

[CARES Act Overview: The Impact on Taxpayers and Businesses](#)

The Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into law on Friday March 27, 2020. The new law brings with it several elements of relief for businesses, employees and families in an effort to maintain livelihoods throughout the crisis and after. The expected cost of the bill is nearly \$2 trillion and includes nearly \$500 billion for in economic distress relief for companies.

There are many provisions dedicated to taxpayers and businesses. The CARE Act includes provisions related to taxes, unemployment, small business loans, and a large business lending program.

[Small business direct financial assistance in the CARES Act](#) [\(see our attached comparison of the PPP and the EIDL\)](#)

[Paycheck Protection Program \(PPP\)](#)

The CARES Act includes \$349 billion in loans for eligible small businesses. The loans may be used for a variety of purposes, including payroll costs, rent, utilities, mortgage interest (but not principal) and interest on debt existing prior to February 15, 2020.

Small employers, self-employed and gig economy workers are eligible for this program which provides a loan intended to cover 8 weeks of cash-flow assistance through 100% federally guaranteed loans for small businesses who maintain payroll. The portion of loans used for payroll, mortgage *interest*, rent and utilities would be forgiven for small businesses who maintain payroll.

Because the provisions are retroactive to Feb. 15, 2020, this allows employers to bring back workers who have already been laid off. Any loan forgiveness will be excluded from taxable income.

Some of the important details:

Eligible small businesses are those with less than 500 employees

Maximum Loan Amount is the lesser of:

- *250% of the employer's average monthly payroll (calculated over the one year period prior to the date of the loan-payroll for this purpose includes payments to independent contractors and self-employed individuals not in excess of \$100,000)*
- **\$10,000,000**

The average payroll calculation is modified for seasonal businesses and for new employers that were not in business between February 15, 2019 and July 30, 2019

Loan Terms:

- Ten year term loan
- Six months to one year of deferred payment
- 4% interest rate
- Fee waivers
- Streamline application requirements
- No personal guarantees of shareholders, partners or LLC/LLP members
- No collateral
- No prepayment fee

Application process:

- Submit an application to an SBA approved lender (see attached list of Massachusetts banks that are SBA approved)
- Lenders have been granted the authority by the SBA to make loans without SBA review
- Eligible applicants will have been in operation on February 15, 2020 and will have paid employees, payroll taxes or independent contractors

- Applicants do not need to demonstrate actual economic harm in order to qualify
- Applicants must certify that the loan is necessary and will be used to retain workers and pay eligible expenses
- Applicants must certify that no other application for a loan for the same purpose is pending and that the entity has not received any other loan for the same purpose through December 31, 2020

Loan Forgiveness:

- The amount of the loan to be forgiven is the amount actually paid for payroll costs (not to exceed \$100,000 per person), salaries, benefits, rent, utilities and mortgage interest during the eight weeks following the disbursement of the loan
- The forgiven amount of the loan will be excluded from income

The forgivable nature of these loans in effect turns them into grants. Therefore qualifying businesses will not see a significant increase in their debt burden.

The amount of the loan eligible to be forgiven is reduced if there is a workforce reduction or a reduction in the salary or wages of an employee, as follows:

- The amount of the loan that will not be forgiven as a result of a **workforce reduction** is based on the percentage calculated by dividing the number of full time equivalent employees (FTE) during the eight week period following the loan disbursement divided by the average FTE for the period from February 15, 2019 through June 20, 2019 or January 1, 2020 through February 29, 2020, as determined by the loan recipient
- The amount of the loan that will not be forgiven as a result of a **salary or wage reduction** is the amount of any salary or wage reduction in excess of 25% of the total salary or wages during the most recent full quarter that such employee was employed **before the eight week loan period.**

Note: Reductions in workforce, salaries or wages that occur from February 15, 2020 through April 26, 2020 will be disregarded for purposes of this calculation as long as the reductions are eliminated by June 30, 2020.

Borrowers must apply for forgiveness with the lender from whom the loan was obtained. Lenders have 60 days to review and make a determination. Any loan amount forgiven will be excluded from the borrower's gross income.

Tax provisions in the CARES Act for businesses and employers:

Tax Credit for Paid Sick leave and paid family leave:

The credit for paid sick leave and paid family leave in the Families First Coronavirus Response Act enacted last week is available for advance refunding via forms on the IRS website (not currently released yet). Penalties for failure to deposit payroll taxes will be waived in the event of anticipated payroll tax credit.

Payroll Tax Credit:

An employee retention credit is available for eligible employers who close due to coronavirus and who pay wages to employees who are not working. Eligibility as currently defined will be limited to businesses whose operations are fully or partially suspended because of government order and employers whose gross receipts are less than 50% of their gross receipts for the same quarter the prior year. Certain tax-exempt organizations also qualify.

Payroll Tax Deferral:

50% of 2020 employer payroll taxes may be delayed until Dec. 31, 2021, with the remaining 50% due Dec. 31, 2022. The same provisions exist for self-employment taxes.

Business tax losses incurred in 2018, 2019 and 2020 can be immediately carried back five years for a refund of taxes paid in earlier years:

Businesses suffering losses can carry back losses from 2018, 2019 and 2020 to the previous 5 years allowing for access to immediate tax refunds. Additionally, the 80% income limitation for net operating loss deductions is temporarily repealed for years beginning before 2021. It also repeals excess loss limitations

created by the Tax Cuts and Jobs Act which disallowed excess business losses of non-corporate taxpayers if the amount exceeds \$250,000 (\$500,000 for MFJ).

Corporate alternative minimum tax (AMT) is made a refundable credit for 2018 tax years.

Qualified Improvement Properties now eligible for 100% Bonus Depreciation retroactive to 2018

Distressed business lending program in the CARES Act

\$500 billion in loans, loan guarantees and investments from the Treasury Department were allocated. Direct lending was granted for passenger airlines at \$25 billion, cargo airlines at \$4 billion, and businesses critical for national security at \$17 billion. Loan provisions include:

- Businesses who receive loans may not issue dividends for up to a year after the loan is no longer outstanding and must retain employment levels of 90% from March 24 to Sept. 30.
- The loan program also includes a specific provision for businesses between 500 and 10,000 employees and nonprofit organizations which includes a six-month grace period for payments after the loan is issued.
- Employee and executive total compensation may not exceed \$425,000
- Stock buybacks are prohibited during the duration of the loan
- Borrowers must maintain existing payroll as of March 24, 2020, through Sept. 30 2020.

Additionally, contract performance periods would be extended by federal agencies for small business contractors.

The SBA will pay all principal, interest and fees on existing SBA loan products for six months.

Programs must be enacted by the SBA within 15 days after the Act is signed.

Tax provisions in the CARES Act for individuals and families:

Direct payments to taxpayers:

Financial relief for American families is provided with direct payments of an advance 2020 tax credit that will be issued in the amount up to \$1,200 per adult, \$2,400 for married filing jointly, and \$500 per child. Higher-earning taxpayers with Adjusted Gross Income (AGI) above \$75,000 filing single or \$150,000 filing married will receive reduced amounts subsequently by 5% of AGI. Payments will be based on 2019 returns if filed, or 2018 returns, and a provision exists for those who don't earn enough to file a return to still be able to claim the credit. The amount of credit available on a taxpayer's 2020 return will be reduced by the amount of the advance refund payment they receive. Payments would be made by December 31, 2020. The Tax Policy Center estimates 90% of Americans will be eligible.

Penalty-free withdrawals from retirement plans:

The 10% tax for early distributions on retirement plans is waived for up to \$100,000 in coronavirus-related distributions. Qualifying events include a coronavirus diagnosis, or adverse financial consequences as a result of the virus such as quarantine, furlough, lay off, reduced hours, or unable to work due to lack of childcare. Distributions can be taken up to December 31, 2020.

Temporary waiver of Required Minimum Distributions:

Older Americans will be able to keep their retirement capital invested instead of taking required minimum distributions for 2020 and minimum required distributions for single-payer plans in 2020 would be delayed until 2021.

Student Loan Payment relief:

Student loan payments would be suspended by the Department of Education without penalty through Sept. 30.

HSA accounts may be used for Telehealth services:

Coverage for high deductible health care plans with HSAs can be used pre-deductible for telehealth services.

Charitable Contribution Deduction Limits Reduced:

For individuals, the 60% of adjusted gross income limit imposed on charitable contributions for those individuals who itemize their deductions is suspended for 2020. Excess contributions may be carried forward five years.

Corporations may now take deductions for their charitable contributions up to 25% of their taxable income (up from 10%). The limit on deduction of food inventory is increased to 25%.

Unemployment provisions of the CARES Act

Expanded Unemployment benefits

The act provides \$600 per week in addition to state unemployment benefits and includes an additional four months of benefits. It also ensures state and local governments and nonprofits can provide employees with unemployment.

Self-employed, partially-employed and those unable to work will also qualify for unemployment benefits.

Other Provisions of Interest:

The bill allocates \$150 billion for states and localities to help mitigate costs related to the virus.

The bill includes provisions that would prevent President Trump and his family and top government officials from receiving loans or investments from Treasury programs in the stimulus.

Concerns regarding oversight of large loans for major industries were addressed with the creation of an oversight board and inspector general position to review loan spending.

Homeowner and Landlord mortgages and Tenant payment of rents:

Federally backed mortgage loans would be eligible for forbearance for up to 180 days with opportunity for an additional 180 days if either initial or extended forbearance period may be shortened. Fees, penalties and additional interest cannot be charged from delayed payments.

For landlords with federally backed loans with tenants, eviction is not allowed for tenants who fail to pay rent for a 120-day period and fees and penalties may not be charged.

Clarity and expansion on these provisions is expected in the coming days. Nicholas A. Papakyrikos, CPA, P.C. will continue to provide updates and assistance with these changes. We will be happy to discuss the best options for your business!

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