COVID-19: New SBA Loans for Small Businesses

The COVID-19 pandemic has upended all aspects of life around the world, including the world of business here in the U.S.

If your business is struggling, you may be able to get some help from the federal Small Business Administration (SBA), which is authorized to provide loans to small businesses on an as-needed basis.

There are two types of relief you can apply for—read on.

Economic Injury Disaster Loans

Traditionally, low-interest SBA Economic Injury Disaster Loans (EIDLs) have been available to small businesses following a disaster declaration; these are authorized by Section 7(a) of the Small Business Act.

EIDLs are commonly granted on a local level following a natural disaster (such as a hurricane or a tornado). But right now they are authorized for small businesses in all U.S. states and territories due to the COVID-19 pandemic.

Currently, each disaster loan provides up to $2 million to pay fixed debts, payroll, accounts payable, and other bills. The interest rate is fixed at 3.75 percent for small businesses and 2.75 percent for non-profits. EIDLs can be repaid over a period of up to 30 years.

Additionally, due to COVID-19, the SBA is providing advances of up to $10,000 on EIDLs for businesses experiencing a temporary loss of revenue. Funds are available within three days after applying, and the loan advance does not have to be repaid.

Small business owners can apply for an EIDL and advance here: https://covid19relief.sba.gov/#/.

New Paycheck Protection Program

The Paycheck Protection Program (PPP) is an expansion of the existing 7(a) loan program, authorized by the recently passed Coronavirus Aid, Relief, and Economic Security Act (CARES Act).

Who’s Eligible?

Employees. According to the SBA, you are eligible if your business was in operation as of February 15, 2020, and you had employees for whom you paid salaries. (The CARES Act includes as eligible payroll your payments to 1099 independent contractors, but the SBA guidance says no—you can't include the 1099 payments. And since this is an SBA loan, the SBA guidance likely rules for now.)

No employees. You qualify the PPF loan even if the only worker is you. Thus, both the sole proprietor with no employees and the single-member LLC with no employees qualify.

Small businesses that employ 500 or fewer employees are eligible for PPP relief. In this small business category, you find S and C corporations, sole proprietors, partnerships, certain non-profits, veterans' organizations, and tribal businesses.

How Much Aid Is Available?

Small businesses can borrow 250 percent of their average monthly payroll expenses during the one-year period before the loan is taken, up to $10 million.

For example, if your monthly payroll average is $10,000, you can borrow $25,000 ($10,000 x 250 percent). At $1 million, you can borrow $2.5 million.

The law defines "payroll costs" very broadly as

- employee salaries, wages, commissions, or "similar compensation," up to a per-worker ceiling of $100,000 per year;
- cash tips or the equivalent;
- payment for vacations and parental, family, medical, or sick leave;
- allowance for dismissal or separation;
- payment for group health benefits, including insurance premiums;
- payment of any retirement benefit; or
- state or local tax assessed on employee compensation.

What's specifically *not* included in payroll costs:

- Annual compensation over $100,000 to any individual employee
- Compensation for employees who live outside the U.S.
- Sick leave or family leave wages for which a credit is already provided by the Families First Coronavirus Response Act (P.L. 116-127)

How Much of the Loan Is Forgiven?

Principal amounts used for payroll, mortgage interest, rent, and utility payments during an eight-week period (starting with the loan origination date) will be forgiven.

If the full principal is forgiven, you are not liable for the interest accrued over that eight-week period—and, as an added bonus, the canceled amounts are not considered taxable income.

Warning: Payroll Cuts Affect Loan Forgiveness

Because the whole point of the PPP is to help keep workers employed at their current level of pay, the loan forgiveness amount decreases if you lay folks off or reduce their wages.

If you keep all your workers at their current rates of pay, you are eligible for 100 percent loan forgiveness. If you reduce your workforce, your loan forgiveness will be reduced by the percentage decrease in employees.

Example. Last year, you had 10 workers. This year, you have eight. Your loan forgiveness will be reduced by 20 percent.

You are allowed to compare your average number of full-time equivalent employees employed during the covered period (February 15, 2020, to June 30, 2020) to the number employed during your choice of

- February 15, 2019, to June 30, 2019, or
- January 1, 2020, to February 29, 2020.

If you reduce by more than 25 percent (as compared to the most recent full quarter before the covered period) the pay of a worker making less than $100,000 annually, your loan forgiveness decreases by the amount in excess of 25 percent.

Example. Last quarter, Jim was earning $75,000 on an annual basis. You still have Jim on the payroll but have reduced his salary to $54,750 annually. Jim's pay has decreased by 27 percent, so the amount of your PPP loan forgiven is reduced by the excess 2 percent.

The good news: If you have already laid workers off or made pay cuts, it's not too late to set things right. If you hire back laid-off workers by June 30, 2020, or rescind pay cuts by that date, you remain eligible for full loan forgiveness.

When Are Payments Due?

Any non-forgiven amounts are subject to the terms negotiated by you and the lender, but the maximum terms of the loan are capped at 10 years and 4 percent interest.

Also, payments are deferred for at least six months and up to one year from the loan origination date.

What If You Already Applied for an EIDL for Coronavirus-Related Reasons?

No problem—if you took out an EIDL on or after January 30, 2020, you can refinance the EIDL into the PPP for loan forgiveness purposes, but you can't double-dip and use the loans for the same purposes.

Any remaining EIDL funds used for reasons other than the stated reasons above are a regular (albeit low-interest) loan that needs to be repaid.

How to Apply for a PPP

Unlike EIDLs, which run directly through the SBA, PPP loans go through approved third-party lenders. Talk to your bank or your local SBA office (given the current demands on the SBA, your bank may be a better place to start).

There's no fee to apply, and your burden for demonstrating need is low. In addition to the appropriate documentation regarding your finances, you need only make a good-faith showing that

- the loan is necessary to support your ongoing business operations in the current economic climate;

- the funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments; and

- you do not have a duplicate loan already pending or completed.

If You're Going to Apply, Do It Now

The law allocates $349 billion for PPP relief—a huge amount, but one that will presumably be in very high demand given the devastating effects of the COVID-19 pandemic.

There's no guarantee that more funding will be forthcoming, so act now to claim your share if you are eligible. It may be a while before the processes to grant these loans are actually up and running, but get things rolling on your end ASAP.

If you are in dire straits right now, you may additionally want to go ahead and apply for an EIDL loan and advance, as the machinery is already set up for those.

COVID-19: Important Tax Breaks from the CARES Act

Congress just passed the CARES Act in response to the COVID-19 pandemic.

In it, there are a lot of juicy tax benefits for you and your business. We'll tell you about a collection of important ones you need to know.

The Check Will Be in the Mail

As you read this, the U.S. Treasury Department could be in the process of writing you a check, and it's possible you could have that check in your hands within three weeks, according to the Treasury secretary.

The check you receive this year is going to be your minimum amount. You don't have to repay it or pay taxes on it. And next year, when you file your 2020 tax return—say, on April 15, 2021—you could receive more cash if the 2020 return shows a bigger credit than you receive this year.

Technically, the cash you're about to receive is an advance payment of a new refundable tax credit for your 2020 Form 1040 tax return. (This is the return you will file in 2021.)

The advance tax credit (think cash) coming in the mail or electronically in the next three weeks or so is based on your 2018 or 2019 (if you filed it already) tax return. If your income qualifies for the full credit, you will receive

- $1,200, or $2,400 if you filed a joint return, plus

- $500 for each dependent age 16 or younger on December 31, 2020.

Your tax credit (the check in the mail) goes down by 5 percent of the amount by which your adjusted gross income (AGI) exceeds

- $150,000 on a joint return,

- $112,500 on a head of household return, or

- $75,000 for all other filing statuses.

The advance credit amount is based on

- 2019 AGI; or
- 2018 AGI, if you have not yet filed your 2019 return; or
- 2020 Social Security benefits statement, if you did not file a 2018 or 2019 tax return.

You'll "true up" your advance tax credit on your 2020 Form 1040 (which you will file in 2021):

- If the tax credit amount (the cash you are about to receive) is less than the credit you qualify for based on 2020 AGI, then you'll get the difference as a refundable tax credit in 2021 after you file your 2020 tax return.
- If the cash amount you receive this year is greater than the credit you qualify for based on 2020 AGI, you have a windfall. You don't have to pay the excess cash back to the IRS.

Your current tax debts will not interfere with the cash amount you are about to receive. There are no offsets for outstanding tax debts. But there is an offset for past-due child support that is reported to the IRS by a state. In this case, the IRS will take the child support money from the advance tax credit before remitting any money to the taxpayer.

Planning tip. If you didn't file your 2019 tax return yet, calculate if your advance credit is higher with your 2018 AGI. If it is, wait to file your 2019 return until after you get the advance credit paid to you.

Example. You filed a 2018 Form 1040 with AGI of $70,000 and no dependents. Your 2019 Form 1040, which you did not file yet, has an AGI of $105,000 and no dependents.

If you file your 2019 return now, you will get no cash from the advance credit because your AGI would have phased out your entire credit. But if you don't file your 2019 return now, you receive $1,200.

Fast-forward to your 2020 tax return—say your 2020 Form 1040 has AGI of $110,000. It's over the threshold. No problem. Under the rules, you keep the $1,200.

Charitable Contributions

For the tax year 2020 only, the CARES Act increases the limits on charitable contributions as follows:

- For individuals, there is no AGI limit for contributions normally subject to the 50 percent and 60 percent limitations. The 2020 no-limit rule does not apply to contributions to donor-advised funds.
- For corporations, the 10 percent limitation goes up to 25 percent of taxable income.
- The limitation on deductions for contributions of food inventory goes from 15 percent to 25 percent.

If you are a non-itemizer, you may now deduct up to $300 of cash charitable contributions above the line. This above-the-line deduction is a permanent change starting with the tax year 2020.

Net Operating Losses

The CARES Act temporarily suspends some of the Tax Cuts and Jobs Act (TCJA) limitations on net operating losses (NOLs):

- For NOLs that arise in tax years 2018, 2019, and 2020, you can now carry them back five years to obtain refunds of taxes previously paid.

- Under the TCJA, an NOL deduction in a tax year usually cannot exceed 80 percent of taxable income, but the CARES Act suspends that limitation and allows a 100 percent deduction for tax years 2018, 2019, and 2020.

These new, temporary changes allow you to fully utilize your NOLs and potentially amend prior-year tax returns to get refunds.

461(l) Limitation

The TCJA created a new loss limitation rule (a ceiling) that limited your ability to use business losses. The CARES Act retroactively eliminates the Section 461(l) limitation rule for tax years 2018, 2019, and 2020 and moves the start to tax year 2021. Once again, this change allows you to possibly amend prior-year tax returns to get refunds now.

Qualified Improvement Property

Finally! Congress fixed the TCJA error. Qualified improvement property (QIP) is now 15-year property, and not 39-year property, for depreciation purposes.

This means QIP is now eligible for bonus depreciation, where previously you could use only Section 179 expensing. This change is retroactive as if Congress originally included it in the TCJA, so you can amend prior-year returns to fully expense the property and potentially secure refunds.

COVID-19: Tax Season Delayed until July 15—Wait or File Now?

As you know, the COVID-19 pandemic has shut down much activity in the United States. The IRS decided to use its authority in a national emergency to postpone certain tax return filings and payments. This change affects every one of you, and the rules are tricky—after all, this is tax law.

We’ll explain who gets relief; what the IRS postponed; and perhaps more important, what wasn’t postponed. We’ll also tell you whether you should file regardless of the postponement.

Who Qualifies?

First, to qualify for postponement, you must have a tax return that is due on April 15, 2020. In general, the returns due on April 15 include the following:

- An individual filing a Form 1040 series return

- A trust or estate filing Form 1041

- A partnership filing Form 1065

- A corporation filing a Form 1120 series return

In its FAQ, the IRS did not include the Form 1065 for partnerships or the Form 1120S for S corporations when it listed the forms available for relief.

That’s because most partnerships and S corporations have calendar-year returns, making the 2019 tax return due March 15, 2020. But if you have a fiscal-year partnership or S corporation with a due date of

April 15, 2020, it should qualify for relief under the official guidance.

Second, you must have one of the following due on April 15, 2020:

- Tax year 2019 federal income tax **return**
- Tax year 2019 federal income tax **payment**
- Tax year 2020 federal **estimated** income tax payment

This grant of relief does not apply to

- federal payroll taxes, including federal tax deposits, and
- federal information returns.

Federal Tax Return Filing Deadline

If you qualify for relief, your 2019 federal income tax return is now due July 15, 2020. You do not have to file an extension on Form 4868 or Form 7004 or contact the IRS to get the automatic postponement to July 15, 2020.

If you need additional time beyond July 15, 2020, to file your tax return, you can file Form 4868 or Form 7004 on or before July 15, 2020, and get an automatic extension to your normal extension due date:

- September 30 for Form 1041
- October 15 for Forms 1040 and 1120

IRA, HSA, and Retirement Plan Payments

The COVID-19 grant of relief also postpones the following payment deadlines until July 15, 2020:

- 2019 individual retirement account (IRA) contribution
- 2019 health savings account (HSA) contribution
- 2019 employer qualified retirement plan contributions

Should You Wait?

If your tax return shows a refund, file it as soon as possible—get your cash as quickly as you can. Even if you have the cash and liquidity to make your tax payments on April 15, 2020, don’t do it. Keeping those payments in your bank account earns extra interest income, and we see no reason you shouldn’t delay until July 15, 2020.

If you have problems with making timely estimated tax payments, we recommend you keep the normal schedule as long as you have the liquidity and cash to make the payments. We don’t want you to fall into bad habits and possibly create an unpayable balance due on your 2020 tax return.

Tax Loophole Allows Tax-Free COVID-19 Payments to Employees

After the terrorist attacks on September 11, 2001, Congress added a little-known tax provision to the tax law. This little-known tax code provision exempts certain payments from taxation during a disaster or terrorist attack.

President Donald Trump's national emergency declaration triggered the disaster provisions of the tax law, including this one—where both you and your employees can reap benefits during this COVID-19 pandemic.

How This Works

Because of the pandemic, the tax code makes the following tax-free to your employees:

- Payments they receive from you for necessary personal, family, living, or funeral expenses incurred as a result of COVID-19
- Payments they receive from you for reasonable and necessary expenses incurred for the repair or rehabilitation of a personal residence, or for the repair or replacement of its contents, to the extent that the need for such repair, rehabilitation, or replacement is attributable to COVID-19

The qualified COVID-19 disaster relief payments are free of income tax, payroll taxes, and self-employment tax. Not only are the payments tax-free to your employee, but they are deductible to you as a business expense, regardless of whether or not the payment ends up being tax-free to the employee.

Payments That Do Not Work

The exclusion from income does not apply to payments in the nature of income replacement, such as payments to individuals for lost wages, unemployment compensation, or payments in the nature of business income replacement.

Payments to business entities don't qualify, either. Qualified disaster relief payments do not include payments for any expenses compensated by insurance or otherwise.

Payments You Can Make

Here's an example: the IRS ruled that grants received by employees under an employer program to pay or reimburse reasonable and necessary medical, temporary housing, or transportation expenses incurred as a result of a flood qualify for this benefit.

With respect to the COVID-19 pandemic, you could reimburse or pay for the following employee expenses under this guidance:

- Out-of-pocket medical costs not covered by health insurance
- Teleworking costs, such as a computer, office equipment, telephone, and supplies
- Funeral costs for an employee or an employee's family member
- Childcare costs so that your employees can continue to work while children are home from school

Planning note. Because of the Tax Cuts and Jobs Act, employees may not deduct employee business expenses during tax years 2018-2025, so your reimbursement of such expenses under the disaster rules is extra valuable.

Documentation

Here's a surprise: Congress doesn't think taxpayers can account for their actual expenses because they are going through a disaster, so taxpayers are in the clear provided the payments received and treated as tax-free are reasonably expected to be commensurate with the expenses they incurred.

Even if the IRS is generous with documentation requirements, we recommend you implement a formal, written plan with

- starting and ending dates of the program;
- a listing of the expenses you will pay or reimburse;
- the maximum payment per employee;
- maximum total payments through the plan; and
- a procedure the employee will use to request funds.

You should also track the names and amounts provided to each employee under the program terms.

Example

During the COVID-19 pandemic, you establish a plan to help employees with telework expenses, allowing each employee to get a $1,500 grant for equipment, supplies, and use of home utilities.

Your employees Sam and Helen each apply, and each estimate they will spend $1,500 on a form you provide. Sam and Helen each spend approximately $1,500 on telework equipment and supplies.

The tax results are as follows:

- You get a $3,000 tax deduction.
- Sam gets $1,500 completely tax-free.
- Helen gets $1,500 completely tax-free.

COVID-19: IRS Provides Relief from Enforcement Actions

During the COVID-19 pandemic, the last thing you need is the IRS doing bad things, like auditing you or levying your bank account or wages. But don't worry—the IRS is pausing most of its collection and audit enforcement actions.

Installment Agreements

If you have an installment agreement with the IRS, then the IRS is suspending your payments due between April 1 and July 15, 2020. The IRS will not default any installment agreements during this period.

Remember—interest will continue to accrue on any unpaid balances, so if you have the financial resources, you may want to continue to pay.

Offers in Compromise

If you have a pending offer in compromise, then the IRS will allow you until July 15, 2020, to provide requested additional information to support your offer. The IRS will not close any pending offer in compromise requests before July 15, 2020, without your consent.

If the IRS has accepted your offer in compromise, then you can suspend all payments toward it until July 15, 2020. The IRS won't default your accepted offer in compromise for a failure to file your 2018 tax return. But you should file your delinquent 2018 return (and your 2019 return) on or before July 15, 2020, to avoid default.

Collection Actions

IRS field revenue officers won't initiate liens and levies (including any seizures of personal residences) through July 15, 2020; however, they will continue to pursue high-income non-filers and perform other similar activities as needed.

In addition, consider the following actions:

- The IRS won't initiate new automatic, computer-generated liens and levies through July 15, 2020.
- The IRS will suspend through July 15, 2020, new certifications to the Department of State for taxpayers who have "seriously delinquent" tax debt. Certification prevents you from receiving or renewing a passport. If your tax debts are subject to certification, you should submit a request for an installment agreement, an offer in compromise, or another collection alternative, prior to July 15, 2020.
- The IRS won't send new delinquent accounts to private collection agencies through July 15, 2020.

Audits

The IRS generally will not start new field, office, or correspondence examinations through July 15, 2020. But it may start new examinations where deemed necessary to protect the government's interest in preserving the applicable statute of limitations.

The IRS suspended all in-person meetings regarding current field, office, and correspondence audits. Existing audits will continue remotely, where possible. You should continue to respond to any requests for information you've received if you are able to do so.

What if you are ready, willing, and able to get your audit started? The IRS may agree to begin the audit before July 15, 2020, if it has personnel available.

Independent Office of Appeals

If you have a case in the Independent Office of Appeals, then Appeals employees will continue to work your case. You should promptly respond to any new or existing requests for information.

Takeaways

If you have IRS problems, the COVID-19 pandemic is creating a mercy period for you that ends July 15, 2020. During the mercy period, the IRS is suspending

- installment agreement payments,
- new levies and liens,
- new audits,
- new passport actions, and
- new referrals to private debt collectors.

Use this break in IRS enforcement through July 15, 2020, as a great opportunity to get back on track and solve any existing IRS tax problems you have, such as

- completing and sending in those unfiled tax returns;
- getting an installment agreement in place for your unpaid debts; or

- requesting an offer in compromise for tax debt you will not be able to pay.

COVID-19: CARES Act Allows $100,000 Tax-Free IRA Grab-and-Repay

Under this new law, you may be able to take money from your IRA and other retirement accounts, avoid early withdrawal penalties, and have generous options on repayment (or not). Additionally, you may not have to take the required minimum distribution from your IRA.

COVID-19-Related Distributions from IRAs Get Tax-Favored Treatment

If you are an IRA owner who has been adversely affected by the COVID-19 pandemic, you are probably eligible to take tax-favored distributions from your IRA(s).

For brevity, let's call these allowable COVID-19 distributions "CVDs." They can add up to as much as $100,000. Eligible individuals can recontribute (repay) CVD amounts back into an IRA within three years of the withdrawal date and can treat the withdrawals and later recontributions as federal-income-tax-free IRA rollover transactions.

In effect, the CVD privilege allows you to borrow up to $100,000 from your IRA(s) and recontribute the amount(s) at any time up to three years later with no federal income tax consequences. There are no income limits on the CVD privilege, and there are no restrictions on how you can use CVD money during the three-year recontribution period.

If you're cash-strapped, use the money to pay bills and recontribute later when your financial situation has improved. Help your adult kids out. Pay down your HELOC. Do whatever you want with the money.

CVD Basics

Eligible individuals can take one or more CVDs, up to the $100,000 aggregate limit, and these can come from one or several IRAs. The three-year recontribution period for each CVD begins on the day after you receive it. You can make recontributions in a lump sum or make multiple recontributions. You can recontribute to one or several IRAs, and they don't have to be the same account(s) you took the CVD(s) from in the first place.

As long as you recontribute the entire CVD amount within the three-year window, the transactions are treated as tax-free IRA rollovers. If you're under age 59 1/2, the dreaded 10 percent penalty tax that usually applies to early IRA withdrawals does not apply to CVDs.

If your spouse owns one or more IRAs in his or her own name, your spouse is apparently eligible for the same CVD privilege if he or she qualifies (see below).

Do I Qualify for the CVD Privilege?

That's a good question. Some IRA owners will clearly qualify, while others may have to wait for IRS guidance. For now, here's what the CARES Act says.

A COVID-19-related distribution is a distribution of up to $100,000 from an eligible retirement plan, including an IRA, that is made *on or after January 2, 2020, and before December 31, 2020,* to an individual

- who is diagnosed with COVID-19 by a test approved by the Centers for Disease Control and Prevention; or

- whose spouse or dependent (generally a qualifying child or relative who receives more than half of his or her support from you) is diagnosed with COVID-19 by such a test; or

- who experiences adverse financial consequences as a result of being quarantined, furloughed, laid off, or forced to reduce work hours due to COVID-19; or

- who is unable to work because of a lack of childcare due to COVID-19 and experiences adverse financial consequences as a result; or

- who owns or operates a business that has closed or had operating hours reduced due to COVID-19, and who has experienced adverse financial consequences as a result; or

- who has experienced adverse financial consequences due to other COVID-19-related factors to be specified in future IRS guidance.

We await IRS guidance on how to interpret the last two factors. We hope and trust that the guidance will be liberally skewed in favor of IRA owners. We shall see.

What If I Don't Recontribute a CVD within the Three-Year Window?

Another good question. You will owe income tax on the CVD amount that you don't recontribute within the three-year window, but you don't have to worry about owing the 10 percent early withdrawal penalty tax if you are under age 59 1/2.

If you don't repay, you can choose to spread the taxable amount equally over three years, apparently starting with 2020.

Example. Tomorrow you withdraw $90,000 from your IRA, and you don't recontribute it and don't elect out of the three-year spread; you have $30,000 of taxable income in years 1, 2, and 3.

Here it gets tricky, because the three-year recontribution window won't close until sometime in 2023. Until then, it won't be clear that you failed to take advantage of the tax-free CVD rollover deal.

So, you may have to amend a prior-year tax return to report some additional taxable income from the three-year spread. The language in the CARES Act does not address this issue, so the IRS will have to weigh in. Of course, the IRS may not be in a big hurry to issue guidance right now, because it has three years to mull it over.

You also have the option of simply electing to report the taxable income from the CVD on your 2020 Form 1040. You won't owe the 10 percent early withdrawal penalty tax if you are under age 59 1/2.

Can the One-IRA-Rollover-per-Year Limitation Prevent Me from Taking Advantage of the CVD Deal?

Gee, you ask a lot of good questions. The answer is no, because when you recontribute CVD money within the three-year window, it is deemed to be done via a direct trustee-to-trustee transfer that is exempt from the one-IRA-rollover-per-year rule. So, no worries there.

Can I Take a CVD from My Company's Tax-Favored Retirement Plan?

Yes, if your company allows it. The tax rules are similar to those that apply to CVDs taken from IRAs. That said, employers and the IRS have lots of work to do to figure out the details for CVDs taken from employer-sponsored qualified retirement plans. Stay tuned for more information.

More Good News: Retirement Account Required Minimum Distribution Rules Are Suspended for 2020

In normal times, after reaching the magic age, you must start taking annual required minimum distributions (RMDs) from traditional IRAs set up in your name (including SEP-IRA and SIMPLE-IRA accounts) and from tax-favored company retirement plan accounts. The magic age is 70 1/2 if you attained that age *before 2020* or 72 if you attain age 70 1/2 *after 2019*.

And you must pay income tax on the taxable portion of your RMDs. Thankfully, the CARES Act suspends all RMDs that you would otherwise have to take in 2020.

The suspension applies equally to your initial RMD if you turned 70 1/2 last year and did not take that initial RMD last year (the initial RMD is actually for calendar year 2019). Before the CARES Act, the deadline for taking that initial RMD was April 1, 2020. Now, thanks to the CARES Act, you can put off any and all RMDs that you otherwise would have had to take this year. Good!

For 2021 and beyond, the RMD rules will be applied as if 2020 never happened. In other words, all the RMD deadlines will be pushed back by one year, and any deadlines that otherwise would have applied for 2020 will simply be ignored.

Takeaways

The CVD privilege can be a very helpful and very flexible tax-favored financial arrangement for eligible IRA owners.

- You can get needed cash into your hands right now without incurring the early withdrawal penalties.

- You can then recontribute the CVD amount anytime within the three-year window that will close sometime in 2023—depending on the date you take the CVD—to avoid any federal income tax hit.

The suspension of RMDs for this year helps your 2020 tax situation, because you avoid the tax hit on RMDs that you otherwise would have had to withdraw and include as taxable income this year.

COVID-19: Significant Payroll and Self-Employment Tax Relief

If you are in business for yourself—say, as a corporation or self-employed—payroll taxes and self-employment taxes are likely two of your biggest tax burdens.

Here's some possible good news: Congress decided to give you significant relief from these taxes due to the COVID-19 pandemic. We'll tell you what relief options are available and whether or not you qualify.

Payroll Tax Deferral

If you have employees (including yourself), then you can postpone payment of the employer share of payroll taxes incurred from the date of enactment of the CARES Act (March 27, 2020) through December 31, 2020.

You'll need to pay 50 percent of your 2020 postponed employer taxes no later than December 31, 2021, and the remaining 50 percent no later than December 31, 2022.

Note. This provision doesn't apply if you use the small business loan forgiveness provision under the CARES Act that we discussed above.

Self-Employment Tax Deferral

If you owe self-employment tax in tax year 2020, you'll pay it as follows:

- 50 percent on your 2020 Form 1040 return (which you file in 2021),
- 25 percent no later than December 31, 2021, and
- 25 percent no later than December 31, 2022.

Example. On her 2020 Form 1040, Sue has a Schedule C and a self-employment tax liability of $8,000. She'll pay that $8,000 on the following schedule:

- $4,000 with her 2020 Form 1040 when filed in 2021,
- $2,000 no later than December 31, 2021, and
- $2,000 no later than December 31, 2022.

Employee Retention Credit

The CARES Act gives you a refundable tax credit against the employer portion of employment taxes equal to 50 percent of wages paid to your employees after March 12, 2020, and before January 1, 2021. You are eligible if

- a government order fully or partially suspended your operations during a calendar quarter due to COVID-19, or
- your gross receipts for a calendar quarter are less than 50 percent of gross receipts from the same quarter in the prior year, in which case your credit ends in the quarter when gross receipts exceed 80 percent of gross receipts from the same quarter in the prior year.

If you have **more than 100** full-time employees, then you can take a credit for wages paid to your employees when they are not providing services due to COVID-19-related circumstances.

If you have **100 or fewer** full-time employees, then all your employee wages qualify for the credit, whether you are open for business or subject to a shutdown order.

The maximum creditable wage amount is $10,000 per employee for all calendar quarters and includes the value of the health benefits you pay on his or her behalf.

Note. You cannot take the employee retention credit if you receive a Small Business Interruption Loan from the Small Business Administration.

FFCRA Tax Credits—Overview

If the Families First Coronavirus Response Act (FFCRA) requires you to provide paid sick leave or paid family leave to your employees, then you receive refundable payroll tax credits against your employer portion of your employment tax liability to offset the wage expense.

You'll be able to reduce your federal tax deposits by the anticipated credit amount to get immediate cash in your pocket. If the credit amount exceeds your payroll tax deposit, the difference is refundable to you. You won't pay employer Social Security taxes on the paid leave, and you'll get an additional tax credit to offset your share of the Medicare payroll tax.

In addition, if you pay self-employment tax, and if you would have qualified for paid sick or family leave if you had been employed by someone required to offer paid leave, then you get a refundable tax credit against self-employment tax.

These provisions apply starting April 1, 2020, and end on December 31, 2020.

Who Must Provide Paid Leave?

In general, you must provide paid leave if your business or tax-exempt organization has fewer than 500 employees.

The Department of Labor has authority to exempt small businesses with fewer than 50 employees from the paid leave requirements if those requirements would jeopardize the viability of the business.

The fewer-than-50-employees exemption will be available on the basis of simple and clear criteria that make it available in circumstances involving jeopardy to the viability of an employer's business as a going concern.

Paid Sick Leave Payroll Tax Credit

The Emergency Paid Sick Leave Act requires you to provide an employee with paid sick time to the extent that the employee is unable to work or telework due to a need for leave for any of the following reasons:

1. The employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19.
2. A health care provider advised the employee 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 order described in clause (1) or an advisory described in clause (2).
5. The employee is caring for the employee's child due to closure of school or place of care, or the childcare provider of such child is unavailable due to COVID-19 precautions.
6. The employee is experiencing any other substantially similar condition specified by the Department of Health and Human Services in consultation with the Department of the Treasury and the Department of Labor.

For paid sick time qualifying under clauses (1), (2), or (3) above,

- your employee receives up to two weeks of paid sick leave at 100 percent of the employee's pay, and
- you receive a 100 percent payroll tax credit for qualified sick leave wages, but the credit may not exceed $511 for any day (or any

portion thereof) for which you pay the individual sick time.

For paid sick time qualifying under clauses (4), (5), or (6) above,

- your employee receives up to two weeks of paid sick leave at two-thirds of the employee's pay, and
- you receive a 100 percent payroll tax credit for qualified sick leave wages, but the credit may not exceed $200 for any day (or portion thereof) for which you pay the individual sick time.

The maximum number of COVID-19 creditable paid sick leave days is 10 per employee per calendar year. Your credit also includes your qualified health plan expenses that are allocable to creditable qualified sick leave wages.

Self-Employed Sick Leave Credit

Remember, this credit applies if you were self-employed and would have qualified for paid sick leave if you had been employed by someone required to offer paid leave.

If you were unable to work under clauses (1), (2), or (3) above, your refundable tax credit is equal to the number of days you were unable to work, multiplied by the lesser of

- $511, or
- 100 percent of your average daily self-employment income for the tax year.

If you were unable to work under clauses (4), (5), or (6) above, your refundable tax credit is equal to the number of days you were unable to work, multiplied by the lesser of

- $200, or
- 67 percent of your average daily self-employment income for the tax year.

Your maximum number of COVID-19 creditable sick days is 10 days per calendar year.

Your average daily self-employment income under the provision is equal to your net earnings from self-employment for the taxable year, divided by 260.

Example. You have 2020 Schedule C net income from self-employment of $100,000. You were sick and unable to work for five days because you experienced symptoms of COVID-19.

Your average daily self-employment income is $385, which is $100,000 divided by 260. Your refundable tax credit is $1,925, which is the lesser of

- $2,555 ($511 x 5 days), or
- $1,925 ($385 x 5 days).

Paid Family Leave Payroll Tax Credit

The Emergency Family and Medical Leave Expansion Act requires you to provide public health emergency leave to employees under the Family and Medical Leave Act of 1993 (FMLA).

This requirement generally applies when your employee is unable to work or telework due to a need for leave to care for a child under age 18 because the school or place of care is closed, or the childcare provider is unavailable, due to a public health emergency (defined as an emergency with respect to COVID-19 declared by a federal, state, or local authority).

You can provide unpaid leave for the first 10 days of public health emergency leave required, but after that period, you must provide paid leave.

For paid family leave time,

- your employee receives no more than 10 weeks of paid family leave at no less than two-thirds of the employee's pay for normally scheduled hours, and
- you receive a 100 percent payroll tax credit for qualified family leave wages, but the credit may not exceed $200 for any day (or any portion thereof) for which you pay the individual family leave time, for an aggregate maximum of $10,000.

Your credit also includes your qualified health plan expenses that are allocable to creditable qualified sick leave wages.

Self-Employed Family Leave Credit

Remember, this credit applies if you were self-employed and would have qualified for paid family leave if you had been employed by someone required to offer paid leave.

If you were unable to work for reasons listed in the section above, your refundable tax credit is equal to the number of days you were unable to work, multiplied by the lesser of

- $200, or
- 67 percent of your average daily self-employment income for the tax year.

Your maximum number of creditable family leave days is 50 days per calendar year. Your average daily self-employment income under the provision is equal to your net earnings from self-employment for the taxable year, divided by 260.

No Double Benefits

For both the paid sick leave credit and the paid family leave credit, you'll include

- the credit amount as income, and
- the qualifying expenses as a deduction.

Example. You claim a credit of $2,700 for $2,500 of qualified family leave wages and $200 of health plan expenses paid during the quarter. You will have an offsetting income inclusion amount of $2,700, but you may deduct $2,500 of qualified family leave wages and $200 of health plan expenses.

In addition, if you are self-employed but also receive paid sick or family leave from an employer, then the amount you receive from the employer reduces the amount you can use toward the self-employed refundable tax credit.

Takeaways

In the legislation dealing with COVID-19, Congress gave you the possibility of significant tax credit and payroll deferrals for taking care of yourself and your employees. In this article, we explained the

- 2020 payroll tax deferral,
- 2020 self-employment tax deferral,
- employee retention credit,

- paid sick and family leave credits for employees, and

- paid sick and family leave credits for the self-employed.

The payroll deferral provisions complicate your accounting, but you keep the cash, so the annoyance is likely worth the trouble. With the tax credits, the feds are covering or at least subsidizing your paid sick leave payroll during this COVID-19 business interruption.

If you are self-employed and qualify for a refundable tax credit because of your inability to work due to illness or family needs, be sure to thoroughly document that you qualified for the credit.