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OVERVIEW OF SMALL BUSINESS PROVISIONS IN STIMULUS BILL

Congress passed a \$2.3 trillion economic stabilization package in response to the coronavirus pandemic, already unanimously approved by the Senate.

Below we have provided an overview of the small business provisions included in the legislation.

SMALL BUSINESSES

SBA Express Loans

The upper limit on SBA Express Loans will be increased to \$1,000,000 until January 1, 2021.

The turnaround time on a loan decision is 36 hours

7(a) Loans

The measure would establish a new Paycheck Protection Program to let small businesses, nonprofits, and individuals seek loans through the Small Business Administration's [7\(a\) loan program](#).

The measure would authorize \$349 billion in total 7(a) lending from Feb. 15 through June 30, instead of the current \$30 billion authorization for fiscal 2020.

It would also provide \$349 billion for the SBA to fully guarantee loans under the new program, compared with a 75% or 85% guarantee for standard 7(a) loans.

Loans would be available during the covered period for:

- Any business, nonprofit, veterans group, or tribal business with 500 or fewer employees, or a number set by the SBA for the relevant industry.
- Sole proprietors, independent contractors, and eligible self-employed workers.

- Hotel and food service chains with 500 or fewer employees per location.

Eligible recipients could receive loans for as much as \$10 million or 250% of their average monthly payroll costs, instead of \$5 million. Interest rates during the covered period would be capped at 4%.

Recipients could use the loans to cover eligible payroll costs -- including salaries, commissions, regular paid leave, and health-care benefits -- as well as mortgage interest and utility payments. They'd have to make a "good faith certification" that they'll use the funds to retain workers, maintain payroll, and pay for rent and similar expenses.

They couldn't use the funds to compensate individual employees at an annual rate above \$100,000, or to pay for emergency sick or family leave under the second coronavirus response package ([Public Law 116-127](#)).

The measure would waive rules requiring recipients to pay certain fees, provide collateral, or be unable to obtain credit elsewhere. SBA rules on company affiliates used to determine small business size would be waived for franchises, food or lodging companies with 500 or fewer employees, and businesses that get financial assistance from a small business investment company.

Approved 7(a) lenders could issue covered loans if they determine a business was operating with salaried employees or paid contractors as of Feb. 15. The measure would provide \$25 million for the Treasury Department to set criteria to allow additional insured banks and credit unions to participate.

The SBA would have to assume that eligible loan applicants in operation as of Feb. 15 were adversely affected by Covid-19, and require lenders to let them defer payments for at least six months and as long as one year.

Loans would receive a risk weight of 0% under banking capital rules, meaning banks and credit unions wouldn't have to set aside additional capital to cover them. Lenders that modify covered loans due to Covid-19 would be temporarily exempt from having to make certain disclosures related to troubled debt restructurings.

Loan Forgiveness

Recipients of SBA-guaranteed loans under the Paycheck Protection Program could apply for loan forgiveness over eight weeks for eligible payroll costs and for mortgage interest, rent, and utility payments.

The SBA would pay lenders for any canceled debt plus accrued interest. Lenders generally wouldn't be subject to enforcement actions under the Small Business Act related to loan forgiveness.

Loan forgiveness would be reduced for businesses that fire employees or cut their pay. Businesses could receive additional forgiveness for wages paid to tipped employees.

Covered loans would have a maximum maturity of 10 years following a borrower's application for forgiveness. The SBA would continue to guarantee remaining balances.

Canceled debt would be excluded from borrowers' gross income for tax purposes.

The measure also would authorize and provide \$17 billion for the SBA to pay the principal, interest, and associated fees for loans under the [7\(a\)](#), [504](#), and [microloan](#) programs for six months.

Economic Injury Disaster Loans (EIDL)

The measure would provide \$10 billion to expand the SBA's disaster loan [program](#) from Jan. 31 through Dec. 31 to cover businesses, cooperatives, employee stock ownership plans, and tribal businesses with 500 or fewer employees, as well as sole proprietors and independent contractors.

The SBA would have to waive certain eligibility rules during the covered period for disaster loans made in response to Covid-19.

The measure also would authorize the SBA to advance as much as \$10,000 to existing and newly eligible disaster loan recipients within three days of receiving their applications. Recipients could use the advance funds to pay sick leave to employees affected by Covid-19, retain employees, address interrupted supply chains, make rent or mortgage payments, and repay debt. They wouldn't have to repay the advance funds.

The measure also would permanently expand the SBA's disaster loan program to cover small entities affected by emergencies for which the president determines the federal government has primary responsibility, as President Donald Trump did for the coronavirus outbreak.

Note on the Emergency Grant through the EIDL Loan

An applicant for an EIDL loan can request an advance of \$10,000 within 3 days of their application being received by the administrator. They can receive this advance while their loan is waiting for approval.

The applicant will not be required to repay this advance even if they are denied a loan.

If the applicant transfers into or is approved for a 7a loan, this advance is taken out of the loan forgiveness amount of the 7a loan.

Bankruptcy

The measure would allow businesses with as much as \$7.5 million in debt to qualify for a streamlined Chapter 11 bankruptcy process, increasing the [current debt limit](#) of \$2.73 million for eligible small businesses.

For one year following the bill's enactment, the measure would temporarily exclude federal payments related to the coronavirus from income calculations under Chapter 11 bankruptcy proceedings. It would also allow debtors experiencing hardship because of Covid-19 to modify existing bankruptcy reorganization plans.

Other Small Business Provisions

The measure also would provide:

- \$675 million for SBA salaries and expenses.
- \$240 million for Small Business Development Centers and Women's Business Development Centers to assist small businesses affected by Covid-19, and \$25 million to establish an online platform with related resources.
- \$25 million for the SBA inspector general.
- \$10 million for the Commerce Department's Minority Business Development Agency (MBDA).

In addition, it would authorize:

- \$25 million for the SBA to provide resources and services in the 10 most commonly spoken languages in the U.S. other than English.
- \$10 million for the MBDA to provide nonmatching grants to minority business centers and chambers of commerce to advise minority-owned businesses how to respond to Covid-19.

The SBA would have to issue regulations to implement the measure within 15 days of enactment.

A limit on SBA 7(a) [express loans](#), which have a 36-hour turnaround, would be increased to \$1 million, from \$350,000, through the end of 2020.

The SBA couldn't guarantee more than \$100 billion in principal payments for its trust certificates from the date of the bill's enactment through Sept. 30, 2021.

It would have to reimburse small businesses receiving funds under the [State Trade Expansion Program](#) for financial losses related to foreign trade missions or trade show exhibitions that were canceled due to Covid-19.

The measure also would waive nonfederal fund matching requirements for three months for certain women and minority business centers.

TAXES & REBATES

Recovery Rebates

The measure would provide refundable tax credits of as much as \$1,200 per individual or \$2,400 for couples who file joint tax returns. An additional \$500 would be provided for each child.

The credit would be reduced by 5% for the amount a taxpayer's income exceeds \$150,000 for joint returns, \$112,500 for heads of household, and \$75,000 for other filers. The rebate would completely phase out for incomes exceeding \$198,000 for joint filers, \$146,500 for heads of household, and \$99,000 for individual filers, according to a [summary](#) from the Senate Finance Committee.

The rebate would be based on 2019 taxes, or for individuals who haven't filed, against their 2018 taxes or 2019 Social Security statements.

Payments would be made through Dec. 31, 2020. They could be delivered electronically to accounts where a taxpayer had authorized deposit of a tax refund or other federal payment on or after Jan. 1, 2018. Notice would have to be sent to the taxpayer within 15 days of sending the payment. Treasury Secretary Steven Mnuchin said during a March 25 White House virus briefing that the department could begin sending payments in as little as three weeks.

A Social Security number would be required to claim the credit, although only one number would be required if one spouse was a member of the Armed Forces.

The measure would establish rules for the credit to be provided in U.S. territories.

The Treasury Department, in coordination with the Social Security Administration, would have to conduct a public awareness campaign.

The measure would provide funding to carry out the rebates that would remain available through fiscal 2021:

- \$293.5 million for IRS taxpayer services.
- \$170 million for IRS operations support.
- \$78.7 million for the Treasury Department's Bureau of the Fiscal Service.
- \$38 million for the Social Security Administration.
- \$37.2 million for IRS enforcement.

Payroll Tax Deferral

The measure would defer employer payroll and railroad retirement tax payments through the end of 2020. Deferred funds would be paid over two years in 2021 and 2022. The delay would provide businesses with about \$300 billion of cash flow, according to a [summary](#) from House Ways and Means Committee Republicans.

Deferral wouldn't apply to employers with small business loan debt forgiven under the bill.

The measure would defer 50% of self-employed Social Security tax payments.

The measure would appropriate funds to cover any forgone revenue to the Social Security and disability insurance trust funds and Social Security Equivalent Benefit Account.

Employee Retention Credit

The measure would establish a refundable credit against employer payroll and railroad retirement taxes for certain employers that are hurt by the coronavirus but retain their employees. The credit would be for 50% of eligible employee wages paid after March 12, 2020, and before Jan. 1, 2021. It would be provided for as much as \$10,000 of compensation, including health benefits.

Employers could receive the credit if a government order related to the pandemic requires them to partially or fully suspend operations, or if their gross receipts declined by certain thresholds. Alternate rules would apply for tax-exempt organizations.

Employers with more than 100 full-time employees in 2019 would receive credits for wages paid to employees while they aren't providing services. Employers with fewer employees would receive credit for wages paid while operations were suspended or during the quarter in which the company had a significant decline in gross receipts.

Employers couldn't receive the credit if they receive a loan under the SBA Paycheck Protection Program for 7(a) loans established by the bill (see above).

Employers couldn't use the credit for wages for which they also receive a credit under the work opportunity tax credit or a paid leave credit established by the 2017 tax overhaul (Public Law 115-97). Wages taken into account for the paid leave credits established under the second coronavirus response law (Public Law 116-127) couldn't also be used for the employee retention credit.

The credit wouldn't apply to federal, state, or local government employers.

The measure would appropriate funds to the Social Security and disability trust funds and the Social Security Equivalent Benefit Account to offset the reduction in revenue.

Business Losses

The measure would allow business losses from tax years after Dec. 31, 2017, and before Jan. 1, 2021, to be carried back five years. Net operating loss carrybacks were eliminated for most businesses by the 2017 tax overhaul. Separate rules would apply to real estate investment trusts and life insurance companies.

The measure would allow the full amount of net operating loss carryovers and carrybacks to be used for tax years beginning before Jan. 1, 2021. The deduction was limited to 80% of taxable income under the 2017 tax overhaul. A separate deduction limit would be established for tax years beginning after Dec. 31, 2020.

The measure would modify the effective date of changes to the net operating loss deduction included in the 2017 tax overhaul. Republicans have previously [sought changes](#) to the date language, which they say doesn't reflect congressional intent.

The measure would also modify net operating loss deduction limits for pass-through businesses and sole proprietorships.

Other Business Provisions

The measure would:

- Allow companies to more quickly access their remaining alternative minimum tax credits. The 2017 tax overhaul eliminated the corporate AMT but made remaining AMT credits refundable over several years, ending in 2021.
- Allow businesses to deduct 50% of their interest expenses in 2019 and 2020, with adjustments, instead of 30%. Separate rules would apply for partnerships.
- Address the “retail glitch” from the 2017 tax overhaul, in which the depreciation schedule for certain restaurant and retail businesses’ qualified improvement property was inadvertently lengthened to 39 years. The bill would classify qualified improvement property as 15-year property, or 20-year property under an alternative depreciation system. The classification would make the property eligible for temporary “[bonus depreciation](#)” established by the 2017 tax law, which would allow it to be written off