment

Non-Profit Organizations can borrow up to \$2MM @ 2.75% with up to 30 years for repayment

Funds can be used for fixed payments (i.e. rent), payroll, accounts payable and other unpaid bills due to COVID-19

EIDL Collateral Requirements

EIDL over \$25,000 require collateral

SBA takes real estate when available

SBA will not turn down a loan due to lack of collateral but requires borrowers to pledge what is available

Application
Requirements –
5 Sections for
Initial
Application

Disclosures – Eligible Entity Verification

Business Information

Business Owner's Information

Additional Information

Summary

Other
proportional
application
requirements –
May vary and
will be
requested by
SBA

SBA Form 5 or 5C – Completed SBA Loan Application

IRS Form 4506T – Tax Information Authorization for the applicant, principals and affiliates

Complete Copy of Most Recent Federal Income Tax Return (2018 is okay)

SBA Form 2202 – Schedule of Liabilities

SBA Form 413 – Personal Financial Statement (Complete with all shareholders or members)

Submission

Upon submission you will receive an email similar to the following -

“You will be notified through the email address you submitted xxxxxx@xxxxxx.com for any additional information needed once your application has been processed. Please write down your application number or print this page for your records.”

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LETTER FROM NCA

These are challenging times for our world, country, state, community, clients and team. We are Americans and together, through helping each other, we will get through this. We, at Nichols Cauley, appreciate our clients, friends and team members. This presentation is current as of the date on the first slide. We will continue to update as new information is available.

We are here to help so please call us with any questions, thoughts, or concerns.

Thank You,

Nichols, Cauley & Associates, LLC