

CARES Act Overview: The Impact on Taxpayers and Businesses

The bill brings with it several elements of relief expected 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.

For funding dedicated to taxpayers and businesses, the bill currently includes provisions related to taxes, unemployment, small business loans, and a large business lending program. Below is a summary of what we know so far about the bill.

Tax provisions in the CARES Act for individuals and families:

Financial relief for American families is provided with direct payments of an advance 2020 tax credit 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.

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.

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

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

Tax provisions in the CARES Act for businesses and employers:

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.

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 this is 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.

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.

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 limitation created by the Tax Cuts and Jobs Act which disallowed excess business loss of noncorporate 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 were made a 15-year property as a technical correction.

Unemployment provisions of the CARES Act

The bill 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.

Small business assistance in the CARES Act

The bill includes \$349 billion in loans for small businesses. the current bill allows the Small Business Association (SBA) to serve as guarantor for 7(a) loans of up to \$10 billion for small businesses to maintain payrolls and pay off debts.

Small employers, self-employed and gig economy workers are eligible for paycheck protection which provides 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. Retroactive to Feb. 15, 2020, this allows employers to bring back workers who have already been laid off.

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.

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.

Furthermore, 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. Additionally, 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.

Additionally, 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 those 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. CD Bradshaw & Associates, P.C. will continue to provide updates and assistance with these changes.