

# Employer FAQs on furloughs, pay cuts, and other labor cost cutting strategies

*Small businesses facing poor or uncertain financial circumstances may be forced to consider drastic employment decisions including layoffs and benefit reductions.*

— Ijeoma S. Nwatu, Small Business Association

[How can I save labor costs during a recession?](#)

[What are furloughs, and how can I use them?](#)

[How does the recent \\$2 trillion stimulus bill address furloughed workers?](#)

[Differences with exempt vs. non-exempt employees](#)

[Benefits to furloughs](#)

[What are layoffs?](#)

[Should I use layoffs or furloughs?](#)

[How will the new stimulus bill affect pay for furloughed employees, layoffs, and unemployment insurance?](#)

[Are pay cuts legal?](#)

[How do you issue a pay cut?](#)

[Can I reduce my employer contributions to benefits?](#)

[Are my employees eligible for Unemployment Insurance \(UI\) if I reduce their hours?](#)

[What is the Families First Coronavirus Response Act?](#)

[How can I minimize labor costs while keeping my essential staff?](#)

[Can I move salaried, exempt employees to hourly workers?](#)

[Can I trade time off for less pay with workers?](#)

[What is a hiring freeze?](#)

[Can I ask my staff to volunteer?](#)

## [Need help setting up your distributed workforce in the age of coronavirus?](#)

We're living through uncertain times as the coronavirus continues to unstitch our economic fabric.

Small businesses across the country are already feeling a financial crunch. Many are worried. They're rationally concerned about how to stay in business, and they're emotionally concerned with how to keep staff.

The hope is that through government intervention, the good hearts of friends and family, and deferments and pardons from larger institutions, small businesses can scrap by these next few months enough to stay afloat.

The hope is that after a few months of things getting worse, things will get better. That we'll all come out the other side of this thing as a better version of normal.

But the truth is, [50% of American small businesses](#) don't think they can continue operating their businesses for more than three months amid the current conditions, according to a Goldman Sachs survey of 1,500 small business owners — and there isn't a clear end in sight.

Between the end and now, there will be a lot of hard decisions.

This guide — ***Employer FAQs on Furloughs, Pay Cuts, and Other Labor Cost Cutting Strategies*** — aims to give SMBs a resource in staffing options, worker designations, and options SMBs have while navigating these times. Many of these questions we have heard from our small business community on [Workest](#), the #1 small business resource for HR news. Others come from customers, friends, family, and the news.

*Note: Zenefits is not making any recommendations or providing any legal advice. This content is for educational purposes only.*

## How can I save labor costs during a recession?

Two main ways businesses can conserve cash include reducing operational costs and reducing labor costs.

### **Reductions in operational costs may include, but are not limited to:**

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- Reducing paid services and fees
- Investing in automated services that can replace manual tasks
- Reduction in office expenses such as rent, office supplies, etc

<call out> In another resource, called **SMB Tips for Conserving Costs**, we go over operational budgeting strategies businesses can invoke to save money, from deferrals in car payments, suspension in mortgage payments, and other relief being offered during the COVID-19 crisis.  
</call out>

**Reductions in labor costs may include, but are not limited to:**

- Furloughs
- Layoffs
- Pay cuts
- Elimination or reduction in benefits
- Elimination or reduction of paid time off (PTO)
- Hiring freezes

The current guide you are reading goes further into frequently asked questions (FAQs) related to reductions in labor costs.

## What are furloughs, and how can I use them?

A furlough is an unpaid leave often used as a short term layoff during recessions or major business adjustments.

Companies can issue furloughs to reduce total labor costs by asking staff to take unpaid leave for any number of time specifications. For instance, furloughs could be implemented for certain days of the week (e.g. all employees take four days of unpaid leave between April and May), or stretches of time (e.g. all employees will take the month of May as an unpaid furlough).

During furloughs, employees keep their jobs and benefits. However it's important to note that you may need to adjust workloads, if you are reducing work hours. If an employee needs to work time more to complete their expected tasks, employers must compensate them for their time.

## How does the recent \$2 trillion stimulus bill address furloughed workers?

The \$2 trillion stimulus package ensures that the federal government will pay furloughed workers [their full salary](#) for up to four months.

## Differences with exempt vs. non-exempt employees

There is a significant difference in offering furloughs to exempt versus non-exempt employees.

With non-exempt employees, furloughs can be simple. There is a reduction in total hours worked, and the company pays according to the hours worked.

Exempt employees are more complex. Because exempt workers are typically salaried — and it doesn't matter how many hours in a week they work they are compensated at the same rate — reducing hours of a salaried worker may call into question their exempt status. Invoking a furlough may cause their worker classification to change to an hourly worker, which potentially forces businesses to pay overtime rates.

## Benefits to furloughs

A benefit of furloughs is that employees and employers mutually anticipate returning to work. This is positive because employees keep their benefits, while expecting to return to paid work, while employers can rely on trained staff ready to return to positions when revenue supports reinstating the role.

## What are layoffs?

A layoff is a permanent termination to an individual or group of individuals that is considered at no fault of the employee. A layoff occurs when a business can no longer afford the employee, or there is no longer a job available to an employee due to a business pivot. Layoffs can occur when a business is looking to downsize or eliminate redundant roles, as in after a merger or acquisition, or to cut costs.

Employers laying off 50 or more employees are typically required to provide a 60-day notice to employees who are losing their jobs, as protected by The Worker Adjustment and Retraining Notification Act (WARN), but there are “exceptions to the requirements when layoffs occur due to unforeseeable business circumstances, faltering companies, and natural disasters,” [according to the U.S. Department of Labor](#). Ensure that you are following state and federal guidelines to stay in compliance with employee terminations.

Unlike in wrongful terminations (or firings) layoffs are issued at the behest of the company therefore employees could be entitled to unemployment benefits.

## Step-by-step guidance to approaching a layoff, compassionately:

- ❑ Notify the employee of the layoff.
- ❑ Communicate how many positions are being eliminated.
- ❑ Clarify whether the layoff is permanent or temporary.
- ❑ Inform the employee which employees will be targeted for layoff. In making this decision, employers might consider employee length of service, skill, experience, or recent job performance. Employers must meticulously analyze the workforce so as not to cause a disparate impact on any protected class of employees.
- ❑ Discuss whether the employer has obligations under a collective bargaining agreement or other contract.
- ❑ Share how the reduction is expected to affect business operations.

## Should I use layoffs or furloughs?

We can not tell you what you should or should not do. While it's never easy to lay off a faithful employee, failure to take appropriate measures puts all employees at risk of losing their jobs permanently, if your business is forced to close. Conducting layoffs is a serious issue, that should be made with your unique business needs, financials, and road map.

## How will the new stimulus bill affect pay for furloughed employees, layoffs, and unemployment insurance?

The \$2 trillion stimulus bill recently signed by American legislators confirms that the federal government will be injecting substantial aid into small businesses amid the COVID-19 crisis. The bill, which includes [more than \\$377 billion for small businesses](#), \$150 billion for local and state governments and \$130 billion for hospitals, expands protections for small businesses and gives money back to American workers based on a sliding income scale, with assistance applying to nonprofit and government workers in addition to private-sector employees.

Here's what you need to know:

### ➤ Furloughed workers

The federal government will pay the full salaries of furloughed workers who make average wages for up to four months. Furloughed workers to continue to collect health benefits from employers and a salary from the government. ([source](#))

## ➤ Unemployment insurance

Unemployment insurance will expand to cover furloughed, gig workers and freelancers, and by increasing the payments by \$600 dollars per week for four months on top of what states provide as a base unemployment compensation.

## Are pay cuts legal?

Yes, pay cuts — when used appropriately — are legal so long as the company is in accordance with state-issued minimum wage requirements.

You may be required to provide advance written notice to employees, depending on which state you are in. Confirm with your [state department of labor](#) for the laws in your area.

## Why would you use pay cuts?

Pay cuts can be a good strategy to reduce business costs when a business is otherwise struggling to survive, while avoiding layoffs. During recessions, or major business shifts, businesses may choose to offer some, or all of its staff, pay cuts including upper management.

Keep in mind that if salary cuts reduce exempt workers' salaries to under state mandated minimum wage, they could be considered an hourly employee. However, "if you need to cut pay as a result of an economic downturn, you may be exempt from the overtime rules if the cut is maintained each month as the new salary (and does not increase or decrease each week) and if it is in response to your business' long-term needs," according to [the Small Business Administration](#).

Unlike salary negotiations, pay cut conversations aren't typically flexible. If an employer is asking an employee to accept a pay cut it's usually final. This reduces emotional negotiating, as pay cuts are already hard to deal with.

## How do you issue a pay cut?

There are no great ways to tell staff they are getting a reduction in pay, but sometimes it's the best thing an employer can provide, apart from a layoff. If you're in a position that you must issue pay cuts, be compassionate and sensitive to your employees. Ensure that you can be transparent with your financials, and share with your employee the reasons for the decision and their options in approving the offer. Here are some things to think about before issuing pay cuts:

- Have you gone through your entire financials?
- Are pay cuts necessary?

- Are pay cuts short term or long term?
- Have you thought through the questions your staff might ask ahead of time?
- Are your pay cuts equal or varied across the organization?

## Can I reduce my employer contributions to benefits?

Benefits are a form of compensation, just like pay and equity. Apart from mandatory benefits like workers' compensation and social security, yes businesses can opt to cut fringe benefits, reduce their contributions to benefits including employer contributions to health benefits, 401(k)s, and other benefits, when attempting to curb costs to keep the business afloat.

Employers can eliminate paid time off (PTO) policies, but can not eliminate accrued PTO hours.

If you are making changes to your benefits packages, it's polite to let your employees know about the changes, and in some states it may be required. Check with your state's employment laws to make sure you are in compliance.

**Pro tip: Zenefits' HR system allows employers to make easy changes to benefits offerings that immediately reflect in payroll. [Learn more >](#)**

## Are my employees eligible for Unemployment Insurance (UI) if I reduce their hours?

Likely so. Unemployment insurance was already confusing before COVID-19, but the federal government's \$2 trillion stimulus package has bolstered Unemployment Insurance (UI) in terms of payment, who's covered, and the duration of coverage. Here are things to consider:

### ➤ Your state

UI varies widely from state to state.

In some states, [such as California](#), employees may seek unemployment insurance (UI) for a portion of the hours they are displaced via Work Sharing Programs. For instance, if an employee was reduced to 50% of their normal working hours, that same employee could qualify for weekly UI benefits chipping in on the 50% of hours cut.

In other states, [such as Colorado](#), mass influxes of unemployment applications have forced the state government to make protocols for submitting claims. According to the [colorado.gov](#) website at the end of March, 2020, "If you need to file an unemployment claim and your last

name begins with the letter A - M, file a claim on Sunday, Tuesday, Thursday, or after 12 noon on Saturday. If you need to file an unemployment claim and your last name begins with the letter N - Z, file a claim on Monday, Wednesday, Friday or before 12 noon on Saturday.”

Make sure to check with local economic sites to know how unemployment is applied for and granted in your location.

## ➤ The federal stimulus package

The federal stimulus package has extended coverage for people who are losing their jobs as it relates to COVID-19. The new bill promises to provide an extra \$600 per week in employment benefits on top of state contributions, available for up to four months per recipient.

The package also makes self-employed and contract workers — who typically do not qualify for these benefits — eligible for unemployment benefits for up to 39 weeks.

Please view the [economic development administration for your regional office to learn more about state by state policies regarding how unemployment insurance kicks in.](#) [Learn more >](#)

## What is the *Families First Coronavirus Response Act*?

The [Families First Coronavirus Response Act](#) (H.R. 6201) was signed into law by President Donald Trump on March 18, 2020. It “responds to the coronavirus outbreak by providing paid sick leave and free coronavirus testing, expanding food assistance and unemployment benefits, and requiring employers to provide additional protections for health care workers,” according to the U.S. Congress’ records.

Among its provisions, the law states that employees of businesses with fewer than 500 employees will be fully reimbursed by the federal government within three months through 100% tax credits, for paid sick leave or paid family leave for two to 12 months. This reimbursement will be made first as credits against payroll taxes, and then as a paid credit.

[Read about the full law and its inclusion here >](#)

## How can I minimize labor costs while keeping my essential staff?

One of the most expensive costs to businesses is hiring, onboarding and training new staff. Reducing employee turnover in essential roles is a long term strategy to retain talent and cash in one effort. Companies with high retention rates find greater productivity, increased employee loyalty to the brand, and greater operational efficiencies based on experience and resident

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knowledge of internal systems. Consider ways to encourage your top talent to stay with your company, even if compensation or other factors are being changed, like:

- Showing appreciation for your employees, their families, and their health
- Giving credit where credit is due
- Incentivizing work with equity or profit sharing

Need help with employee retention strategies? [Learn 15 tips here >](#)

## Can I move salaried, exempt employees to hourly workers?

Yes, businesses can decide to move exempt, salaried employees into non-exempt hourly workers, and that may work as an advantage to both worker and employer when handled appropriately. For instance, a salaried salesman may be willing to accept a higher commission rate and less guarantee, or a project manager might accept contract work on a project-by-project basis when work is available.

Keep in mind, while switching an employee from salary to hourly designation can help curb costs, it can also be problematic or costly if the hourly worker ends up working overtime. While there are exemptions for paying overtime you may be eligible for, in general employers must pay workers for their complete work, and overtime.

Make sure to review your state labor laws to ensure you're in compliance with local regulations.

## Can I trade time off for less pay with workers?

You may be able to negotiate with employees for new compensation packages that help keep your total labor costs low. For instance, you could offer trading more time off, for less pay. For example, you could negotiate a 25% pay cut in exchange for  $\frac{3}{4}$  time worked. Be sure you are following guidance for exempt and non-exempt workers.

## What is a hiring freeze?

A hiring freeze is an immediate hold on hiring any new staff for a period of time.

Hiring freezes are used to curb labor costs in two ways. First, it reduces the total cost towards wages. It can also reduce costs by lessening the burden of hiring, onboarding, and training new staff, and reallocating that time among existing staff to more critical business issues. A benefit of a hiring freeze is that once a business's financial situation improves, it may reopen hiring.

When considering a hiring freeze, also consider these questions:

- Which tasks can be reallocated among existing staff members?
- Does distributing roles amongst existing staff make sense, even if you must pay overtime wages?

## Can I ask my staff to volunteer?

Under the federal Fair Labor Standards Act (FLSA), the short answer is “No” if you’re in a for-profit sector, and “Yes” if you’re in the non-profit sector and the volunteer work does not resemble the worker’s original jobs or role.

Pro tip: Zenefits’ HR Advisor program allows small businesses access to HR professionals on demand. Ask your most perplexing questions, get professional answers, for a fraction of the cost of in-house counsel. [Learn more >](#)

# Need help setting up your distributed workforce in the age of coronavirus?

Zenefits can help.

We serve 12,000 small businesses with:

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