



# AFSCME Facts

## **Small and Mid-Size Employer Assistance Programs In the American Rescue Plan March 26, 2021**

The American Rescue Plan Act of 2021, signed into law by President Biden on March 11, 2021, extends and expands three programs designed to aid small and mid-size employers in their efforts to retain employees and get through the pandemic: The Employee Retention Credit (ERC), the Paycheck Protection Program (PPP), and the Economic Injury Disaster Loan (EIDL). These programs were created under the Coronavirus Aid, Relief and Economic Security (CARES) Act and continued in the Consolidated Appropriations Act (CAA). This fact sheet provides an overview of the changes made to these programs in the new law.

### **Employee Retention Tax Credit**

#### **What is the Employee Retention Tax Credit?**

The ERC is a refundable payroll tax credit based on qualified wages paid to employees. The refundable feature of the credit means that an employer may claim a benefit greater than its total payroll tax liability. The credit is available for eligible employers that continue paying their employees if the business is closed due to a COVID-19 lockdown or suffers a significant decline in gross receipts due to loss of business.

#### **What are the eligibility requirements?**

An eligible employer for any calendar quarter is an employer engaged in a trade or business and either fully or partially suspended as a result of COVID-19-related government orders limiting commerce, travel, or group meetings or having gross receipts for such quarter that are less than 80% of the gross receipts for the same calendar quarter in 2019. Non-profits are considered to be engaged in a trade or business and therefore can be eligible for the ERC.

The American Rescue Plan adds a recovery startup business as an additional category of eligible employers. A recovery startup business is a business established after Feb. 15, 2020, with annual gross receipts of \$1 million or less. A recovery startup business is eligible for the credit even if it does not otherwise meet the general eligible employer ERC requirements.

#### **Are governmental employers eligible?**

General government employers remain ineligible for the credit. Governmental employers were not eligible for the ERC under the CARES Act, but beginning Jan. 1, 2021, the credit is available to state and local colleges, universities, entities providing medical or hospital care and certain organizations chartered by Congress.

### **For what period is the credit available?**

The American Rescue Plan makes the ERC available through Dec. 31, 2021. The CARES Act initially covered qualified wages paid from March 13, 2020 through December 31, 2020. The CAA extended the duration of the credit by six months, covering qualified wages paid through June 30, 2021.

### **How much is the ERC?**

Under the CARES Act, the ERC was capped at \$5,000 per employee for 2020. The CAA extended the ERC to apply to wages paid between Jan. 1, 2021 and June 30, 2021, and increased the maximum amount of the credit. The credit amounts to a 70% credit on eligible wages up to \$10,000 per employee for each qualifying quarter (\$7,000 per quarter). With the American Rescue Plan extension, employers could be eligible for up to a total of \$33,000 in tax credits, per employee, for 2020 and 2021.

### **What is a severely distressed employer?**

The American Rescue Plan increases the amount of the ERC available to “severely financially distressed employers.” A “severely financially distressed employer” is an employer that experienced a gross receipts reduction of more than 90% as compared to the same quarter in 2019. Such employers may treat all wages paid to employees as qualified wages, regardless of the size of the employer and number of employees.

## **Paycheck Protection Program**

### **What is the Paycheck Protection Program?**

The Paycheck Protection Program (PPP) provides for federally guaranteed and potentially forgivable loans to small and mid-size employers. The American Rescue Plan includes an additional \$7.25 billion in PPP loans and expands eligibility. The PPP Extension Act of 2021, which was enacted after the American Rescue Plan, also extended the life of PPP. Now, employers can submit loan applications through May 31, and banks have until June 30, 2021 to process those applications.

### **What are the eligibility requirements?**

Generally, organizations with 500 or fewer employees per physical location will be eligible for first-draw loans. Organizations with 300 or fewer employees per location will be eligible for second-draw loans. Under prior law, the 500 and 300 maximum employee caps were applied by combining all locations. In addition to for-profit employers, certain non-profit employers are eligible under these terms: 501(c)(3) charitable organization, 501(c)(6) business leagues and chambers of commerce and 501(c)(19) veterans organizations.

The American Rescue Plan expanded eligibility to include all other kinds of 501(c) organizations. These other kinds of 501(c)s have somewhat different eligibility requirements. They must have 300 or fewer employees at all locations combined. They also must satisfy certain maximum thresholds for lobbying activities: no more than 15% of an organization’s revenues are derived

from lobbying; no more than 15% of an organization's activities are lobbying; and no more than \$1 million per year is spent on lobbying.

### **Can an employer use the Paycheck Protection Program and the Employee Retention Credit?**

A significant change in last December's CAA allows eligible employers that received a PPP loan to claim the ERC, though the same wages can't be counted both for seeking forgiveness of the PPP loan and calculating the employee retention credit. The IRS issued Notice 2021-20 on March 1, 2021, explaining when and how employers that received a PPP loan can claim the ERC for 2020.

### **What is required for loan forgiveness?**

PPP loans qualify for full loan forgiveness if during the eight to 24-week covered period following loan disbursement, each of the following requirements is satisfied:

- Employee and compensation levels are maintained.
- The loan proceeds are spent on payroll costs and other eligible expenses.
- At least 60% of the proceeds are spent on payroll costs.

## **Economic Injury Disaster Loan**

### **What is an Economic Injury Disaster Loan?**

The Economic Injury Disaster Loan (EIDL) provides small businesses and non-profit organizations with funds to ensure continuity, adaptation and resiliency. The ARPA provides additional funds for businesses and non-profits located in low-income communities.

### **What are the eligibility requirements?**

EIDL assistance is intended for small businesses when the Small Business Association (SBA) determines a business has suffered substantial economic injury and is unable to meet its obligations and pay ordinary and necessary operating expenses.

### **What funding is available?**

The EIDL program provides necessary working capital to help small businesses impacted by a disaster survive until normal operations resume. The ARPA adds \$15 billion in funding for grants, including \$10 billion for small businesses and non-profit organizations that previously applied for but did not get full \$10,000 EIDL grants because funding ran out, and \$5 billion in supplemental \$5,000 payments for very small businesses and non-profits (with 10 or fewer employees) that have experienced revenue declines of greater than 50%. Businesses can also borrow an amount equal to six months of working capital, up to \$150,000, to help meet financial obligations and operating expenses.

### **What can EIDL funds be used for?**

EIDL proceeds can be used to cover a wide array of working capital needs and normal operating expenses, such as continuation of health care benefits, rent, utilities, and fixed debt payments.

Additional information on how proceeds may be used is available on the [SBA's COVID-19 relief website](#).

**Can a business apply for the COVID-19 EIDL if it already received a PPP loan?**

Yes. Borrowers can apply for both the PPP and EIDL, although funds from both cannot be used for the same purpose.