

# CARES Act Essentials: What You Need to Know by Topic

In response to unprecedented health care demands and economic conditions caused by the COVID-19 pandemic, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was enacted on Friday, March 27, 2020. The Act provides more than \$2 trillion in economic relief to small businesses, distressed industries, health care providers, workers, and others. Assistance under the CARES Act is based on compliance with many terms and requirements.

We have organized by intended beneficiary groups or industries below brief summaries of significant provisions of the CARES Act with links to more detail as available. Each summary functions as a general overview and should only be used as a high-level resource.

*Please contact [Jim Catanzaro](#), [Justin Furrow](#), or your relationship attorney if you have specific CARES Act or COVID-19 related questions or need additional information.*

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## CARES Financial Relief for Larger and Distressed Companies

Subtitle A of Title IV of the CARES Act authorizes the Secretary of the Treasury (Secretary) to provide up to approximately \$500 billion in aid to eligible businesses, states, and municipalities that suffer losses or are likely to suffer losses as a result of COVID-19. The financial assistance would be available as follows:

- up to \$454 billion to support programs established by the board of governors of the Federal Reserve System to provide liquidity to states, municipalities, and other businesses that the CARES Act does not otherwise adequately assist;
- up to \$25 billion to lend to or guarantee the loans of passenger air carriers, ticket agents, and businesses certified and approved to perform certain inspections, repairs, replacements, or overhaul services;
- up to \$4 billion to lend to or guarantee the loans of cargo air carriers;
- up to \$3 billion to lend to or guarantee the loans of airline contractors; and
- up to \$17 billion to lend to or guarantee the loans of businesses deemed critical to national security.

Note that in addition to the relief above the Federal Reserve announced that it will make available \$600 million to fund loans originated by banks and other lenders to eligible businesses in minimum amounts of \$1 million, including specifically, to small and mid-sized businesses with no more than 10,000 employees or that in 2019 earned total revenues of no more than \$2.5 billion. There is not yet, however, much program detail as the Federal Reserve only announced the establishment of the Main Street Financing Program on April 9. We will provide an additional update once more guidance has been published. For more information about the Federal Reserve's announcement, [see here](#).

The Treasury may also provide support for businesses and nonprofits with between 500 and 10,000 employees, but there is as of yet no detail about this program. What we do know at this point is that eligible businesses may obtain loans with an interest rate of no more than 2% per annum and no payment due for at least six months. Also, borrowers under this program would need to certify...

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## Small Business Financial Relief Through the Paycheck Protection Program

The CARES Act provides \$350 billion to the Paycheck Protection Program to allow the Small Business Administration (SBA) to guarantee 100% loans (with interest rates not to exceed 4%) made by local SBA preferred lenders to help eligible “small” businesses pay costs such as:

- payroll costs;
- interest on real or personal property mortgage obligations in existence before February 15, 2020;
- interest payments on any other debt obligations that were incurred before February 15, 2020;
- rent; or
- utilities.

The “covered period” under the Paycheck Protection Program is from February 15, 2020, to June 30, 2020. Businesses (including, for-profit enterprises, nonprofit organizations, veteran organizations, sole proprietors, independent contractors, and other self-employed individuals) with fewer than 500 employees or meeting SBA alternative tests for “small business concerns” are eligible for the Paycheck Protection Program. Please refer to the [SBA Affiliation Rules](#) applicable to commonly controlled entities when counting employees for purposes of determining the number of employees of an applicant. Small businesses were permitted to begin submitting applications on April 3, 2020, for the SBA loans under the Paycheck Protection Program, while independent contractors and self-employed individuals may begin applying on April 10, 2020.

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## CARES Financial Relief for Health Care Providers

The CARES Act adds \$100 billion to the “Public Health and Social Services Emergency Fund” to reimburse “eligible health care providers” for “health care related expenses or lost revenues that are attributable to Coronavirus.” The fund will remain available until expended. The single paragraph of the CARES Act that establishes the fund is vague, leaving the Department of Health and Human Services (HHS) and the Secretary of the Treasury with the authority to administer the same. The following outlines what we do know based on the text:

- **Eligible Providers:** The funds are available to “eligible health care providers” which includes “public entities, Medicare or Medicaid enrolled suppliers and providers, and such for-profit entities and not-for-profit entities ... as the Secretary may specify ... that provide diagnoses, testing, or care for individuals with possible or actual cases of COVID-19.”
- **Application:** Eligible health care providers must submit an application to the Secretary that includes their tax ID number and a statement justifying their need for the payment. Applications will be reviewed by the Secretary on a rolling basis. Further instruction on how to apply is anticipated in the coming weeks.
- **Reports and Documentation:** Recipients will be required to submit reports and maintain documentation as the Secretary determines are needed to ensure compliance with conditions that are imposed.

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## CARES Financial Relief for Nonprofits

The Paycheck Protection Program will enable eligible nonprofit organizations that have been adversely affected by the COVID-19 pandemic to obtain funds to cover payroll, rent, interest, and utilities. For further information on the Paycheck Protection Program, please refer to [Small Business Relief Through the Paycheck Protection Program](#). The SBA has also provided specific guidance stating that faith-based organizations, including houses of worship, are eligible to receive loans under the Paycheck Protection Program and the Economic Injury Disaster Loan Program. For further information specific to faith-based organizations, please review our previous article [SBA Clarifies Religious Organizations May Seek Paycheck Protection Loans](#) or the [SBA Faith Based FAQs Sheet](#).

Additionally, nonprofit employers will also be eligible for refundable payroll tax credit relief and deferral of payroll taxes as described in [Business Tax Benefits](#).

Finally, nonprofit organizations that employ 500–10,000 employees may also be eligible to apply for and obtain loans under the “mid-sized business” loan program established and funded by the \$454 billion allocated to the U.S. Treasury on the same terms and conditions as similarly sized for-profit businesses (loans bearing a maximum rate of 2% with no principal or interest due for six months). For further information on the “mid-sized business” loan program, please refer to relief for [Larger and Distressed Companies](#).

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## Business Tax Benefits Through CARES

### Employer Tax Credit Availability

Certain employers may be entitled to a tax credit against employment taxes if the operation of the employer’s trade or business is fully or partially suspended during the calendar quarter due to orders of a governmental authority that limited commerce, travel, or group meetings. Employers are also eligible for this credit in the first calendar quarter in which the employer has a reduction of gross receipts of more than 50% compared to the same calendar quarter in the prior year, and eligibility for the credit continues in each calendar quarter as long as the employer has a reduction of gross receipts of more than 80% of gross receipts from the calendar quarter in the prior year.

The amount of the tax credit is 50% of the qualifying wages of the employer, and generally qualifying wages for each employee are limited to \$10,000 for all quarters, and wages paid to certain employees are subject to additional limitations or exclusions. This credit is not available if the employer is a borrower under the Paycheck Protection Program. For further information on the Paycheck Protection Program, please refer to [Small Business Relief Through the Paycheck Protection Program](#). Further, the amount of the credit is reduced by any credits allowed under the Families First Coronavirus Relief Act.

### Delay of Payment of Employer Payroll Taxes

From the time the CARES Act is signed into law through December 31, 2020, employers will be allowed to defer paying their share of the 6.2% Social Security tax imposed on them. And 50% of any deferred amount would be due on December 31, 2021, and the other 50% would be due by December 31, 2022.

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## CARES Financial Relief for Government Contractors

Section 3610 of the CARES Act provides broad authority to agencies to reimburse government contractors for paid leave and sick leave expended to keep their employees on staff and ready to perform during the COVID-19 pandemic. The section provides that agencies may modify a contract or other agreement “without consideration” to reimburse contractors for any paid leave, including sick leave, “to keep its employees or subcontractors in a ready state” through September 30, 2020. The reimbursement is limited to the “minimum applicable contract billing rates not to exceed an average of 40 hours per week,” but it appears the authority can be used broadly to ensure contractors are fully prepared to resume performance when the crisis subsides. While the provision references the use of this authority “to protect the life and safety of government and contractor personnel,” it does not limit the use of the authority to that situation, instead referencing that as but one example of the situations in which the authority may be used.

The authority does, however, have limitations. It only applies to a contractor whose employees or subcontractors cannot perform work on a site that has been approved by the federal government, including a federally-owned or leased facility or site, due to facility closures or other restrictions. Further, this provision is restricted to employees who cannot telework because their job duties cannot be performed remotely during the public health emergency.

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## CARES Relief for State and Local Governments

The CARES Act establishes a \$500 billion loan program accessible by cities, states, and businesses, while also providing for more than \$250 billion in direct funding to state and local governments. The majority of the direct spending is by way of the \$150 billion Coronavirus Relief Fund (Relief Fund). The Relief Fund reserves \$3 billion for the District of Columbia and major U.S. territories and \$8 billion for federally recognized tribal governments. The remainder is reserved for the 50 states apportioned by population, with every state guaranteed at least \$1.25 billion.

Importantly, local governments (defined as a “county, municipality, town, township, village, parish, borough, or other units of general government below the state level”) with a population of more than 500,000 may apply directly to the federal government for a share of the funding. Any direct payments to local governments under the Relief Fund are to be deducted from that state’s allocation, but cannot exceed 45% of the local government’s allotment, per the CARES Act’s per capita funding formula, or Relative Population Proportion Amount. Simply put, local governments may bypass their governor and apply directly for funds, but they are limited to 45 cents on the dollar relative to funds available to state government.

To be eligible, there are three qualifying conditions for financial assistance under the Relief Fund.

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