

Navigating the CARES Act

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On March 27, 2020, the President signed into the law the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). This new law provides individuals and businesses with financial relief from current economic conditions resulting from the effects of COVID-19. While the Act seems overwhelming with its far reaching provisions, this article summarizes many of the key provisions affecting your individual and business owner clients.

Paycheck Protection Program

The Act authorizes a maximum of \$10 million loans under the Small Business Administration's 7(a) loan program to provide assistance to small businesses, nonprofits and veterans organizations with fewer than 500 employees. These loans allow borrowed funds to be utilized for employee compensation up to a maximum of an annual salary of \$100,000 prorated over the covered period. Employee compensation includes salaries, wages, commissions, tips, paid sick/medical leave, healthcare payments and retirement benefit payments. Borrowed funds may also be used for mortgage or lease payments and other debt obligations. The loan period for this program begins on February 15, 2020 and ends on June 30, 2020.

To be eligible under this program, lenders must determine:

1. Whether a business was operational on February 15, 2020; and
2. Whether the business had employees to whom it paid salaries and payroll taxes, or paid independent contractors; and
3. Whether the business was substantially impacted by COVID-19.

Borrowed funds are nonrecourse unless they are used for an unauthorized purpose. Further, no personal guarantees or collateral are required. Rather, the borrower is required to make a "Good Faith" certification including the following requirements:

1. The current uncertainty makes the loan necessary to support ongoing operations;
2. The funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments and utility payments;
3. There are no duplicative amounts.

The loans will have a maximum interest rate of 4% with 6 to 12 months of payment deferment. However, the most intriguing aspect of the program is its loan forgiveness. Principal can be forgiven in an amount equal to all payroll costs, mortgage interest, rent and utilities incurred between February 15, 2020 and June 30, 2020. Forgiven indebtedness will not be included in the borrower's taxable income.

Amounts forgiven will be reduced proportionally by the reduction in the number of employees retained compared to the prior year. Additionally, forgiven sums will be reduced proportionally by the reduction in pay of an employee beyond 25% of their prior year compensation. There is no penalty for reduced payroll at the beginning of the period when the borrower re-hires workers previously laid off.

Provisions Affecting Individuals

Assistance for American Families

U.S. residents with adjusted gross income up to \$75,000 (\$150,000 for a married couple) are eligible for a \$1,200 rebate (\$2,400 for a married couple) plus a \$500 rebate for each dependent child. The rebates essentially serve as an advance refund of a taxpayer's 2020 tax credit, and will reduce the amount of the credit available on the taxpayer's 2020 income tax return. The rebates are phased out for single filers with incomes exceeding \$99,000 (\$198,000 for joint filers with no children).

The rebates will be in the form of payments directly to taxpayers. Payments are expected to be made electronically, and will be based upon a taxpayer's 2019 income tax return, if filed, otherwise upon the 2018 income tax return. No action on the part of the taxpayer is required.

IRA Contribution Deadlines

The deadline for a taxpayer to make contributions to an IRA for 2019 has been extended to July 15, 2020, the same date 2019 federal income tax returns are now due.

Required Minimum Distributions

All required minimum distributions are suspended for 2020.

IRA and Qualified Plan Withdrawals and Loans

The Act provides withdrawal and loan relief for individuals:

- Who are diagnosed with COVID-19 through a test approved by the Centers for Disease Control and Prevention; or
- Whose spouse or dependent is diagnosed with COVID-19; or

- Who experience adverse financial consequences as a result of quarantine, furlough, layoff, reduction in work hours due to COVID-19, inability to work due to lack of child care resulting from COVID-19, or closing or reduction of hours of a business owned or operated by the individual due to COVID-19.

For individuals who qualify, the ACT provides tax relief for qualified plan and IRA coronavirus-related distributions up to \$100,000 taken by individuals from January 1, 2020 through December 31, 2020. Specifically, the Act:

- Permits in-service distributions;
- Provides an exception to the 10% early withdrawal penalty;
- Allows the individual to spread income attributed to the distribution over a 3 year period; and
- Allows for the re-contribution of the distribution to a qualified plan or IRA within 3 years.

Additionally, for plan loans beginning from the date of enactment through December 31, 2020, the Act increased the maximum loan allowance from retirement accounts to \$100,000 or 100% of the vested balance.

Charitable Incentives

The CARES Act provides two key charitable provisions. The first of these provisions provides for an above-the-line income tax deduction for charitable cash contributions (up to \$300) for those who do not itemize deductions.

Additionally, for taxpayers who itemize deductions, the charitable deduction limitation of 50% of adjusted gross income (AGI) has been suspended for 2020. The suspension of this limitation allows taxpayers to deduct up to 100% of AGI for these contributions.

Student Loan Relief

Student loan payments, including principal and interest, are suspended through September 30, 2020, by the Act, and no interest will accrue through that date.

Additionally, employers may repay student loans, up to \$5,250 annually, on behalf of an employee on a tax-free basis. These student loan benefit payments will not be included in an employee's income, and will apply to payments made by an employer on behalf of an employee from the date of enactment to December 31, 2020.

Unemployment Insurance

The Act extends unemployment payments to "covered individuals" who traditionally are not eligible for unemployment benefits, including independent contractors, those

who are self employed, and those with limited work history directly resulting from the coronavirus pandemic. More specifically, "covered individuals" include those who are not eligible for regular unemployment benefits but can certify they would be able to work but for the direct impact of COVID-19. However, "covered individuals" does not include those who have the ability to work from home but chose not to do so.

Provisions Affecting Businesses

Payroll Tax Credit

The Act created a payroll tax credit for 50% of wages paid by employers during the pandemic crisis. This credit is available to employers whose:

1. operations were fully or partially suspended due to a COVID-19 related shut down or order; or
2. gross receipts declined by more than 50% compared to the same quarter in the prior tax year.

For employers with more than 100 full-time employees, the credit is based on wages paid to employees who are not providing services because of COVID-19 related circumstances. For employers with 100 or less full-time employees, the credit is based on all employee wages irrespective of whether they are providing services because of COVID-19 related circumstances.

The credit applies for wages from March 13, 2020 through December 31, 2020 and only to the extent of the first \$10,000 of compensation paid to an employee. Compensation, for purposes of this credit" includes health benefits.

Payroll Tax Payment Deferral

Employers may defer payment of its share of Social Security tax to the following two years. One-half of the amount would be due by December 31, 2021, with the other one-half due by December 31, 2022.