


# CARES Act

## Loans and Tax Credits for Nonprofit CAAs

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## Coronavirus Response Legislation

- **Coronavirus Preparedness and Response Supplemental Appropriations Act (March 6)**
  - Emergency funding for federal agencies to respond to the coronavirus outbreak
- **Families First Coronavirus Response Act (March 18)**
  - Provides new paid leave benefits and free testing, expands food assistance and unemployment benefits
- **Coronavirus Aid, Relief and Economic Security Act (March 27)**
  - Supplemental Appropriations for CSBG, Head Start, LIHEAP and other programs; aid to qualifying nonprofit organizations and small business

## CARES Act

- **Supplemental appropriations**
  - CSBG, LIHEAP, Head Start, CCDBG
- **Relief for small businesses and nonprofit orgs**
  - Loans and grants to maintain employment
  - Payroll relief
- **Individual relief**
  - Expanded unemployment benefits (\$600/week) for an additional 13 weeks
  - Economic stimulus payments (~\$1,200/adult)

## CARES Act Benefits for Nonprofit CAAs and State Associations

- Paycheck Protection Program (PPP)
- Emergency Economic Injury Disaster Loans (EIDL)
- Mid-Size Business Loans
- Employee Retention Payroll Tax Credit
- Deferral of Payroll Taxes

### Considerations for Nonprofit CAAs and State Associations

# CARES Act Resources



## CARES Act Benefits for Nonprofit CAAs: Paycheck Protection Program (SBA § 7(a) Loans)

CAPLAW  
April 3, 2020

### Overview

The Paycheck Protection Program (PPP) offers loans, which may be fully forgivable, to qualifying small businesses and nonprofit organizations to pay up to 8 weeks of payroll costs, including benefits, as well as interest on mortgages, rent, and utilities.

### Eligibility

The exempt, 501(c)(3) nonprofit community action agencies (CAAs) and state associations with fewer than 500 employees that were in operation as of February 15, 2020, are eligible to apply.

### How to Apply

The Department of Treasury has indicated that applicants can begin obtaining loans from participating lenders as soon as Friday, April 3, 2020. The CARES Act authorizes SBA to issue for PPP loans. Each applicant is only eligible to receive one PPP loan, and the loans are first come, first served. Given the expected high demand for these loans, applicants are encouraged to begin the process as soon as possible. The program is available until June 30, 2020.

To apply, an organization must submit a completed [SBA Form 1588](#) application, along with payroll documentation such as payroll processor records, payroll tax filings, or Form 1099-NEC to an approved SBA lender that is participating in the PPP program. The application requires that a representative who is authorized to act on behalf of the organization as a whole (e.g., Executive Director/CEO, board chair, etc.) verify in good faith that, among other things:

- Current economic uncertainty makes the loan request necessary to support the ongoing operations of the organization, and
- The amount for which forgiveness is requested was used to retain employees and maintain payroll, or make mortgage, rent, and utility payments.



## CARES Act Benefits for Nonprofit CAAs: Emergency Economic Injury Disaster Loans (SBA § 7(b) Loans)

CAPLAW  
April 3, 2020

### Overview

The Small Business Administration (SBA) offers Emergency Economic Injury Disaster Loans (EIDL) and advances on those loans to small businesses and nonprofit organizations that have suffered a substantial economic injury as a result of the COVID-19 crisis. EIDLs and advances may be used to maintain payroll, make rent or mortgage payments, pay increased costs resulting from supply chain disruptions and cover other obligations that they might not otherwise be able to cover due to the crisis.

### Eligibility

Tax-exempt nonprofit community action agencies (CAAs) and state associations (both 501(c)(3)s and 501(c)(2)s) with no more than 500 employees are eligible to apply if they have been in operation since January 31, 2020 and have suffered substantial economic injury as result of COVID-19.

The term "substantial economic injury" means an economic harm to an organization that results in its inability (i) to meet its obligations as they mature; (ii) to pay its ordinary and necessary operating expenses; or (iii) to market, produce, or provide a product or service ordinarily marketed, produced, or provided by the organization.

### How to Apply

The application for the EIDL program is available now online at [covidrelief.sba.gov](http://covidrelief.sba.gov) and will remain available until December 31, 2020.

Approval for an EIDL may be based solely on the applicant's credit score, and applicants do not need to submit a tax return. No collateral is required for loans of less than \$25,000. For loans of more than \$25,000, a general security interest in business assets may be used for collateral instead of real estate. An applicant can be approved for up to \$200,000 without a personal guarantee.



## CARES Act Benefits for Nonprofit CAAs: Mid-Size Business Loans (Federal Reserve)

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April 3, 2020

### Overview

The CARES Act also directs the Federal Reserve to establish a program of assistance for "mid-sized businesses," which includes tax-exempt nonprofits with between 100 and 10,000 employees, to compensate for losses incurred as a result of COVID-19. Since the directive does not supplement an existing loan program, there is not much information available about this program at this time.

CAPLAW will continue to monitor developments with regard to this program and will update this page as necessary.

### Eligibility

Tax-exempt nonprofit community action agencies (CAAs) with between 500 and 10,000 employees are eligible for this program.

### How to Apply

To date, the Federal Reserve has not published an application for the Mid-Size Business Loan program. However, the CARES Act states that when applying for loans under the program, applicants will need to, among other things, make a good faith certification that:

1. Uncertainty of economic conditions makes the loan request necessary to support the ongoing operations of the applicant;
2. Funds the applicant receives will be used to retain at least 90% of its workforce at full compensation and benefits until December 31, 2020;
3. Applicant intends to restore to at least 90% of its workforce that existed as of February 1, 2020, and to restore all compensation and benefits to its workforce, no later than four months after the termination date of the federal public health emergency that was declared on January 31, 2020;
4. Applicant is not a debtor in a bankruptcy proceeding;
5. Applicant will not disregard applicable debtors' bankruptcy agreements during the term.

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# Paycheck Protection Program

## Overview

- Small Business Administration 7(a) loan
- Helps small businesses and nonprofit organizations cover payroll costs, mortgage interest, rent, and utilities for up to 8 weeks
- Loan may be forgiven if used for qualifying purposes
- Sections 1102 and 1106 of the CARES Act

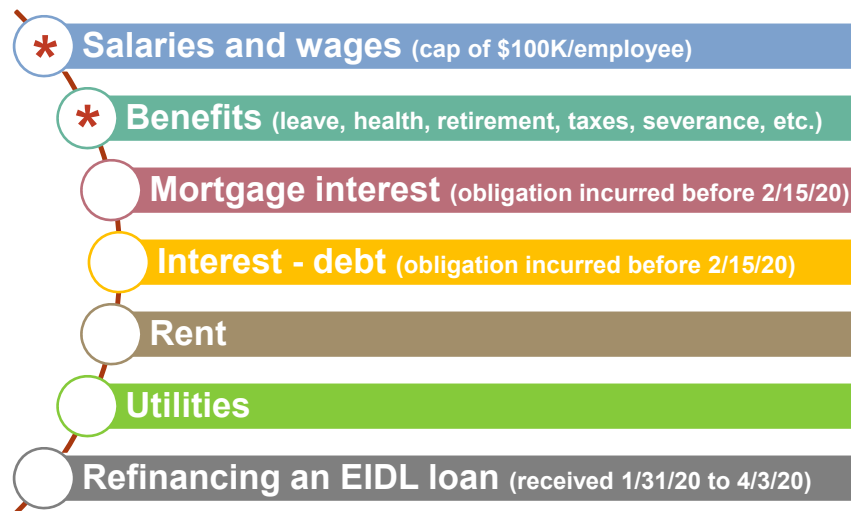
## Eligibility

- 501(c)(3) tax-exempt CAAs and state associations
- Must have fewer than 500 employees
- Must have been in operation as of February 15, 2020

## Eligibility

- To determine total # of employees, nonprofit CAA is considered together with its **affiliates**
  - 4 tests of affiliation – does one entity have power to control the other?
    1. One entity has power to control > 50% of other entity's voting stock
    2. Stock options, convertible securities, and agreements to merge demonstrate potential for control
    3. Shared management – one entity's board or management controls board or management of other
    4. Identical business or economic interests between close relatives

## Use of PPP Loan



## What if We Have an Existing EIDL Loan?

- Still eligible for PPP
  - If EIDL was **not** used for payroll, no impact on PPP
  - If EIDL **was** used for payroll, **must** refinance EIDL into PPP loan

Question	Yes	No
1. Is the Applicant or any owner of the Applicant presently suspended, debarred, proposed for debarment, declared ineligible, voluntarily excluded from participation in this transaction by any Federal department or agency, or presently involved in any bankruptcy?	<input type="checkbox"/>	<input type="checkbox"/>
2. Has the Applicant, any owner of the Applicant, or any business owned or controlled by any of them, ever obtained a direct or guaranteed loan from SBA or any other Federal agency that is currently delinquent or has defaulted in the last 7 years and caused a loss to the government?	<input type="checkbox"/>	<input type="checkbox"/>
3. Is the Applicant or any owner of the Applicant an owner of any other business, or have common management with, any other business? If yes, list all such businesses and describe the relationship on a separate sheet identified as addendum A.	<input type="checkbox"/>	<input type="checkbox"/>
4. Has the Applicant received an SBA Economic Injury Disaster Loan between January 31, 2020 and April 3, 2020? If yes, provide details on a separate sheet identified as addendum B.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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## Unauthorized Uses

- Must repay SBA
- Knowing misuse will lead to additional liability (e.g., fraud)

### CERTIFICATIONS

The authorized representative of the Applicant must certify in good faith to all of the below by **initialing** next to each one:

The Applicant was in operation on February 15, 2020 and had employees for whom it paid salaries and payroll taxes or paid independent contractors, as reported on Form(s) 1099-MISC.

Current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.

The funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments, as specified under the Paycheck Protection Program Rule; I understand that if the funds are knowingly used for unauthorized purposes, the federal government may hold me legally liable, such as for charges of fraud.


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## PPP Loan Amount

- Up to 2.5 x organization's average monthly payroll costs, plus refinancing existing EIDL
  - Minus any advance on COVID-19 EIDL loan
- Up to \$10 million
- How to calculate average monthly payroll costs?
  - Use average monthly 2019 payroll
  - Exclude costs over \$100,000 for any employee (on an annualized basis)

## PPP Loan Amount



**Paycheck Protection Program  
Borrower Application Form**

OMB Control No.: 3245-0407  
Expiration Date: 09/30/2020

<b>Check One:</b> <input type="checkbox"/> Sole proprietor <input type="checkbox"/> Partnership <input type="checkbox"/> C-Corp <input type="checkbox"/> S-Corp <input type="checkbox"/> LLC <input type="checkbox"/> Independent contractor <input type="checkbox"/> Eligible self-employed individual <input type="checkbox"/> 501(c)(3) nonprofit <input type="checkbox"/> 501(c)(19) veterans organization <input type="checkbox"/> Tribal business (sec. 31(b)(2)(C) of Small Business Act) <input type="checkbox"/> Other		<b>DBA or Tradename if Applicable</b> _____	
<b>Business Legal Name</b> _____			
<b>Business Address</b> _____		<b>Business TIN (EIN, SSN)</b> _____	<b>Business Phone</b> (    )    -    _____
<b>Primary Contact</b> _____		<b>Email Address</b> _____	
Average Monthly Payroll: \$ _____	x 2.5 + EIDL, Net of Advance (if Applicable) Equals Loan Request: \$ _____	Number of Employees: _____	
Purpose of the loan (select more than one): <input type="checkbox"/> Payroll <input type="checkbox"/> Lease / Mortgage Interest <input type="checkbox"/> Utilities <input type="checkbox"/> Other (explain): _____			

## Loan Terms and Loan Forgiveness

- **Loan may be fully forgiven if:**
  - Used for payroll costs, mortgage interest, rent, and utilities in the 8-week period after loan disbursement
  - At least 75% of loan used for payroll costs
- **Forgivable portion of loan is reduced if:**
  - # full-time employees reduced **or**
  - Salary of any employee reduced more than 25% compared to last calendar quarter

## Loan Terms and Loan Forgiveness

- **Apply for loan forgiveness** through lender
  - Submit documents verifying:
    - # full-time employees and pay rates
    - Eligible mortgage interest, lease, and utility payments
  - Decision expected within 60 days
- Portion of loan **not forgiven:**
  - 2 year term
  - 1% interest
  - Payments deferred for 6 months (interest accrues)



## How to Apply for PPP Loan

- Apply directly through an approved SBA lender
  - Reach out to your existing bank
  - SBA lender match tool:  
<https://www.sba.gov/paycheckprotection/find>
- Submit application (SBA Form 2483) and payroll documentation
- Application period: April 3 through June 30, 2020
  - But apply as early as possible

## How to Apply for PPP Loan

- CARES Act waives SBA's "no credit elsewhere" requirement for PPP loan
- No application fees
- No collateral required

## Certifications Required for PPP Loan

1. In operation on February 15, 2020; had employees and paid salaries and payroll taxes (or paid independent contractors)
2. **Current economic uncertainty makes this loan request necessary to support ongoing operations**
3. **The funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments, as specified under program rules**

## Certifications Required for PPP Loan

4. Will provide Lender documentation verifying the number of full-time equivalent employees on payroll as well as the dollar amounts of [qualifying expenses]\* for the 8-week period following the loan.
5. Understand that loan forgiveness will be provided for the sum of [qualifying expenses]\*, and not more than 25% of the forgiven amount may be for non-payroll costs.

**\*qualifying expenses = documented payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities**

## Certifications Required for PPP Loan

6. Has not and will not receive another PPP loan between February 15 and December 31, 2020
7. All information provided in the loan application and supporting documents and forms is true and accurate in all material respects
8. Acknowledge that lender will confirm eligible loan amounts using submitted documentation

## Concerns About PPP

- Not all banks ready to begin accepting applications
- Many lenders prioritizing their own customers
- Concern about insufficient funding (\$349 billion)
  - Applications opened Friday, April 3
  - First-come, first-served
  - Federal Reserve indicated on Monday that it would provide incentives to banks making PPP loans

# Economic Injury Disaster Loans

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## Eligibility

- 501(c)(3) and 501(c)(4) organizations
- No more than 500 employees
- In operation since January 31, 2020
- Suffered substantial economic harm as a result of COVID-19 resulting in its inability to:
  - meet its obligations as they mature
  - pay ordinary and necessary operating expenses, or
  - market, produce or provide a product or service ordinarily marketed, produced or provided by the org

## Loan Amount

- Up to \$2 million
- Emergency grant of up to \$10,000, as requested

## How to Apply

- No requirement to seek credit elsewhere first
- SBA website
- Available until December 31, 2020
- Credit score/alternative appropriate methods
- < \$25,000, no collateral
- > \$25,000, collateral required if assets are available
- Up to \$200,000 without personal guarantee

## EIDL Emergency Grant

- Up to \$10,000
- Self-certification, penalty of perjury
- Available within 3 days
- No repayment, even if EIDL application denied
- May be used for EIDL purposes

## Use of EIDL Funds

- Providing paid sick leave to employees unable to work due to the direct effect of COVID-19
- Maintaining payroll to retain employees during business disruptions or substantial slowdowns
- Meeting increased costs to obtain materials
- Making rent or mortgage payments
- Repaying obligations that cannot be met due to revenue losses

- 15 U.S.C. 636(b)(2)

## Loan Terms and Forgiveness

- 2.75% interest rate
- Maturity up to 30 years
- 1 year payment deferral period
  - Interest accrues during deferral period
- EIDLs received after January 31, 2020 can be refinanced into PPP loan
- No forgiveness except for Emergency Grant

## Mid-Size Business Loans

## Eligibility and Loan Amount

- Tax-exempt nonprofits with between 500 and 10,000 employees
- No clear guidance on amounts
- Likely based on the amount necessary to restore and retain applicant's workforce at full pay through September 2020

## How to Apply

- Required certifications:
  - Uncertain economic conditions make the loan necessary to support ongoing operations;
  - Funds received will be used to retain 90% of workforce at full compensation and benefits until September 30;
  - Applicant intends to restore 90% of its workforce and all compensation and benefits no later than 4 months after termination of public health emergency;
  - Applicant is not debtor in bankruptcy proceeding;
  - Recipient will not abrogate collective bargaining agreements during term of loan and for 2 years after; and
  - Recipient will remain neutral in any union organizing effort during loan term



## Use of Funds

- Restoring workforce to work
- Keeping workforce at full benefits and compensation
- Certified until September 30, 2020

## Loan Terms and Forgiveness

- No higher than 2% interest
- 6 month payment deferral period
  - Interest accrues during deferral period
- Not forgivable
- Additional regulations expected

# Payroll Tax Relief

## Employee Retention Credit

### Eligibility

- Fully refundable payroll tax credit
- Employers eligible for given quarter if either:
  - 1) Fully or partially suspends operations due to orders from gov't limiting travel or group meetings due to COVID-19; or
  - 2) Experiences significant decline in gross receipts
- Gov't employers and PPP recipients not eligible

## Employee Retention Credit

### Qualified Wages

- Wages, compensation and qualified health plan expenses paid after March 12, 2020 and before January 1, 2021
- Does not include qualified sick and family leave wages when credits received under FFCRA
- **> 100 full-time employees in 2019**
  - Wages paid to employee for the time employee is not providing services due to (1) or (2)
- **≤ 100 full-time employees in 2019**
  - Wages paid to any employee during covered period

## Employee Retention Credit

### Amount of Credit

- 50% of qualified wages and health plan expenses paid to employees during covered quarter
- **Max per employee:** \$10,000 in qualified wages / \$5,000 credit
- Example:

Quarter	Qualified Wages	Tax Credit
Q2 2020	\$8,000	\$4,000
Q3 2020	\$8,000	\$1,000

## Employee Retention Credit

### Claiming the Credit

- Credited against employer portion of SS tax
- Form 941
- May request advance using Form 7200
- PPP recipients not eligible for credit

## Deferral of Payroll Taxes

- Eligibility
  - All employers
  - PPP recipients excluded

## Deferral of Payroll Taxes

- Deferred taxes
  - Social security
  - All employee wages paid between March 17, 2020 and December 31, 2020
- Deferral period
  - 50% due by December 31, 2021
  - 50% due by December 31, 2022

## CAA Considerations

## Are CAAs Eligible for PPP, EIDL, or Mid-Size Business Loans?

- Not precluded simply because they are federal grant recipients
- Considerations:
  - Can CAA certify as to its need for the PPP loan due to economic necessity?
  - If the CAA receives a PPP loan, will it need to shift the uses of existing federal funds to other allowable program objectives?

## Can CAA Make Certifications in Good Faith?

- **PPP**
  - Loan is necessary to support the ongoing operations of the organization due to the current economic uncertainty
- **EIDL**
  - Organization has suffered a substantial economic injury
- **Mid-Size Business Loan**
  - Uncertainty of economic conditions makes the loan necessary to support ongoing operations of applicant

## Center Closures

- Some CAAs have shut down operations and potentially laid off staff
- Emergency closure policies that allow CAA to continue to pay staff
  - Do benefits expire?
    - Uniform Guidance permits charging fringe benefits costs under established policies, but costs must be **reasonable**
  - If so, organization may need loan to continue operations

## Increased Operational Costs

- Some CAAs may face increased operating costs
  - Increased demand for services
  - Serving new needs in the community
  - Costs to sanitize and clean facilities
  - Equipment needed for staff to work remotely

## Cancelled Events

- State and regional Community Action associations may have had to cancel conferences and events
  - Cancellation fees
  - Penalties for changing travel plans
  - Loss of expected revenue

## Will CAA Need to Shift Use of Existing Federal Funds?

- If receiving a PPP, EIDL, or Mid-Size Business Loan **will cause CAA to shift use of funds**, must:
  - Document reason for doing so
  - Ensure new use of funds is an allowable purpose under existing federal funds
  - Seek prior approval from funding source if organization makes adjustments to each award's project scope and objectives (*Uniform Guidance*, 2 C.F.R. § 200.308(c)(1)(i))
    - Block grants: states may have own approval rules



## May Not Duplicate Charges

- May **not** charge any payroll, mortgage interest, rent, or utility payments covered by PPP, EIDL, or Mid-Size Business loan proceeds to any other award

## Scheduled Layoffs or Payroll Reduction

- What if a CAA has a scheduled layoff (e.g., layoff of Head Start staff during the summer months)?
  - May be impacted by PPP loan forgiveness rules
  - **Loan forgiveness reduced** if:
    - # full-time employees reduced **or**
    - Salary of any employee reduced more than 25% compared to last calendar quarter

## Reducing PPP Loan Forgiveness: Reduction in Workforce

- Total amount of loan spent on payroll, mortgage interest, rent, and utilities during 8-week period, **multiplied by** a fraction:

**1. The average # full-time equivalent employees per month employed during the 8-week period**

*(organization can choose either 2 or 3 as the denominator)*

**2. The average # full-time equivalent employees per month employed between 2/15/2019 and 6/30/2019**

*(or)*

**3. The average number of full-time equivalent employees per month employed between 1/1/2020 and 2/29/2020**

## Stimulus Checks

[www.irs.gov/coronavirus](http://www.irs.gov/coronavirus)

**ECONOMIC IMPACT PAYMENTS**  
WHAT YOU NEED TO KNOW

**\$1,200\*** FOR INDIVIDUALS  
Eligible individuals with adjusted gross income up to \$75,000 will automatically receive the full \$1,200 payment.

**\$2,400\*** FOR MARRIED COUPLES  
Eligible married couples filing a joint return with adjusted gross income up to \$150,000 will automatically receive the full \$2,400 payment.

**\$500\*** PER CHILD  
Parents also get \$500 for each eligible child under 17.

**AUTOMATIC PAYMENTS**  
Most taxpayers don't need to take any extra steps to receive a payment. The IRS will use information from a taxpayer's 2019 tax return if they've filed it, or their 2018 tax return, if they haven't.

# Questions?

## CAPLAW's Coronavirus Update Page

[www.capl原因.org/resources/coronavirusupdates.html](http://www.capl原因.org/resources/coronavirusupdates.html)



### Coronavirus Updates for the Community Action Network

In light of increasing concerns about a broader coronavirus outbreak and the impacts on normal business operations, CAPLAW has compiled resources that are particularly relevant to the Community Action network. We will be closely monitoring the situation and will update this page as new developments occur, particularly when federal awarding agencies issue program-specific guidance.

Last updated March 25, 2020

National Partners Guidance

Federal Agency Guidance

General Guidance for Nonprofits

Upcoming and Archived Webinars

Other News

### National Partners Guidance

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## CAPLAW's CARES Act Benefits for Nonprofit CAAs Page

[www.caplaw.org/resources/coronavirusupdates/caresact/introduction.html](http://www.caplaw.org/resources/coronavirusupdates/caresact/introduction.html)

### CARES Act Benefits for Nonprofit CAAs



Intro

PPP

EIDL

Mid-Size  
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Payroll  
Tax Relief

CAA  
Considerations

#### CARES Act Benefits for Nonprofit CAAs

The Coronavirus Aid, Relief and Economic Security Act (the CARES Act), which was signed into law on March 27, 2020, offers various forms of aid to nonprofit Community Action Agencies (CAAs) and state associations whose operations have been impacted by the COVID-19 outbreak:

1. [Paycheck Protection Program \(PPP\)](#) loans, available only to 501(c)(3) tax-exempt organizations with fewer than 500 employees and fully forgivable if spent for qualifying purposes, including payroll costs, mortgage interest, rent, and utilities; and
2. [Economic Injury Disaster Loans \(EIDL\)](#), available to all tax-exempt organizations with fewer than 500 employees to cover payroll costs, rent, and mortgage, and which are not forgivable, but applicants may receive an advance of up to \$10,000 that does not have to be repaid;
3. [Mid-Size Business Loans](#), available to tax-exempt organizations with between 500 and 10,000 employees, to cover payroll costs; and
4. [An Employee Retention Tax Credit](#) and a [deferral of 2020 payroll taxes](#) for certain tax-exempt employers.

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