

Federal Relief Questions and Answers

March 29, 2020

Note that the below questions are those which come to us from various sources, mostly clients. We will answer them based on the best information we have available at the time. We will work to provide the most accurate and timely answers we can. In some cases we may not have found the complete answer or we may have located information and determine previous answers to be incorrect. In these cases we will include better answers in newsletters which follow. Our intent is to communicate providing a Q&A dialogue as many may have the same questions.

Because we are getting many requests for information our system for the time being will be to list questions from clients and answer these questions in more frequent newsletters (daily, weekly, or as often as deemed helpful). We feel this will be the most efficient way to get word to those with questions versus attempting to answer each question individually. If you have questions please send them to Relief.Q-A@sorgecpa.com. All question are good questions. If you have opted out of our normal

Question: How do the business loans work that are forgivable? If the business is doing fine financially and doesn't layoff anyone, can they really apply for a loan that's forgiven as long as they prove that they don't layoff anyone (that's what several media outlets and experts in the news are saying)? Or is there a catch? If so, what?

1. It appears that forgiveness of loan debt will be based on the validity of the need for such loans in order to pay employees even though revenue cannot support paying employees. Information from sources noted below.
 - a. Financings under these programs place a number of requirements on the businesses that receive federal aid.... Loans, loan guarantees and other investments under the CARES Act will be subject to supervision, audits and investigation by a special inspector general..."
 - b. The CARES Act gives the Secretary of the Treasury broad discretion to make loans and loan guarantees to air carriers (including eligible repair and inspection businesses and ticketing agents) and to businesses critical to maintaining national security. The loans are only available to eligible businesses (generally defined as air carriers and U.S. businesses that have not otherwise received adequate economic relief in the form of loans or loan guarantees under the CARES Act) that have incurred or expect to incur covered losses that jeopardize the business, and all recipients must be organized and conduct a majority of their operations in the U.S.
 - c. Loans under this program will include terms compensating the government for its investment. For example, the loans must be sufficiently secured or bear interest at rates determined by the Secretary of the Treasury that reflect the risk and are not less than the comparable pre-outbreak rates; the government must receive warrants, equity or, in certain cases, a senior debt instrument to benefit in gains of the business; and maturities must be as short as practicable and cannot exceed five years. The loans cannot be forgiven.
 - d. Loans under this program also will include limitations on the recipients of federal aid designed to protect the government's investment. Executive compensation and severance benefits will be limited for the term of the loan plus one year. Businesses are

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restricted from paying dividends and making other capital distributions with respect to their common stock, and businesses and their affiliates are prohibited from buying back public stock (unless contractually obligated prior to the enactment of the CARES Act), until one year after the loan is repaid. Employment levels must be retained until September 30, 2020, to the extent practicable, and in any case cannot fall by more than 10% from the March 24, 2020, levels. The Secretary of Transportation may require air carriers that receive loans under this program to maintain scheduled services to locations consistent with those provided prior to the COVID-19 outbreak.

- e. <https://www.skadden.com/insights/publications/2020/03/cares-act-provides-much-needed-stimulus#loan>

Question: How does a business take advantage of the sick leave credit? What if they have or didn't have such a policy before?

1. If you have someone who qualifies for the sick leave you must pay them, regardless of your current or past policy. The employer may recover the credit by reducing the payroll tax liability or otherwise requesting a credit. See the prior newsletter:
 - a. The Families First Act generally requires employers 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 in any of the following situations:
 - b. the employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19;
 - c. the employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
 - d. the employee is caring for an individual who is either subject to a quarantine order or is self-quarantining (as described in the previous two items);
 - e. the employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
 - f. the employee is caring for a child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 precautions; or
 - g. the employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.
 - h. Full-time employees are entitled to 80 hours of paid sick time. Part-time employees are entitled to paid sick time equal to the average number of hours that the employee works over a two-week period. Paid sick time under this provision does not carry over from one year to the next. Additionally, a notice of the requirements under this law must be posted in a conspicuous place on the employer's premises.
 - i. The Families First Act requires that certain employers provide public health emergency leave to employees under the Family and Medical Leave Act of 1993. This requirement generally applies when an employee is unable to work or telework due to a need for

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leave to care for a son or daughter under age 18 because the school or place of care has been closed, or the child care provider is unavailable, due to a public health emergency. A public health emergency is defined as an emergency with respect to COVID-19 declared by a federal, state, or local authority. The first 10 days of public health emergency leave required under the law may consist of unpaid leave, after which paid leave is required. The paid leave is for the duration of the period provided in the Families First Act, which is a maximum of 10 weeks. The amount of required paid leave under the provision is based on an amount not less than two-thirds of an employee's regular rate of pay, and the number of hours the employee would otherwise be normally scheduled to work. Additional guidance is provided for employees with varying schedules. The paid leave mandated by the Families First Act may not exceed \$200 per day and \$10,000 in the aggregate.

- j. Families First Act Employer Tax Credits
- k. *Paid Sick Leave Credit:* For an employee who is unable to work because of Coronavirus quarantine or self-quarantine or has Coronavirus symptoms and is seeking a medical diagnosis, eligible employers may receive a refundable sick leave credit for sick leave at the employee's regular rate of pay, up to \$511 per day and \$5,110 in the aggregate, for a total of 10 days. For an employee who is caring for someone with Coronavirus, or is caring for a child because the child's school or child care facility is closed, or the child care provider is unavailable due to the Coronavirus, eligible employers may claim a credit for two-thirds of the employee's regular rate of pay, up to \$200 per day and \$2,000 in the aggregate, for up to 10 days. Eligible employers are entitled to an additional tax credit determined based on costs to maintain health insurance coverage for the eligible employee during the leave period. A similar credit is available for self-employed individuals.
- l. *Child Care Leave Credit:* In addition to the sick leave credit, for an employee who is unable to work because of a need to care for a child whose school or child-care facility is closed or whose child care provider is unavailable due to the Coronavirus, eligible employers may receive a refundable child care leave credit. This credit is equal to two-thirds of the employee's regular pay, capped at \$200 per day or \$10,000 in the aggregate. Up to 10 weeks of qualifying leave can be counted towards the child-care leave credit. Eligible employers are entitled to an additional tax credit determined based on costs to maintain health insurance coverage for the eligible employee during the leave period. A similar credit is available for self-employed individuals.
- m. Eligible employers who pay qualifying sick or child-care leave can retain an amount of the payroll taxes equal to the amount of qualifying sick and child-care leave that they paid, rather than deposit them with the IRS. The payroll taxes that are available for retention include withheld federal income taxes, the employee share of social security and Medicare taxes, and the employer share of social security and Medicare taxes with respect to all employees. If there are not sufficient payroll taxes to cover the cost of qualified sick and child care leave paid, employers will be able file a request for an accelerated payment from the IRS.

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- n. Eligible employers are businesses and tax-exempt organizations with fewer than 500 employees that are required to provide emergency paid sick leave and emergency paid family and medical leave under the Families First Act. Eligible employers can claim these credits based on qualifying leave they provide between the effective date (which is defined as not later than 15 days after the date the Act was signed on March 18) and December 31, 2020.
- o. <https://www.irs.gov/newsroom/treasury-irs-and-labor-announce-plan-to-implement-coronavirus-related-paid-leave-for-workers-and-tax-credits-for-small-and-midsize-businesses-to-swiftly-recover-the-cost-of-providing-coronavirus>

Question: How does the credit work for self-employed people who saw that they can get a tax credit for taking care of kids while they're home from school? What if they already worked at home anyway?

1. If an eligible employer paid \$5,000 in sick leave and is otherwise required to deposit \$8,000 in payroll taxes, including taxes withheld from all its employees, the employer could use up to \$5,000 of the \$8,000 of taxes it was going to deposit for making qualified leave payments. The employer would only be required under the law to deposit the remaining \$3,000 on its next regular deposit date.
2. If an eligible employer paid \$10,000 in sick leave and was required to deposit \$8,000 in taxes, the employer could use the entire \$8,000 of taxes in order to make qualified leave payments and file a request for an accelerated credit for the remaining \$2,000.
3. Equivalent child care leave and sick leave credit amounts are available to self-employed individuals under similar circumstances. These credits will be claimed on their income tax return and will reduce estimated tax payments.
 - a. Presumably those taking this credit will be required to complete some sort of form with their individual income tax return which will include questions determining eligibility to take the credit.

Question: Is there anything in the new law that can help reduce 2019 income?

1. There is no new provision reducing 2019 income now. There are more relaxed provisions carrying back 2020 losses, once known, back to 2019. We'll see what income looks like for 2020 as we prepare these tax returns in 2021.

Question: Who will receive the direct payment of up to \$1200?

1. How much you get depends on last year's taxes
 - a. The total amount of your stimulus check will be based on your adjusted gross income, or AGI, from your 2019 federal tax filing or -- if you've not filed this year yet -- your 2018 filing.
 - b. If you've filed your 2019 federal tax return, you can find that figure on line 8b of the 2019 1040 federal tax form. It's line 7 on the 2018 1040 tax form.
2. Who is eligible for a stimulus payment?
 - a. The amount you'll receive will depend on your total income in 2019 or 2018. Here's who qualifies:

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- If you're a single US resident and have an adjusted gross income less than \$99,000.
- If you file as the head of a household and earn under \$146,500.
- If you file jointly without children and earn less than \$198,000.
- Read on for how your payment is calculated and how much you can expect. You can also look at this calculator.

3. <https://www.cnet.com/how-to/coronavirus-stimulus-check-is-official-find-out-if-youre-eligible-for-up-to-1200/>

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Question: We are trying to quickly apply for the Small Business Administration Disaster Relief Loan and have a few questions. We are looking at this form and one of our primary questions is if the sales figures relate to revenue or just profits? <https://www.sba.gov/page/disaster-loan-applications>. Should we be listing sales from everything we made or just sales from the business in question? For example, I have a salary with the school district and some consulting work non-related to our short-term rentals. I'm assuming I wouldn't list these sales?

1. I believe the name of the form you are referring to per your link is: ADDITIONAL FILING REQUIREMENTS ECONOMIC INJURY DISASTER LOAN (EIDL), and MILITARY RESERVIST ECONOMIC INJURY DISASTER LOAN (MREIDL).
 - a. First, I highly recommend working with a bank that does SBA lending.
 - b. The questions I believe you are referring to is: Provide monthly sales figures (you may estimate if actual figures are not available) beginning 3 years prior to the disaster and continuing through the most recent month available. **This refers to sales, not net profits.**
2. This form is an attachment to another form you are filing. If the entity you are filing for is a different entity than yourself personally then you would not include non-related salary, consulting or rental income. Therefore, you are correct, you would not list this non-related income.
3. [https://www.sba.gov/disaster/apply-for-disaster-loan/pdfs/Additional%20Filing%20Requirements%20\(SBA%20Form%201368\).pdf](https://www.sba.gov/disaster/apply-for-disaster-loan/pdfs/Additional%20Filing%20Requirements%20(SBA%20Form%201368).pdf)

Articles come out daily which we all find helpful. Here are some of the latest we recommend:

<https://www.congress.gov/bill/116th-congress/senate-bill/3548/text>

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<https://www.npr.org/2020/03/26/821457551/whats-inside-the-senate-s-2-trillion-coronavirus-aid-package>