



A Breakdown of the New U.S. Laws and What They Mean for Yoga Businesses

By now, you have heard and read a lot about the Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into law in the U.S. on March 27, 2020. The sweeping legislation includes \$2 trillion in stimulus funding to support states, businesses, and individuals during the COVID-19 emergency.

To make understanding the CARES Act more manageable, we have created this brief that explains key provisions for yoga businesses. You also should review our brief on the Family First Coronavirus Response Act which established paid leave guarantees for certain workers and obligations for certain employers.

DISCLAIMER

The information contained in this update does not constitute legal advice and no attorney-client relationship is formed based upon the provision thereof.

FEDERAL SUPPORT FOR SMALL BUSINESSES

Small Business Administration (SBA) Paycheck Protection Loans Under the CARES Act, Congress has appropriated \$350 billion to make Small Business Administration (SBA) Paycheck Protection Loans of up to \$10 million available to small businesses impacted by COVID-19. These loans are available until June 30, 2020. A link to the application and additional SBA guidance may be found [here](#).

What is a “small business”?

Generally, a “small business” is defined as any business or nonprofit with up to 500 employees (including their “affiliates”—i.e., businesses under common ownership or control), sole proprietorships, independent contractors, and those who are self-employed.

Small businesses that (1) were in operation on Feb. 15, 2020 and (2) had employees for whom the business paid salaries and payroll taxes or paid independent contractors are eligible to apply for a loan.

What can I use a Paycheck Protection Loan for?

Loans can be used to cover certain costs of payroll, employee benefits, interest payments, rent, and utilities.

What is the available loan amount?

Each eligible small business may receive a loan of up to 2.5 x its average monthly payroll for the year preceding the loan, but not more than \$10 million.

What are the requirements for borrowers?

Borrowers are required to make good faith certifications that they have been impacted by COVID-19 and that they will use the loan funds to retain workers and maintain payroll and other debt obligations.

The CARES Act waives the personal guaranty requirement typically associated with SBA loans, as well as the requirement for applicants to demonstrate that they are unable to obtain credit from other sources.

Do I have to pay back a Paycheck Protection Loan?

The Government will forgive a loan under the Act that a recipient can document was used to pay: (1) payroll costs; (2) mortgage interest; (3) rent; and (4) utilities—in each case for up to eight weeks following the issuance of the loan.

For loan amount that are not forgiven, interest on Paycheck Protection Loans will be up to 4%. Further, payment of the loans will be deferred for between six months one year.

What if I took out an SBA small business loan before the CARES Act?

The CARES Act directs the SBA to pay the principal, interest, and associated fees due on all existing Section 7(a) SBA loans that were issued before the Act was enacted. This applies to SBA loans that are in regular servicing status and continues for 6 months, beginning on the date that the new payment is due.

The Act also allows a small business that already has an Economic Injury Disaster Loan (see below) to apply for a Paycheck Protection Loan if it will not duplicate the applicant’s use of the Economic Injury Disaster Loan.

FEDERAL SUPPORT FOR SMALL BUSINESSES

A. Small Business Administration (SBA) Economic Injury Disaster Loans

The CARES Act also appropriates \$10 billion for SBA Economic Injury Disaster Loans (EIDL), a longstanding program that makes low-interest, long-term loans of up to \$2 million to small businesses impacted by natural disasters. The EIDL program is now available to businesses impacted by the COVID-19 pandemic. Information to apply can be found [here](#).

The CARES Act established specific EIDL provisions to help businesses recover from the COVID-19 crisis. These provisions – as described below – will be available until December 31, 2020.

What is a “small business”?

A “small business” is defined as any business, nonprofit, or cooperative fewer than 500 employees and sole proprietorships, independent contractors, and those who are self-employed. Businesses must have been in operation on January 31, 2020 to be eligible.

Are there other eligibility requirements?

To be eligible, the applicant also must have an acceptable credit history, have the ability to repay the loan, be physically located in a declared disaster area, and have suffered working capital losses due to the declared disaster, not due to a downturn in the economy or other reasons.

What can I use an EIDL for?

EIDLs may be used to pay fixed debts, payroll, accounts payable and other costs, but are not intended to replace lost sales or profits and cannot be used for certain purposes, including to refinance debt, make payments on loans owed by another federal agency, to pay tax penalty obligations, repair physical damages, or to pay dividends to stockholders.

What loan requirements has the CARES Act changed?

The CARES Act restricts the SBA to approve applicants based only on their credit score or on “alternative appropriate methods” of determining their ability to repay. Temporarily, there is:

- No personal guarantee requirement for loans up to \$200,000;
- No requirement that applicants be in business for one year prior to the COVID-19 public health emergency; and
- No requirement that applicants be “unable to obtain credit elsewhere.”

What are the terms of an EIDL?

Interest for an EIDL will up to 3.75% for small businesses and 2.75% for nonprofits. EIDLs also offer long-term repayments in order to keep payments affordable, up to a maximum of 30 years. Terms are determined on a case-by-case basis, based upon each borrower’s ability to repay.

Are advances on an EIDL available?

Yes. The Act provides for a \$10,000 emergency advance (within three days of submitting an application) while an applicant’s loan application is pending, which SBA will not require to be repaid, even if an applicant is denied for an EIDL loan.

Note: the Act contemplates that an applicant may receive this advance while still applying for a Paycheck Protection Loan (see above) and that, if the applicant later receives a Paycheck Protection Loan, the amount of the advance will “be reduced from the loan forgiveness amount for a loan for payroll costs.

FEDERAL SUPPORT FOR SMALL BUSINESSES

B. Tax Benefits for Yoga Employers and Businesses

The CARES Act and Families First Coronavirus Response Act include several modifications to the tax code intended to help employers and businesses increase cash flow during the COVID-19 emergency.

Employer Payroll Tax Delay

Employers generally are responsible for paying a 6.2% Social Security tax on employee wages. The CARES Act allows employers to defer payment of the employer share of the Social Security tax they would otherwise pay to the federal government with respect to their employees between March 27, 2020 and Jan. 1, 2021.

The CARES Act requires that the deferred employment tax be paid over the following two-years, with half the amount required to be paid by December 31, 2021 and the other half by December 31, 2022.

Employee Retention Tax Credit

The CARES Act provides a refundable payroll tax credit for 50 percent of wages paid by employers to employees during the COVID-19 crisis.

The credit is available to employers whose (1) operations were fully or partially suspended due to a COVID-19-related shutdown order, or (2) gross receipts declined by more than 50 percent when compared to the same quarter in the prior year.

The credit is based on “qualified wages” paid to the employee from March 13, 2020 through December 31, 2020

- For employers with more than 100 employees: “qualified wages” are wages paid to employees when they are not providing services due to the COVID-19-related circumstances described above.
- For employers with fewer than 100 employees: all employee wages qualify for the credit, whether the employer is open for business or subject to a shut-down order.

The amount of qualified wages that may be taken into account for any individual employee for purposes of the Employee Retention Tax Credit may not exceed \$10,000. If the amount of allowable credit exceeds this limitation, the excess is refundable to the employer.

Note: this credit cannot be used if you have a loan forgiven under the SBA Paycheck Protection Program (see above).

Modification of Limitation on Business Interest

Under current law, a taxpayer's ability to deduct business interest is limited to the sum of (i) the taxpayer's business interest income, and (ii) 30 percent of the adjusted taxable income of the taxpayer.

The CARES Act increases the amount of business interest that can be deducted in 2019 and 2020 to the sum of (i) the taxpayer's business interest income, and (ii) 50 percent of the adjusted taxable income of the taxpayer. This should increase the amount of interest that will be currently deductible on 2019 and 2020 tax returns.

In addition, for the 2020 tax year, taxpayers can elect to use their 2019 adjusted taxable income to calculate the limit. If a taxpayer's 2019 income exceeded their 2020 income, this should allow an increase of permissible interest deductions on 2020 tax returns.

Modification of Net Operating Losses

Under current law, a taxpayer may only use net operating loss (NOL) carryforwards arising in tax years beginning after Dec. 31, 2017 to offset 80 percent of the taxpayer's income. Further, NOLs arising in tax years beginning after Dec. 31, 2017 may not be carried back.

The CARES Act eliminates the 80 percent limit on deductions for NOLs for the 2018, 2019, and 2020 tax years. As a result, taxpayers that would otherwise have been limited on their 2019 tax returns may now calculate their 2019 and 2020 tax liabilities without regard to the 80 percent limit. Taxpayers that were limited in their use of NOLs in 2019 can file amended tax returns to claim refunds.

The CARES Act also eliminates the limit on NOL carrybacks for losses arising in the 2018, 2019, and 2020 tax years. NOLs incurred in these years may be carried back five years. Taxpayers should evaluate whether there is an opportunity to file amended returns to claim refunds as a result of this new carryback opportunity.

Paid Leave Payroll Tax Credit

The Families First Coronavirus Response Act provides a tax credit to employers with fewer than 500 employees for amounts paid to employees for paid sick leave and emergency leave required under that law.

The credits apply against an employer's quarterly Social Security and Medicare taxes and are equal to the amount paid by the employer, subject to limitations.

Tax Filing Due Date Extended

The [IRS](#) extended the federal income tax filing due date automatically from April 15, 2020 to July 15, 2020. Further, many states have also extended their tax filing due dates, so be sure to check the deadline in the locations where you pay taxes.

ADDITIONAL SUPPORT FOR SMALL BUSINESSES

Various local governments and private companies are announcing small business assistance programs. This area is changing rapidly. We are including a list of available support programs below, but this list is subject to change.

A. Local Small Business Assistance Programs

- **Chicago:** Chicago has established a \$100M Small Business Resiliency Loan Fund to provide targeted low-interest loans to severely impacted small businesses. Businesses may start applying for loans on March 31st.
- **Denver:** The City and County of Denver has announced a \$4m initial relief fund. Denver Economic Development and Opportunity (DEDO) is setting up an [emergency relief program](#) to provide cash grants up to \$7,500 to qualifying small businesses. The highest priority will be the industries most impacted by the coronavirus pandemic, such as the food industry (but could be helpful to other businesses as well).
- **Los Angeles:** LA's Small Business Emergency Microloan Program is offering loans ranging from \$5K to \$20K with 0-3% interest rates. Details and eligibility requirements can be found [here](#).
- **New York City:** NYC will provide relief for small businesses seeing a reduction in revenue due to COVID-19. Businesses with fewer than 100 employees who have seen sales decreases of 25% or more will be eligible for zero interest loans of up to \$75,000 to help mitigate losses in profit. The City is also offering small businesses with fewer than 5 employees a grant to cover 40% of payroll costs for two months to help retain employees. Details and eligibility requirements can be found [here](#).
- **Sacramento:** The City of Sacramento has established a \$1 million economic relief fund for businesses affected by COVID-19. The fund will provide zero-percent interest loans of up to \$25,000 per business. Due to overwhelming demand, the City is closing its application portal as of March 20th at midnight but will reopen the portal as funding becomes available. Details and eligibility requirements can be found [here](#).
- **San Francisco:** SF established a COVID-19 Small Business Resiliency Fund which allows impacted small business owners access to up to \$10K for employee salaries and rent. Details and eligibility requirements can be found [here](#).
- **Seattle:** The city's Office of Economic Development is providing [\\$1.5 million in grants](#) of up to \$10,000 to small businesses. The mayor is also deferring tax payments for business-owner candidates and will set up a small-business recovery task force. Details and eligibility requirements can be found [here](#).

B. Private Support for Small Businesses

- **Amazon:** Amazon announced a \$5M relief fund to provide cash grants to local Seattle small businesses. Details and eligibility requirements can be found [here](#).
- **Facebook:** Facebook is offering a [\\$100 million grant program](#) for small businesses impacted by the coronavirus.
- **Kabbage:** Kabbage launched an online program to allow businesses to sell gift cards to use at a later date. Details can be found [here](#).

C. Keeping Up with Emerging Initiatives

As the effect of coronavirus has varied across states, state plans to assist small businesses vary. Check with your governor's office and local small business organizations for the latest information on state specific assistance, resources, and updates. The SBA offers an [easy tool](#) to find local small business assistance organizations.