

Can I File for Unemployment If I'm a Business Owner?



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In a crisis, natural disaster, or pandemic, many businesses can be forced to close because they are nonessential or are facing slowdowns and decreased income. If you own a business and are forced to close, or think you may need to close in the future, you may wonder if you have any right to file for unemployment insurance.

Your employees, if you have any, are entitled to file, but the rules for you as a self-employed business owner are slightly different.

Your Unemployment Eligibility as a Business Owner

As the business owner, you face a significant loss of income if your business is forced to close. There is help available for you. Scott M. Behrens of [The Behren Law Firm](#) in Weston, Fla., says that if you are a "self-employed owner of a business that stops doing business and has filed and paid payroll taxes and unemployment taxes, you should be able to make a claim for unemployment."

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The key here, explains Kristin G. Roberts of [Trestle Law APC](#) in San Diego, California, is that "So long as your business employs the owner as a [W-2 employee](#), and the business is a qualified employer by way of paying into the unemployment programs via taxes, unemployment insurance should be available."

She points out that many LLCs, partnerships, and sole proprietors tend to [form their businesses](#) without setting themselves up as W-2 employers. While this can save time and costs upfront, if you do end up in a situation where the business closes, you don't have the cushion of filing for unemployment.

It's important to note that the [U.S. Department of Labor](#) has changed its requirements and you as an employee may be eligible not only if your business closes completely, but also if:

- The business just [temporarily closes](#) due to COVID-19.
- You are quarantined and expect to return to work afterward.
- You leave your job because of the risk of exposure or to care for an ill family member.

Unemployment Eligibility From Previous Employment

If your business is not set up as a W-2 employer, all may not be lost.

Roberts explains, "if you only recently started working for yourself, your previous employment would actually be examined to determine eligibility. In almost every state, there's a minimum base period of a year. This means that the earliest four of the last five complete quarters of the calendar year will be examined to determine both eligibility and benefit amount."

If you don't have enough work history to use under this rule, your state may have exceptions where you can qualify with less work history, so be sure to check your state laws and requirements.

How to Apply for Unemployment as a Business Owner

To be able to apply, "you must confirm you are eligible to work and are actively looking for work," says Behren. The U.S. Department of Labor web site will point you to your state's official site where you can apply online.

You'll set up an account and provide your identifying information. Roberts offers these tips:

- Have your [employer's information](#) (EIN if available), as well as the most current address, and your pay stubs going back at least a year.
- Keep your previous tax returns on hand for easy access.
- Complete the required information on the form—the request is then sent to the employer to verify the information." Since you are the employer, you'll then have to respond and complete that part of the application as well," Behren says.

What Unemployment Benefits Can You Expect?

If you are eligible and your claim is approved, you will then receive benefits. Your claim will last one year, but Roberts points out, "most states only provide benefits between 13 and 26 weeks (a little less than six months of payments)."

Once your benefits run out, you cannot file another claim until your one-year claim period is up. However, after the year is up, you can file another claim. The amount of benefit is based on your prior earnings, and Roberts says you can generally expect a benefit of \$40 to \$450 a week.

Other Options for Struggling Business Owners

If you didn't hire yourself as an employee in your own business there are some other ways to get financial assistance at this time:

- [SBA disaster relief loans](#)
- Business insurance policies
- State disaster relief
- FEMA disaster relief
- Borrowing against your retirement accounts (many companies are now waiving penalties)

Roberts suggests you think proactively now. "If you aren't out of business, but see your business struggling, consider applying for a type of federal or state business loan now. The process is long, and the forms can be confusing. It's better to have your application in than wait until you are completely out of business to apply. Remember, the programs are designed for businesses that have been economically impacted by COVID-19, not only for those that have been put out of business."

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