

NYFB Recommendations for Assisting the Self-Employed Impacted by COVID-19



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The Coronavirus, Aid, Relief and Economic Security Act (CARES Act) passed by the Senate and awaiting passage by the House provides provisions for unemployment benefits for self-employed individuals who do not normally qualify for unemployment compensation.

These self-employed individuals may be working under business entities as sole proprietors, partnerships, S corporations, and LLCs; freelancers and contractors typically fall under any one of these business entities. What distinguishes these individuals as self-employed and eligible for the unemployment benefits of the CARES Act is that each entity pays the Self-Employment Tax on all their earned income.

It is important that these self-employed individuals receive support either through legislative packages or agency assistance funding. Assistance can be provided through the following means:

Assistance for the Self-Employed

- **Support the self-employed:** It is extremely important that a financial legislative package include support for the self-employed. Farmers and other self-employed businesses are not eligible for traditional unemployment or paid sick leave. Often the gross income levels of these businesses are high, but their take-home income is low. Therefore, it is imperative for legislation to provide direct cash support to self-employed business owners, which includes freelancers and contractors. Many of these businesses have been forced to close which has resulted in reduced income. The self-employed are the backbone of rural and local economies. There are over 1.7 million self-employed businesses in New York State, and over 25 million self-employed businesses in the U.S.
 - It is critical that a practical formula be utilized to aid the self-employed to not only provide direct assistance to their businesses but to cover payroll as well. A practical and expeditious way to distribute unemployment compensation to the self-employed is to base a formula for that distribution on the 2019 Self-Employment Tax paid by individuals.
 - W-2s do not exist for self-employed income, and income of the self-employed is often very seasonal and varies greatly by profession and service. There is no entity that exists that has any experience managing unemployment compensation for the self-employed, and it would be a lengthy process to quickly get unemployment compensation to the self-employed based on case by case applications that require review. A simple way to calculate the unemployment compensation would be through the 15.3% Self-Employment Tax, which equals approximately eight weeks of labor. (15.3% x 52 weeks).
 - Therefore, if the IRS were to simply return to the self-employed their 2019 Self-Employment Tax, that individual would immediately have in hand the equivalent of eight weeks of their 2019 income. If the self-employed person has not yet filed their 2019 Income Tax Returns, then that self-employed person, upon filing, would receive this same income benefit by paying zero Self-Employment Tax for 2019.
 - The CARES Act calls only for self-certification of the need for unemployment compensation for a self-employed individual. All a self-employed person would have to do is apply to the IRS for the return of their 2019 Self-Employment Tax and self-certify that they are in need of this unemployment benefit on their 2019 Income Tax Return.

- For future relief in 2020, a self-employed person needing further assistance, would simply need to self-certify on their 2020 Tax Return the need of further unemployment compensation, and their 2020 Self-Employment Tax would be waived.
 - No single disbursement to a self-employed individual would exceed the maximum Self-Employment Tax, which in 2019 was approximately \$19,000. However, the majority of self-employed individuals pay less than \$4,000 in Self-Employment Tax.
 - This formula will allow the self-employed, including farmers, to quickly receive needed income during this uncertain time which will be reinvested into their business.
- **Credit:** Immediately provide readily accessible, unsecured credit to businesses of all sizes and types (self-employed, sole proprietors, S corporations, C corporations, LLC) to ensure they have the cash to pay their workers, rent, and other costs during this crisis.
 - **Cash flow:** Suspend the filing of business returns and the payment of all business taxes to the federal government for the duration of the pandemic.
 - **Tax certainty and relief:** Amend the Tax Code to, among other items, restore the ability of businesses to carryback any net operating losses against previous year tax payments; suspend the application of the Section 163(j) limitation on interest expense deductions for tax year 2020 to avoid penalizing businesses for borrowing during this crisis; and suspend the Section 461(l) loss limitation on pass-through businesses to allow the owners of pass-through businesses to fully deduct any losses they incur this year.