



**fahe**  
Strength in Numbers

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**Topics and Questions from the March 27<sup>th</sup>**  
**Member Connection Call on COVID-19**

**Small Business Loans: Economic Injury Disaster Loans and Payroll Protection Program**

**Small Business Loans: Payroll Protection Program – GUIDELINES AND APPLICATION MATERIALS**

**Are stipends and/or living expenses included in the forgivable payroll costs under the new SBA Payroll Protection Program?**

**Unemployment Expansions under the CARES Act**

**Do we anticipate people using Individual Taxpayer ID Number (ITIN) will be recipients of the \$1,200 direct payment from the federal government?**

**Is there a tax break in the CARES Act that covers real estate depreciation?**



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## **Small Business Loans: Economic Injury Disaster Loans and Payroll Protection Program**

There are now two loan programs available through the Small Business Administration (SBA): **Economic Injury Disaster Loans**, and the newly created **Payroll Protection Program**.

**Economic Injury Disaster Loans**– This product is the one that we've been sending information out on which provides organizations the ability to get financing based on the loss they have experienced from the COVID-19 disaster. The cash can be used for any purpose. The loan is 2.75% with a term of up to 30 years and can be as much as \$2,000,000. This is what you are seeing on the SBA website.

Many Members have asked about the application process, and how difficult it is to complete. When Fahe completed the application last week, it was fairly straightforward. Applicants must provide a couple of forms to allow the SBA to access tax returns from the IRS, provide a debt service schedule and certify they are eligible to apply. Fahe staff estimate it took two hours to complete. In addition, since our trial run with the application, SBA has introduced a "streamlined" version of the application; we anticipate this new version will be a faster process.

**Payroll Protection Program** – This is a new program that was included in the recently passed stimulus package. It is an expansion of the SBA 7a program, which is administered by banking institutions. You must apply for these funds through a participating bank.

The list of participating banks is not yet available on the SBA website. Fahe will be getting details out soon on this program, but the basics of the financing are as follows:

- a. Size of the loans: Up to 2.5x the organization's average monthly payroll in the previous 12 months, with a maximum of \$10MM
- b. Term: Matures within two years (for unforgiven portion, if applicable) with an interest rates of 0.5%
- c. Use: The loan is to pay expenses including payroll and related benefits, rent, lease/mortgage interest for facility, and utilities.
- d. Forgiveness: The bill allows for forgiveness of debt related to eligible expenses from item c (above) during the first 8 weeks of the loan.



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To apply, you must certify that:

- a) You will retain workers, or use the funds to pay for physical space and utilities, and
- b) You do not have another application pending for the same purposes.** This likely means that if you have applied for the pre-existing SBA Economic Injury Disaster Loan for the purposes of paying staff or rent/lease/mortgage or utilities *that you will not be able to apply for the Payroll Protection Program for those same line items.*

### **New Information as of 31 March:**

The Treasury Department and the Small Business Administration have released application materials and in-depth guidance on the Payroll Protection Program, available at <https://home.treasury.gov/policy-issues/top-priorities/cares-act/assistance-for-small-businesses>. This link contains the application. The government has stated that the loans **will be available as soon as 3 April, and they are attempting to approve applicants on the same day that they apply. This pot of money will go quickly, if you think your organization wants to apply for this money, we suggest you talk to your banks immediately.**



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### **Are stipends and/or living expenses included in the forgivable payroll costs under the new SBA Payroll Protection Program?**

Maybe. Possibly depending on your organization's relationship with the person to whom you pay stipends/living expenses.

The legislation describes forgivable payroll costs as including any compensation **to employees** that is a salary, wage, or a payment of cash tip or equivalent.

As the SBA interprets the law, they may come to the following conclusion:

Stipends and living expenses will count as allowable costs, *if the people receiving the stipend/living expenses **are considered employees** of the loan applicant.*

The form of the payroll cost (stipend/living expense, versus a salary) is less of a barrier to a favorable interpretation than is the issue of the person being an employee.

**If your organization makes explicit** in hiring offers, job postings, internal documents, or governmental forms **that the people receiving stipends/living expenses are not your employees**, but rather are volunteers/interns/etc., then **we do not anticipate that you will be able to receive forgiveness under the Payroll Protection Program.**

Again, we say that this analysis is based only on legislative language, and it is possible that the SBA may interpret the law differently and allow the costs in question. When the SBA addresses this issue, we will be sure to share that information.



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## **Unemployment Expansions under the CARES Act**

### **Unemployment Compensation and Pandemic Emergency Unemployment Compensation**

Who is covered: Any person eligible for unemployment benefits under state and federal law.

What is covered:

- Uniform \$600 per week, in addition to amount of state or federal unemployment benefits, which lasts through July 31, 2020.
- This increased amount will not be used in determining eligibility for Medicaid and CHIP.
- One week waiting period time will be paid by federal government if state will waive it, effective through December 31, 2020.

Additionally, Pandemic Emergency Unemployment Compensation, which is equal to the weekly amount of unemployment benefits under state law + \$600/week, for an additional 13 weeks after all of a person's state and federal unemployment benefits expire. This can cause benefits to be extended after July 30, 2020.

### **Pandemic Assistance Program**

Who is covered: some categories of people dealing with COVID impacts not eligible for traditional unemployment (see below):

- have been or have had a household member diagnosed with COVID-19 or are experiencing symptoms of COVID-19 and seeking a medical diagnosis;
- are providing care for a family or household member who has been diagnosed with COVID-19;
- have primary caregiving responsibility for a child who is unable to attend school or another facility that is closed as a direct result of the COVID-19 public health emergency and such school or facility care is required for the individual to work;
- are unable to reach work because of a quarantine imposed as a direct result of the COVID-19 public health emergency or self-quarantine advised by a health care provider;



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- were scheduled to commence employment and do not have a job or are unable to reach the job as a direct result of the COVID-19 public health emergency;
- have become the breadwinner or major support for a household because the head of the household has died as a direct result of COVID-19;
- had to quit their job as a direct result of COVID-19;
- worked in a place of employment that is closed as a direct result of the COVID-19 public health emergency; or
- meet any additional criteria established by the Secretary of Labor for unemployment assistance.

The funding is available for up to 39 weeks beginning retroactively January 27, 2020 and ending December 31, 2020. The weekly amount is equal to the state's unemployment coverage level plus the \$600 Unemployment Compensation. The idea is to apply broadly to workers who may not qualify for traditional unemployment insurance because of a short work history, being self-employed, seeking part time employment, etc.

This is what we know now, and as always, any resulting regulations or implementation details are up to the agencies (federal and state) charged with the program administration.

**Short Time Compensation** available in states that have an existing short time compensation plan (pro-rated benefit to reduce hours instead of laying off)

- Federal government funds 100% of costs of states' plans for 26 weeks
- Does not include payments for workers on seasonal, temporary, or intermittent basis
- *Only applicable to Maryland in our service area*

#### **New Short Time Compensation Plans**

- Federal government will pay 50% of cost of a new plan. Applicable to all states besides Maryland in our service area if they create a plan.



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**Do we anticipate people using Individual Taxpayer ID Number (ITIN) will be recipients of the \$1,200 direct payment from the federal government?**

No.

The confusion around this important question comes from an earlier version of the bill where ITIN's were briefly included in a draft of the Senate version, and from language in the House bill that included any type of tax identification number as an eligible individual.

The effect of the final language of the bill, to include other provisions not expanded on here, is that the only type of Individual Taxpayer ID Number eligible for receipt of the federal direct payments are those individuals who hold an Adoption Taxpayer Identification Number. In all other cases, to receive the direct payment, an individual must have a Social Security Number.



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### **Is there a tax break in the CARES Act that covers real estate depreciation?**

Yes, for certain types of improvements to certain types of property.

The Tax Cuts and Jobs Act of 2017 required a “qualified improvement property” (QIP)<sup>1</sup> to be depreciated over a period of 39 years, which made it ineligible for bonus depreciation. The CARES Act made QIPs 15-year property, and eligible for 100% bonus depreciation. This change is retroactive to 2018, and applies to the current tax year as well.

How this will impact your tax liability for 2018 and 2019 is best answered by a tax professional.

If you are an Alabama Member, it should be noted that this provision has been one of Sen. Jones’s projects.

<sup>1</sup> A qualified improvement property (QIP) is any improvement to the interior of a building (nonresidential real property) that was made after the building was placed into service by any taxpayer.