

# NFIB UPDATE

Weekly Briefing for Small Business

**Beth Milito and Holly Wade**

**June 17, 2020 – Employment and Financial Considerations in COVID-19 Era**



# DISCLAIMER

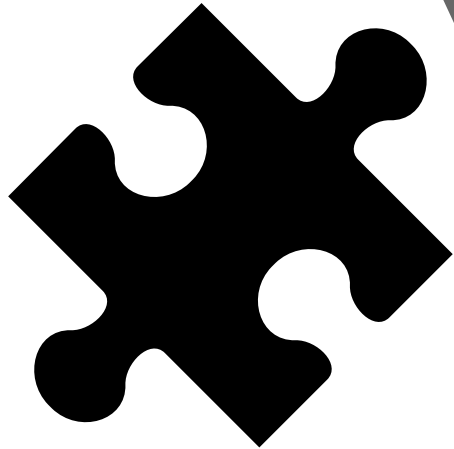
The materials and information provided in this webinar and on NFIB's website are for informational purposes only and not for the purpose of providing legal or tax advice. You should contact your attorney and/or tax professional to obtain advice with respect to any particular issue or problem.



# Agenda

1. Bringing Employees Back to Work – Workplace Safety and the Reluctant Employee
2. Small Business Loan Program Updates – PPP, EIDL, and Main Street Lending
3. Expanding Business Strategy – How to Survive and Thrive in the Post-COVID-19 Era
4. Q&A

Bringing Employees Back to Work



# Workplace Safety

# Federal Guidelines and Information

## OSHA [General Duty Clause](#)

*“Each employer shall furnish each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.”*

## [CDC COVID-19 Guidance](#)

*“All employers need to consider how best to decrease the spread of COVID-19 and lower the impact in their workplace.”*

# Best Practices to Protect Yourself & Others

According to [CDC](#) and [OSHA](#), the best protection against COVID-19 transmission is to implement good hygiene and infection control practices, including:

- ✓ Wash hands. Promote frequent and thorough hand washing of 20 seconds, including by providing employees with a place to do so. If soap and running water are not available, provide alcohol-based hand rubs containing at least 60% alcohol.
- ✓ Avoid close contact. Practice social distancing– stay at least 6 feet from other people, even if you are wearing a cloth face covering.
- ✓ Use face covering. Cover your mouth and nose with a cloth face cover when around others
- ✓ Cover coughs and sneezes. Follow respiratory etiquette, including covering coughs and sneezes.
- ✓ Clean and disinfect daily. This includes all frequently touched surfaces.
- ✓ Monitor health. If feeling sick, stay home.



# CDC Guidelines

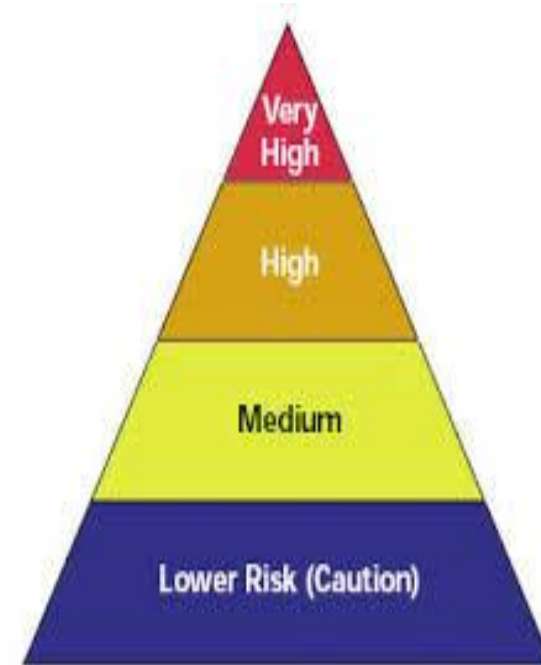
- Review state and local rules; comply with the strictest!
- Review [CDC's Interim Guidance for Businesses and Employers](#) Responding to Coronavirus Disease 2019 (COVID-19), May 2020. [Updated strategies](#) include:
  - Conducting daily health checks
  - Conducting a hazard assessment of the workplace
  - Encouraging employees to wear cloth face coverings in the workplace, if appropriate
  - Implementing policies and practices for social distancing in the workplace
  - Improving the building ventilation system
- Create COVID-19 Response Plan. NFIB template [here](#).





# OSHA Guidance

- Issued official guidance on preparing workplaces for Covid-19 on March 9, 2020.
- Largely follows CDC guidance.
- Divides jobs into risk exposure levels.
- Provides steps employers can take to reduce workers' risk of exposure.
- Specifies what employers should do to protect workers based on the exposure level of their jobs.



# Requiring Employees to Wear Face Coverings

- Employers may require use of face coverings in the workplace.
- A face covering is a cloth, bandana, or other type of materials that covers an employee's mouth and nose.
- The [CDC lists five criteria for face coverings](#):
  1. Fit snugly but comfortably against the side of the face.
  2. Be secured with ties or ear loops.
  3. Include multiple layers of fabric.
  4. Allow for breathing w/out restriction.
  5. Be able to be laundered and machine dried without damage or change to shape.
- Littler's [link](#) to statewide face covering orders.



# Additional Workplace Safety Tips

- Communicate. Communicate with employee on their responsibilities and workplace policies.
- Educate. Post reminders in workplace about best practices – CDC FREE posters [here](#).
- Stay home if sick. Prohibit employees from coming to work if they have COVID-19 symptoms or have been in close contact with a confirmed case of COVID-19.
- Don't forget FFCRA. Be aware of obligations under the Families First Coronavirus Response Act (FFCRA) federal paid leave requirements. NFIB FFCRA fact sheet [here](#) and on NFIB tip sheet for claiming FFCRA tax credits and direct reimbursement [here](#). Make sure [FFCRA poster](#) is posted onsite.
- Be flexible. Confirm sick leave policies are flexible to allow for sick employees to stay home.





### **Additional Workplace Safety Tips**

- Do not share work items such as laptops/tablets, hand tools, pens.
- NEVER share PPE, face coverings, gloves, etc.
- Establish protocols for receiving mail and packages.
- Check ventilation systems and see about opening windows.
- Review use of common areas (kitchen, breakrooms) staffer usage.
- "One-way traffic."
- Conduct meetings remotely when possible.
- Redesign workstations to increase space.
- Install plexiglass to protect public-facing employees.

# The Reluctant Employee

# Workers Refusing to Come Back to Work

- Communications
- Manage Legal Risks
- Manage Practical Risks
- Unemployment Eligibility



# Communicate, then communicate again and again

- Details on why the company's work is essential or permitted to resume under Executive Orders.
- Well-written recall letters. NFIB template [here](#).
- Assurance on safety, screening protocols, cleaning, and mitigation efforts.
- Training all employees on new procedures and policies.
- Consider an all-hands call or Zoom meeting with question/answer opportunity.

# Manage Legal Risks

- Try to determine why the employee is resisting return to work.
- Make sure it is not legally protected
  - High risk, sick, exposed to COVID-19
  - Childcare unavailable
  - OSHA safety concerns
  - ADA/FMLA/FFCRA



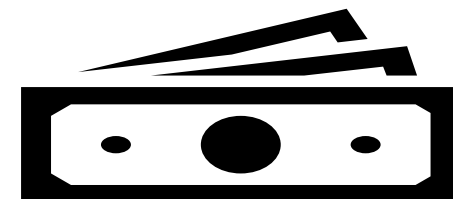


# Practical Risks

- If the leave is not protected (legal risk), can you accommodate a leave of absence? Remind employee return to work at later date is not guaranteed – preference to employees who returned sooner.
- If you cannot accommodate leave, can you apply attendance policy or deem voluntary quit and terminate employment relationship?
- If employment terminated, do you need to notify state unemployment (PPP loan requires)?
- Will potential loss of benefits or termination of enhanced UI deter folks from refusing work?
- Make decisions on case-by-case basis depending on the facts and circumstances of each employee.

# Unemployment Issues

- Generally, refusal of available work is a voluntary quit.
- You can tell employees UI eligibility may be jeopardized if they refuse work, assuming they do not have a COVID-19 reason:
  - no childcare due to COVID-19,
  - health care provider advises against work,
  - caring for family member exposed/sick from COVID-19).
- Fear of COVID-19 exposure is not a reason to turn down work.
- [U.S. Department of Labor Coronavirus Unemployment Information](#)



## Scenario #1

- After receiving her employer's recall letter, Bri texts her boss that she thinks it's unsafe to work and her daughter has asthma. She wants to stay home "until things improve."
- What do you think?



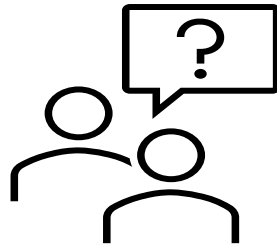
## Scenario #2

- Eddie refuses to wear a face covering. Upon hearing about his employer's return to work policies, which per the governor's executive order, mandates that employees wear face coverings while working inside (in Eddie's case, a warehouse). He texted his boss and said he "wouldn't have his constitutional rights violated," and he "can't really breath with a mask on." He said he needs to stay home until this rule changes.
- What do you think?



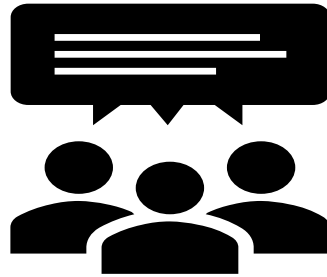
## Scenario #3

- Abby is a single mom with elementary-aged kids. She tells you she can't return to work because her kids' summer camp has been canceled. Her employer is a physical therapy center with under 20 employees.
- What do you think?

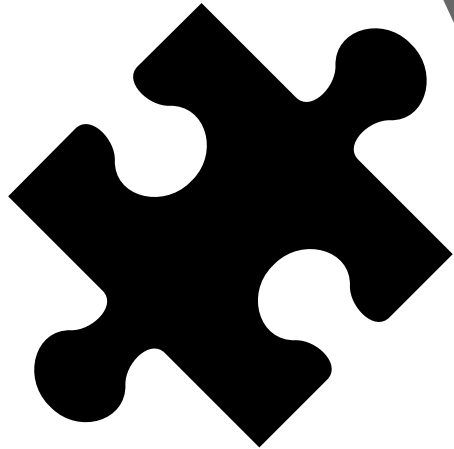


## Scenario #4

- Mike is your only licensed HVAC technician and you need him back now that residential construction can resume. When you called him, he said he'd think about it but mentions that, "you know right now I'm making more money on unemployment?"
- What do you think?



# COVID-19 Loan Updates



# Paycheck Protection Program





# PPP Overview

- Details: The [Paycheck Protection Program](#) is a loan designed to provide a direct incentive for small businesses to keep their workers on the payroll. SBA will forgive loans if all employees are kept on the payroll for eight weeks and the money is used for payroll, rent, mortgage interest, or utilities. You can apply through any existing SBA 7(a) lender or through any federally insured depository institution, federally insured credit union, and Farm Credit System institution that is participating.
- Accepting Applications? Contact your bank. To look for a participating community bank go [here](#). [PayPal](#) and [Kabbage](#) are also accepting PPP applications.
- Application information: Information for borrowers can be found [here](#) and the application (revised 6/12/20) is [here](#).
- Questions: Treasury and SBA released an updated FAQ document on the PPP program [available here](#) on 5/27/20. NFIB has a side-by-side loan chart [here](#).



**Paycheck Protection Program  
Flexibility Act**  
enacted June 5, 2020





U.S. Small Business  
Administration

# NEWS RELEASE

## PRESS OFFICE

**Release Date: June 17, 2020**

**Release Number: 20-48**

**Contact:** [Press\\_Office@sba.gov](mailto:Press_Office@sba.gov), (202) 205-7036

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## **SBA and Treasury Announce New EZ and Revised Full Forgiveness Applications for the Paycheck Protection Program**

**WASHINGTON**—Today, the U.S. Small Business Administration, in consultation with the Department of the Treasury, posted a revised, borrower-friendly Paycheck Protection Program (PPP) loan forgiveness application implementing the PPP Flexibility Act of 2020, signed into law by President Trump on June 5, 2020. In addition to revising the full forgiveness application, SBA also published a new EZ version of the forgiveness application that applies to borrowers that:



1. Are self-employed and have no employees; OR
2. Did not reduce the salaries or wages of their employees by more than 25%, and did not reduce the number or hours of their employees; OR
3. Experienced reductions in business activity as a result of health directives related to COVID-19, and did not reduce the salaries or wages of their employees by more than 25%.

The EZ application requires fewer calculations and less documentation for eligible borrowers. Details regarding the applicability of these provisions are available in the instructions to the new EZ application form. Both applications give borrowers the option of using the original 8-week covered period (if their loan was made before June 5, 2020) or an extended 24-week covered period. These changes will result in a more efficient process and make it easier for businesses to realize full forgiveness of their PPP loan.

Click [here](#) to view the EZ Forgiveness Application.

Click [here](#) to view the Full Forgiveness Application.



# Use the PPP Loan for 24 Weeks

- **Use your PPP loan for 24 weeks** instead of only 8 weeks potentially improving eligibility for maximum forgiveness.
- Can apply for forgiveness after 8 weeks or after loan proceeds run out (up to 24 weeks or December 31, 2020).

# 75/25 Rule is now 60/40 Rule

(maximum forgiveness)

- **Use at least 60% of PPP loans for payroll** and up to 40% for other qualifying expenses (rent, mortgage interest, & utilities).
- Previously 75% payroll and 25% other qualifying expenses.

# Rehire/FTE Restoration Until December 31, 2020

- Have until **December 31, 2020 to rehire workers** in order to restore FTE headcount or wage reductions and achieve maximum forgiveness.
- The PPP Flexibility Act did NOT change how Salaries/Wages are calculated for forgiveness.



# More Exceptions for Reduced FTE Headcount

- **Qualify for Forgiveness with reduced FTE headcount** if inability to hire or return to the same level of business prior to Feb 15, 2020 demonstrated.
- Forgiveness can be achieved without regard to reduction of FTE if:
  - Inability to rehire former employees AND inability to hire similarly qualified employees on or before December 31, 2020.
  - Inability to return to the same level of business as of February 15, 2020 due to compliance with federal requirement or guidance related to COVID-19.



# PPP Loan Term Expanded from 2 to 5 Years

**Repay loan** or portion of the loan in 5 years instead of 2 years.

- Automatic extension for PPP Loans after June 5.
- Discretionary extension can be granted by lenders to borrowers of PPP loans executed before June 5.

# Payroll and Owner Compensation Replacement Limits

## Employee

8 week covered period - maximum of \$15,385 per individual

24 week covered period - maximum of \$46,154 per individual

## Owner Compensation Replacement

8 week covered period - (8/52) of 2019 net profit (up to \$15,385)

24 week covered period - (2.5/12) of 2019 net profit (up to \$20,833)



# 8-weeks, 24-weeks or Somewhere In-between?

Still waiting for Treasury FAQs or Guidance

**BUT**

Sec. Mnuchin testified last week saying that borrowers are encouraged to apply for forgiveness after using their loan

**AND**

Interim Final Rule on Flex Act replaces “8-week covered period” with “covered period”

# PPP Forgiveness Resources

- [PPP Loan Forgiveness Application](#)  
(posted May 15, 2020)
- [American Institute of CPA's PPP Loan Forgiveness Calculator](#)  
(draft posted May 19, 2020) NOTE: This loan forgiveness calculator is based on the original CARES Act and uses an 8-week covered period. The provisions in the Paycheck Protection Program Flexibility Act of 2020, such as the 24-week covered period and the 60% payroll/40% nonpayroll use of fund considerations, are not addressed in this resource.

# Economic Injury Disaster Loan



# EIDL Overview

- Details: The SBA's Economic Injury Disaster Loan (EIDL) program provides small businesses with working capital loans of up to \$2 million to help overcome the temporary loss of revenue. The loans may be used to pay fixed debts, payroll, accounts payable, or other bills that can't be paid because of the COVID-19 outbreak. The interest rate is 3.75% for small businesses without credit available elsewhere, and businesses with credit available elsewhere are not eligible to apply for assistance. The maximum term is 30 years.
- Accepting Applications? Yes. [Apply here](#).
- Application information: Application information available [here](#).
- Questions: [The House Small Business Committee has prepared an FAQ here](#).



# Main Street Lending Program



# MSL Overview

- Details: The Main Street Lending program was created to support lending to small and medium sized businesses that were in sound financial condition before the onset of the COVID-19 pandemic.
- Accepting Applications? YES
- Application information: Application information will be available [here](#).
- Questions: The Treasury released an FAQ on 4/30/30 available [here](#).

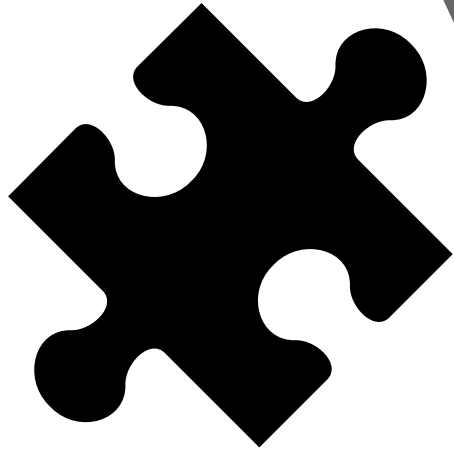




# MSL Terms

- 5-year maturity;
- minimum loan size of \$250,000;
- principal payments deferred for two years and interest payments deferred for one year;
- adjustable rate of LIBOR (1 or 3 month) + 300 basis points;
- principal amortization of 15% at the end of the third year, 15% at the end of the fourth year, and a balloon payment of 70% at maturity at the end of the fifth year;
- prepayment permitted without penalty.

# Business Resources in COVID-19 Era



# SCORE Overview

## Free Mentoring

Whether you're just starting out, in business, or ready to sell or retire, you can get FREE, confidential, business advice from expert advisors committed to helping you succeed. Meet face-to-face at the SBA CENTER or at the SF MAIN LIBRARY; or connect with one of our online mentors.

[Find a Mentor](#)



## Local Workshops

Register today for our no- or low-cost business training. We provide education on a variety of business topics including marketing, finance and accounting, management, and others. Get instruction from a local expert and connect with other business owners in the community.

[Take a Workshop](#)



## Free Resources

If you're looking for free, local business templates, guides, blogs or other helpful tools, SCORE is your destination. Browse our resource library to get the latest in small business strategies and trends. Use the information you find in the library to grow your business knowledge.

[Browse Resources](#)



# SCORE Blogs and Articles



## Covid-19's Impact on Digital Marketing

Blog

June 3, 2020, Nabil Freij

Despite reduced marketing budgets due to the spread of COVID-19, digital marketing channels will still dominate.



## Checklist: Reopening Your Retail Store After the Coronavirus Shutdown

Checklist

Are you reopening your retail store after COVID-19 closures? Use this checklist to reopen your store while keeping yourself, employees and shoppers safe. [Read more >](#)



## The Action Plan for Repair & Maintenance Service Businesses

EGuide

Download this eguide for steps on how to adapt and protect your repair or maintenance business. [Read more >](#)



## COVID-19: Business Lessons Learned

Blog

June 10, 2020, Hal Shelton

SCORE Mentor Hal Shelton created this checklist of lessons learned while mentoring clients during Covid-19.



## How to Build a Robust E-Commerce Site

Blog

June 9, 2020, Rieva Lesonsky

Whether you have an e-commerce site or not, now is a good time to make sure your site is ready for growth due to the coronavirus limitations.



## 3 Tips for Properly Pivoting Your Business Model

Blog

If your small business is ready to pivot its business model during this coronavirus crisis, here's what you need to note before getting started. [Read more >](#)



## Checklist: Reopening Your Small Business After the Coronavirus Shutdown

Checklist

Are you reopening your business after COVID-19 closures? Use this checklist to reopen your doors while keeping yourself, employees and customers safe. [Read more >](#)



# SCORE Webinars



**June 18: Protecting Your Business From Fraud** Live Webinar

Smart tips for auditing your business finances as well as ways to monitor for potential risks to keep your business safe from fraud. [Read more >](#)

[Register Now ▶](#)



**July 16: Connect with Customers and Manage Your Business Remotely** Live Webinar

With the right tools and communication plan, you can build long lasting connections with your clients and customers, from any location. [Read more >](#)

[Register Now ▶](#)



**June 24: A Simple Recipe for Social Media Success** Live Webinar

In a time of such uncertainty, it's important to know where to be, how to be engaging, and how to get results - all with a limited amount of time and resources. [Read more >](#)

[Register Now ▶](#)



## Get support for your small business through **MBAs Fight COVID-19**

MBAs Fight COVID-19 is a group of MBA students from business schools around the US working with small businesses to respond to the COVID-19 crisis.

We provide **pro bono consulting support** to help businesses think through a variety of topics, including:

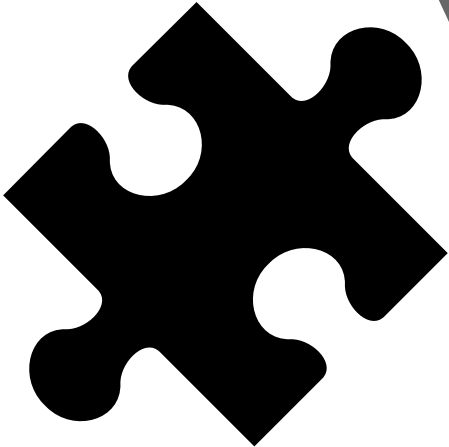
- Applying to federal funding programs (PPP, EIDL)
- Reaching more customers online
- Pivoting business strategy
- ...and more!

To learn more about MBAs Fight COVID-19 and to get matched with an MBA student, email

[Elizabeth.Milito@nfib.org](mailto:Elizabeth.Milito@nfib.org)



# Additional Resources



**NFIB  
COVID-19  
Resources**

[NFIB Tip Sheet for Calculating Loan Forgiveness](#)

[NFIB Covid-19 Weekly Webinar Series](#)

[NFIB Coronavirus Resources](#)

[NFIB PPP Loan and EIDL Side-by-Side Comparison Chart](#)

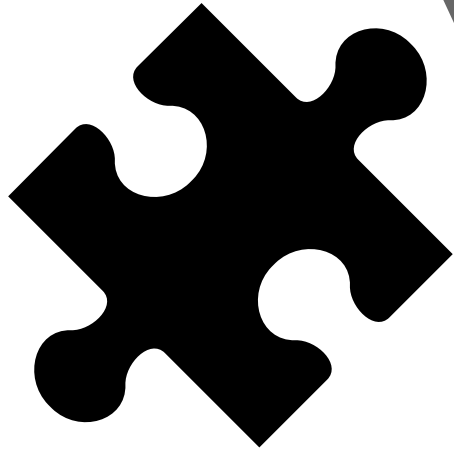
[NFIB PPP Fact Sheet for Non-Employers](#)

[NFIB FFCRA Tax Credit Tip Sheet](#)





Q&A



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