

President Trump Signs CARES Act into Law

March 27, 2020

On March 27, 2020, The Coronavirus Aid, Relief and Economic Security Act (CARES Act) was signed into law. The 2.2 trillion-dollar stimulus measure is aimed at providing relief to the American people and businesses in response to the coronavirus (COVID-19) outbreak. The rescue package offers direct financial assistance to American families, employees and businesses, distressed sectors of the economy, and the nation's healthcare system.

For individuals and businesses struggling in these unprecedented times, liquidity is vital. Therefore, most of the tax provisions of the CARES Act focus on enhancing liquidity. Some of the key points are summarized below.

Individuals

Sec. 2201 - Recovery rebates for individuals

- American taxpayers will receive a \$1,200 rebate (\$2,400 for joint filers) of taxes paid in 2019 (or 2018 if they haven't filed their 2019 return), and an additional \$500 per qualifying child. The amount is reduced by 5% of the amount by which the taxpayer's income exceeds \$150,000 (joint), \$112,500 (head of household), and \$75,000 (single). The amount is completely phased-out for taxpayers with income exceeding \$198,000 (joint), \$146,500 (head of household), and \$99,000 (single).

Sec. 2202 – Special rules for use of retirement funds

- Coronavirus-related plan distributions will be allowed in 2020 without the 10% penalty as long as the withdrawals do not exceed \$100,000. To qualify, an individual (or family member) must have been infected with COVID-19 or have faced adverse financial consequences from being furloughed, being laid off, having a reduction in hours, or being quarantined. An individual is subject to tax over three years and may recontribute the distribution amount for a three-year period following the date of the distribution.
- The maximum loan amount from a qualified retirement plan is increased to \$100,000. Repayments with respect to such loans occurring during the period beginning on the date of the CARES Act and ending on December 31, 2020, shall be delayed for 1 year.

Sec. 2203 – Temporary Waiver of Required Minimum Distribution Rules for Certain Retirement Plans and Accounts

- Required minimum distributions (RMDs) from traditional IRAs and inherited IRAs are suspended for 2020. If a taxpayer took the 2020 RMD more than 60 days ago, it will be included in gross income and taxable. If the RMD occurred less than 60 days ago, the distribution can be returned to an IRA or other qualified retirement account without owing taxes on it.

Sec. 2204 – Allowance of Partial Above the Line Deduction for Charitable Contributions

- A taxpayer who does not elect to itemize deductions, can deduct up to \$300 of cash charitable contributions.

Sec. 2205 – Modification of Limitations on Charitable Contributions During 2020

- For tax year 2020 the limitations on charitable contributions are modified as follows:
 - For individuals the limitation is suspended
 - For corporations the limitation is increased to 25% of taxable income

Sec. 2206 – Exclusion of Certain Employer Payments of Student Loans

- Allows employers to provide a tax-free student loan repayment benefit to employees. The provision applies to any student loan payments made by an employer on behalf of an employee after date of enactment and before January 1, 2021.

Businesses

Sec. 1102 – Paycheck Protection Program

- The Paycheck Protection Loan Program provides businesses, with 500 or less employees (full-time, part-time, and other basis employees), federally insured, partially forgivable SBA 7(a) loans to cover operating expenses during the economic crisis.
- The loan program covers the period February 15, 2020 through June 30, 2020.
- The maximum loan amount shall be the lesser of (i) the sum of the average total monthly payments by the applicant for payroll costs incurred during the 1-year period before the date on which the loan is made multiplied by 2.5 or (ii) \$10,000,000
- Waiver of Personal Guarantee – During the covered period, with respect to a covered loan – (i) no personal guarantee shall be required for the covered loan; and (ii) no collateral shall be required for the covered loan. The Administrator shall have no recourse against any individual shareholder, member, or partner of an eligible recipient of a covered loan for nonpayment of any covered loan, except to the extent that such shareholder, member, or partner uses the covered loan proceeds for a purpose not authorized under the loan program.
- Borrower Requirements - An eligible recipient applying for a covered loan shall make a good faith certification:
 - I. That the uncertainty of current economic conditions makes necessary the loan request to support the ongoing operations of the eligible recipient;
 - II. Acknowledging that funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments;
 - III. That the eligible recipient does not have an application pending for a loan under this subsection for the same purpose and duplicative of amounts applied for or received under a covered loan; and
 - IV. During the period beginning on February 15, 2020 and ending on December 31, 2020, that the eligible recipient has not received amounts under this subsection for the same purpose and duplicative of amounts applied for or received under a covered loan.
- Fee Waiver – During the covered period, with respect to a covered loan, the Administrator shall collect no fees
- Interest Rate Requirements – A covered loan shall bear an interest rate not to exceed 4 percent

- Loan Deferment – During the covered period, the Administration shall (i) consider each eligible recipient that applies for a covered loan to be an impacted borrower; and (ii) require lenders under this subsection to provide complete payment deferment relief for impacted borrowers with covered loans for a period of not less than 6 months, including payment of principal, interest, and fees, and not more than 1 year.
- The business may use the proceeds of the covered loan for:
 - I. Payroll costs;
 - II. Costs related to the continuation of group health care benefits during the periods of paid sick, medical, or family leave and insurance premiums;
 - III. Employee salaries, commissions, or similar compensation, including payment of retirement benefits;
 - IV. Payments of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a mortgage obligation);
 - V. rent (including rent under a lease agreement);
 - VI. interest on any other debt obligations that were incurred before the covered period.
- Payroll costs shall not include:
 - I. the compensation of an individual employee in excess of an annual salary of \$100,000, as prorated for the covered period;
 - II. any compensation of an employee whose principal place of residence is outside of the United States;
- During the covered period, individuals who operate under a sole proprietorship or as an independent contractor and eligible self-employed individuals shall be eligible to receive a covered loan. An eligible self-employed individual, independent contractor, or sole proprietorship seeking a covered loan shall submit such documentation as is necessary to establish such individual as eligible, including payroll tax filings reported to the Internal Revenue Service, Forms 1099–MISC, and income and expenses from the sole proprietorship, as determined by the Administrator and the Secretary.

Sec. 1106 – Loan Forgiveness

- An eligible recipient shall be eligible for forgiveness of indebtedness on a covered loan in an amount equal to the sum of the following costs incurred and payments made during the covered period:
 - I. Payroll costs.
 - II. Any payment of interest on any covered mortgage obligation (which shall not include any prepayment of or payment of principal on a covered mortgage obligation).

- III. Any payment on any covered rent obligation.
 - IV. Any covered utility payment.
- Limits on amount of forgiveness
 1. The amount of loan forgiveness under this section shall not exceed the principal amount of the financing made available under the applicable covered loan.
 2. Reduction based on reduction in number of employees. —
 - A. The amount of loan forgiveness under this section shall be reduced, but not increased, by multiplying the sum of the eligible costs incurred and payments made during the covered period by the quotient obtained by dividing—
 - i. the average number of full-time equivalent employees per month employed by the eligible recipient during the covered period; by
 - ii. at the election of the borrower—
 - a) the average number of full-time equivalent employees per month employed by the eligible recipient during the period beginning on February 15, 2019 and ending on June 30, 2019; or
 - b) the average number of full-time equivalent employees per month employed by the eligible recipient during the period beginning on January 1, 2020 and ending on February 29, 2020; or
 - iii. in the case of an eligible recipient that is seasonal employer, as determined by the Administrator, the average number of full-time equivalent employees per month employed by the eligible recipient during the period beginning on February 15, 2019 and ending on June 30, 2019.
 - B. The average number of full-time equivalent employees shall be determined by calculating the average number of full-time equivalent employees for each pay period falling within a month.
 3. Reduction relation to salary and wages. —
 - A. The amount of loan forgiveness under this section shall be reduced by the amount of any reduction in total salary or wages of any employee during the covered period that is in excess of 25 percent of the total salary or wages of the employee during the most recent full quarter during which the employee was employed before the covered period.
 - B. An employee described in this subparagraph is any employee who did not receive, during any single pay period during 2019, wages or salary at an annualized rate of pay in an amount more than \$100,000.
- Amounts which have been forgiven under this section shall be considered canceled indebtedness by a lender.

- Any amounts which would be included in gross income of the eligible recipient by reason of forgiveness shall be excluded from gross income.

Sec. 2301 - Employee Retention Credit for Employers Subject to Closure Due to COVID-19

- Eligible employer shall be allowed as a credit against applicable employment taxes for each calendar quarter an amount equal to 50 percent of the qualified wages with respect to each employee of such employer for such calendar quarter.
- The amount of qualified wages with respect to any employee which may be taken into account by the eligible employer for all calendar quarters shall not exceed \$10,000.

Sec. 2302 – Delay of Payment of Employer Taxes

- Employer payroll taxes and 50% of self-employment taxes related to Social Security and Railroad Retirement are deferred, with half of the amount required to be paid by December 31, 2021 and the other half by December 31, 2022, for 2020 wages.
- Employers who have SBA loans forgiven under Section 1109 of the CARES Act will not be eligible for this deferral.

Sec. 2303 – Modifications for Net Operating Losses

- Business net operating losses arising in 2018, 2019, and 2020 can be carried back 5 years.
- Business net operating losses may be used to fully reduce taxable income by 100%, rather than the 80% limit imposed by the TCJA of 2017.

Sec. 2304 – Modifications of Limitations on Losses for Taxpayers Other Than Corporations

- Modified net operating loss carryback rules apply for taxpayers other than corporations as described in Sec. 2303

Sec. 2305 – Modifications for Credit for Prior Year Minimum Tax Liability of Corporations

- The corporate alternative minimum tax (AMT) was repealed as part of the Tax Cuts and Jobs Act, but corporate AMT credits were made available as refundable credits over several years, ending in 2021. The provision accelerates the ability of companies to recover those AMT credits, permitting companies to claim a refund now and obtain additional cash flow during the COVID-19 emergency.

Sec. 2306 – Modifications of Limitation on Business Interest

- The provision temporarily increases the amount of interest expense businesses are allowed to deduct on their tax returns, by increasing the 30-percent limitation to 50 percent of taxable income (with adjustments) for 2019 and 2020.

Sec. 2307 – Technical Amendments Regarding Qualified Improvement Property

- The provision enables businesses to write off immediately costs associated with improving facilities instead of having to depreciate those improvements over the 39-year life of the building. The provision, which corrects an error in the Tax Cuts and Jobs Act, increases companies' access to cash flow by allowing them to amend a prior year return.

Sec. 2308 – Temporary Exception from Excise Tax for Alcohol Used to Produce Hand Sanitizer

- Waives the federal excise tax on any distilled spirits used for or contained in hand sanitizer that is produced and distributed in a manner consistent with guidance issued by the Food and Drug Administration and is effective for calendar year 2020.

Below is the table of contents of Title I – Keeping American Workers Paid And Employed Act and Title II – Assistance For American Workers, Families, And Businesses of H.R. 748 – Coronavirus Aid, Relief, and Economic Security Act (CARES Act). Please let us know if we can provide any guidance related to these topics.

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. References.

DIVISION A—KEEPING WORKERS PAID AND EMPLOYED, HEALTH CARE SYSTEM
ENHANCEMENTS, AND ECONOMIC STABILIZATION
TITLE I—KEEPING AMERICAN WORKERS PAID AND EMPLOYED ACT

- Sec. 1101. Definitions.
- Sec. 1102. Paycheck protection program.
- Sec. 1103. Entrepreneurial development.
- Sec. 1104. State trade expansion program.
- Sec. 1105. Waiver of matching funds requirement under the women’s business center program.
- Sec. 1106. Loan forgiveness.
- Sec. 1107. Direct appropriations.
- Sec. 1108. Minority business development agency.
- Sec. 1109. United States Treasury Program Management Authority.
- Sec. 1110. Emergency EIDL grants.
- Sec. 1111. Resources and services in languages other than English.
- Sec. 1112. Subsidy for certain loan payments.
- Sec. 1113. Bankruptcy.
- Sec. 1114. Emergency rulemaking authority.

TITLE II—ASSISTANCE FOR AMERICAN WORKERS, FAMILIES, AND BUSINESSES
Subtitle A—Unemployment Insurance Provisions

- Sec. 2101. Short title.
- Sec. 2102. Pandemic Unemployment Assistance.
- Sec. 2103. Emergency unemployment relief for governmental entities and nonprofit organizations.
- Sec. 2104. Emergency increase in unemployment compensation benefits.
- Sec. 2105. Temporary full Federal funding of the first week of compensable regular unemployment for States with no waiting week.
- Sec. 2106. Emergency State staffing flexibility.
- Sec. 2107. Pandemic emergency unemployment compensation.
- Sec. 2108. Temporary financing of short-time compensation payments in States with programs in law.
- Sec. 2109. Temporary financing of short-time compensation agreements.
- Sec. 2110. Grants for short-time compensation programs.
- Sec. 2111. Assistance and guidance in implementing programs.
- Sec. 2112. Waiver of the 7-day waiting period for benefits under the Railroad Unemployment Insurance Act.
- Sec. 2113. Enhanced benefits under the Railroad Unemployment Insurance Act.
- Sec. 2114. Extended unemployment benefits under the Railroad Unemployment Insurance Act.
- Sec. 2115. Funding for the DOL Office of Inspector General for oversight of unemployment provisions.
- Sec. 2116. Implementation.

Subtitle B—Rebates And Other Individual Provisions

- Sec. 2201. 2020 recovery rebates for individuals.
- Sec. 2202. Special rules for use of retirement funds.
- Sec. 2203. Temporary waiver of required minimum distribution rules for certain retirement plans and accounts.
- Sec. 2204. Allowance of partial above the line deduction for charitable contributions.

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Sec. 2205. Modification of limitations on charitable contributions during 2020.

Sec. 2206. Exclusion for certain employer payments of student loans.

Subtitle C—Business Provisions

Sec. 2301. Employee retention credit for employers subject to closure due to COVID-19.

Sec. 2302. Delay of payment of employer payroll taxes.

Sec. 2303. Modifications for net operating losses.

Sec. 2304. Modification of limitation on losses for taxpayers other than corporations.

Sec. 2305. Modification of credit for prior year minimum tax liability of corporations.

Sec. 2306. Modifications of limitation on business interest.

Sec. 2307. Technical amendments regarding qualified improvement property.

Sec. 2308. Temporary exception from excise tax for alcohol used to produce hand sanitizer.