**CARES ACT Overview**

On Friday March 27, 2020, the House of Representatives passed a bill that the U.S. Senate backed unanimously, to reduce the economic impacting of the Coronavirus (COVID-19) and President Trump has signed the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”) into law.

The “CARES act” is a $2 trillion stimulus package that offers assistance to American households and business affected by the coronavirus pandemic. Its components include stimulus payments to individuals, expanded unemployment coverage, student loan changes, different retirement account rules, Small business assistance and more.

1. **RESOURCES AVAILABLE TO INDIVIDUALS AND FAMILIES**

The bill includes provisions related to:

1. **Direct Payments and Retirement Provisions**[[1]](#endnote-1)

The “Relief for Workers Affected by Coronavirus Act” provides for a substantial expansion of unemployment insurance and benefits for workers sidelined for specified reasons associated with COVID-19.  Key aspects of the program are as

1. **Direct Payments to American Workers**
* Taxpayers are entitled to direct tax rebates in the form of cash payments of up to $1,200 for individuals or $2,400 for couples, with an additional $500 cash payment available per child for qualifying age (16 or under).
* Full payment is available for Americans making up to $75,000 (individuals) and $150,000 (married). This applies even for those who have no income, as well as those whose income comes entirely from non-taxable means-tested benefit programs, such as SSI benefits.
* The value decreases and then phases out completely for those making over the full payment income cap. Rebate amount is reduced by $5 for each $100 that a taxpayer’s income exceeds the phase-out threshold. Complete phase-out occurs with incomes exceeding $99,000 for single filers and $146,500 for head of household filers with one child, and $198,000 for joint filers with no children.
* Non-citizens with a valid work visa and Social Security number who live and work in the United States will be eligible for stimulus checks. That includes permanent residents (green card holders) and most people on work visas such as H-1B and H-2A. Visitors (e.g. tourists on visa B1/B2) and those who are in the country undocumented will not be eligible for the program.[[2]](#endnote-2)
* The CARES Act also relaxes certain caps on individual charitable.
1. **Retirement Accounts**

In the event an individual is diagnosed with COVID-19 or experiences adverse financial consequences as a result of the COVID-19 crisis, the CARES Act permits special disbursements as follows:

* For 2020, those that are subject to mandatory minimum distributions from their qualified retirement accounts would be able to keep their funds invested without penalty.
* Individuals are allowed in 2020 to take distributions from their qualified retirement accounts, such as 401(k) plans and IRAs, of up to $100,000 without having to pay the 10% penalty on early distributions if the distribution is related to adverse financial consequences as a result of contracting COVID-19, or related factors.
* Any withdrawal amount required to be included in gross income may be spread out over a three-year period for this purpose.[[3]](#endnote-3)

For these purposes, an eligible taxpayer is one who has been diagnosed with SARS-CoV-2 virus or COVID-19 disease or whose spouse or dependent has been diagnosed with SARS-CoV-2 virus or COVID-19 disease or who experiences adverse financial consequences from being quarantined, furloughed, or laid off, or who has had his or her work hours reduced, or who is unable to work due to lack of child care.[[4]](#endnote-4)

1. **Healthcare**

The CARES Act expands the recently enacted Families First Coronavirus Response Act (FFCRA). In addition to several changes to health care coverage for COVID-19 testing, the Act clarifies provisions relating to paid sick leave and family leave, including the following:

1. **Healthcare and Paid Sick Leave Provisions**
* It expands the definition of “eligible employees” under the FFCRA to include individuals who were: (1) laid off by their employer on or after March 1, 2020; (2) had worked for that employer for at least 30 days in the last 60 calendar days prior to the lay-off; and (3) were rehired by the employer.
* It allows for advances on the tax credits called for by the FFCRA and penalty relief for a failure to deposit tax amounts if the failure was due to the anticipation of the tax credits. The details and process for tax credit advances will be worked out in instructions provided by the Department of Labor (DOL).
* The CARES Act also makes a clarification that the paid leave dollar limits under these provisions are per employee.

Department of Labor regulations are expected in April to address additional questions and details under these Families First Act provisions.3

1. **Access to Health Care**
* For plan years beginning on or before December 31, 2021, a high-deductible health plan may cover all telehealth services prior to a covered individual reaching the applicable deductible without risking the plan’s status as a high deductible health plan.
* Employees covered under a high deductible health plan providing these services prior to reaching the deductible will continue to be eligible to make contributions to a health savings account. The purpose of this change is to increase access for patients who may have the coronavirus and to protect other patients from potential exposure.
* Individuals may also use funds in health savings accounts and health flexible spending accounts for the purchase of over-the-counter medical products, without a prescription from a physician.[[5]](#endnote-5)
1. **Medicare and Medicaid Provisions**
* Allows for accelerated Medicare payments.
* Creates a 20 percent add-on payment for inpatient treatment.
* Increases payments for the work component of physician fees in areas where labor cost is determined to be lower than the national average through December 1, 2020.
* Extends funding for quality measure endorsement input, and selection increased to $20 million for each of the years 2020 and 2021.
* Extends funding for beneficiary outreach and counseling related to low-income programs through November 30, 2020.
* Increases Medicare Access to Post-Acute Care.
* Delays scheduled reductions in Medicaid disproportionate share hospital payments through November 30, 2020.
* Extends the Medicaid Community Mental Health Services demonstration that provides coordinated care to patients with mental health and substance use disorders, through November 30, 2020.
1. **Residential Mortgage Forbearance and Foreclosure Moratorium**

During the COVID-19 national emergency, a borrower with a federally backed mortgage loan experiencing financial hardship as a result of the emergency may obtain a forbearance of up to 180 days, regardless of delinquency status, which may be extended for an additional period of up to 180 days at the request of the borrower. During such forbearance, no fees, penalties, or added interest shall be charged on delayed payments. Multifamily borrowers may also request forbearance for up to 30 days, with two additional 30-day extensions.

For the 60-day period beginning March 18, 2020, no servicer of a federally backed mortgage may initiate any foreclosure or execute a foreclosure-related eviction (except in the case of vacant or abandoned property). The Act further prevents landlords from bringing actions to recover possession from a tenant for nonpayment of rent for certain federally insured or guaranteed housing for a period of 120 days.3

1. **Temporary Relief for Federal Student Loan Borrowers**

The Act automatically defers payments for federally owned student loans for six months, through September 30, 2020.

1. **Bankruptcy-Related Provisions**

The CARES Act amends the recently passed Small Business Reorganization Act. Where previously the SBRA applied only to small businesses with aggregate debts of less than $2.7 million, the CARES Act raises that debt limit to $7.5 million, which will provide a greater number of small businesses the opportunity to participate in the SBRA’s more streamlined and less costly procedures to reorganize a small business.

The CARES Act also provides that Chapter 13 plans confirmed prior to the COVID-19 pandemic can now be amended on account of a “material financial hardship” caused by the pandemic. The Act also allows Chapter 13 debtors to exclude from their “current monthly income” (which is generally used as a baseline to calculate how much disposable income should go to pay creditors) “payments made under Federal Law” relating to the national emergency declared relating to COVID-19.3

1. **RESOURCES AVAILABLE FOR SMALL BUSINESS**

The bill includes provisions related to:

1. **Unemployment**

The “Relief for Workers Affected by Coronavirus Act” provides for a substantial expansion of unemployment insurance and benefits for workers sidelined for specified reasons associated with COVID-19.  Key aspects of the program are as follows:

1. **Pandemic Unemployment Assistance – Section 2102**

Effective January 27, 2020, to remain in effect until December 31, 2020, which covers individuals who would not otherwise be eligible for unemployment insurance and benefits – the self-employed, independent contractors, gig workers, part-time employment seekers, those who lack sufficient work history, or who have exhausted their unemployment benefits under existing schemes – provided they are able to self-certify that they are unemployed, partially unemployed, or unable or unavailable to work because:

* They have been diagnosed with COVID-19 or are experiencing symptoms of COVID-19 that require a medical diagnosis.
* A member of their household has been diagnosed with COVID-19.
* They are providing care for a family member or member of their household who has been diagnosed with COVID-19.
* A member of their household for which they have primary caregiving responsibility is unable to attend school or another facility that has been closed as a direct result of the COVID-19 public health emergency and because of this closure they are unable to work.
* They are unable to work because of a quarantine imposed as a result of the COVID-19 public health emergency.
* They are unable to work because they have been advised to self-quarantine by a health care provider.
* They were scheduled to start a job but are unable to do so as a result of the COVID-19 public health emergency.
* They have become a “major support for a household” because the breadwinner in the household has died as a direct result of COVID-19.
* They quit their job as a direct result of COVID-19.

Of note, individuals who are able to telework with pay or who have received paid sick leave or other paid leave benefits are ineligible to receive assistance under the Program.

* Covered individuals may receive assistance under the Program for a maximum of 39 weeks, including any weeks for which the covered individual received regular unemployment benefits provided under Federal or State law.
* The amount of benefit provided to a covered individual under the Program is equal to the amount of unemployment benefit the covered individual would otherwise be entitled to under Federal or State law plus an additional amount referred to as Federal Pandemic Unemployment Compensation in the amount of $600 per week.
* The Program removes any waiting periods established by state unemployment laws.
1. **Small business assistance, available through the U.S. Small Business Administration (SBA).**
2. **Paycheck Protection Program (PPP)**

The CARE Act includes a small business loan program, known as the Paycheck Protection Program (PPP), that makes available forgivable loans of up to $10 million during the covered period of February 15, 2020 to June 30, 2020 if the business retains its employees and otherwise meets the requirements.

Who is eligible?

* Companies, including nonprofits, with fewer than 500 employees
* Covers the period of February 15, 2020 to June 30, 2020
* Companies need to have been in business as of February 15, 2020 and have paid employee salaries and payroll taxes.
* Companies in the accommodation and food services industry can be eligible despite being affiliated (under common control or ownership) with a larger business under traditional SBA rules.  Specifically, these companies may be eligible for loans if they have more than one physical location and employ fewer than 500 employees at each location.
* However, businesses with credit available elsewhere are not eligible.

Loan Amount and Terms?

* Loan amount applied for will depend on the Companies payroll costs – up to $10 million and is based on 250% or 2.5 times a Company’s average monthly payroll.
* Interest at 4%
* Borrowers can defer payments for six months to a year
* There is a loan forgiveness component included in the bill for businesses that retain their workers or rehire ones that were laid off.
* The Companies spoken of in item 4 in this section would be eligible for loan forgiveness on portions or all of the loan that is used for “covered costs.”
* Covered costs include payroll, rent payment, mortgage obligations and utilities that are incurred during an eight-week period starting on the loan’s origination date.
* The amount of forgiveness takes into account the number of workers retained or rehired and maintaining previous employee salaries.
* The loans are nonrecourse and 100% guaranteed by the SBA

How to apply?

* Through banks, credit unions and other lenders, *not* through the SBA

What is needed?

* Proof of payroll costs – very relaxed standards compare to previous SBA requirements.
* More specific criteria regarding applications will be released soon
1. **SBA Economic Injury Disaster Loans (EIDL)**

Who is eligible?

* Companies with fewer than 500 employees – some limited exceptions
* Certain individual independent contractors, cooperatives, ESOPs and tribal small business concerns.
* Suffered an economic injury

Loan Amount and Terms?

* Loan amount up to $2 million
* Interest at 3.75% for companies and 2.75% for nonprofits
* Payment terms up to 30 years
* Principal and interest deferment for up to four years
* Proceeds of loan are to be used for operating expenses that could have been met had COVID-19 not occurred

How to apply?

* Through the SBA online or through the mail
* Possibly through other existing SBA 7(a) lenders?

What is needed?

* Copy of the 2018 company tax return
* Information specific to the Company business
1. **Immediate EIDL $10,000 Grants**

The CARES Act also makes available grants for up to $10,000 for small businesses that have applied for the Economic Injury Disaster Loans and meet other eligibility requirements. A significant benefit, aside from the money, is that an entity that receives the EIDL Grant between January 31, 2020 and June 30, 2020 because of COVID-19 is still eligible to apply for a PPP loan or it may refinance the EIDL loan into a PPP loan.

Who is eligible?

* Small business must have applied for an EIDL and was in existence on January 31, 2020

Amount and Terms?

* No repayment required
* Proceeds to be used for payroll, including sick leave, increased production costs, and debt or lease obligations
* The EIDL Grant award is required to be subtracted from the amount forgiven in the PPP loan noted above.

How to apply?

* Contact existing SBA 7(A) lenders

What is needed?

* Information specific to the Company business
1. **Debt Relief for New and Existing SBA Borrowers**

CARES Act provides immediate relief to small businesses with SBA 7(a), 504, and microloans.  For existing borrowers, SBA will cover all loan payments on these SBA loans, including principal, interest, and fees, for six months.  This relief will also be available to new borrowers who take out loans within six months of the enactment of the CARES Act.

Who is eligible?

* You have an SBA 7(a), 504, or microloan loan (Paycheck Protection loans and SBA disaster loans are not eligible—but payments are already deferred under those loans);
* You apply for and receive an SBA 7(a), 504, or microloan within six months of enactment of the CARES Act.
* To check if you are eligible for an SBA 7(a), 504, or microloan, please visit the Small Business Administration website.
1. Katie P. Reed and Monica P. Schulteis, “President Trump Signs Into Law the Coronavirus Aid, Relief, and Economic Security (CARES) Act” Greenberg Traurig, LLP, The National Review, March 29, 2020, https://www.natlawreview.com/article/president-trump-signs-law-coronavirus-aid-relief-and-economic-security-cares-act [↑](#endnote-ref-1)
2. Michael Tanenbaum, “What to know about the federal coronavirus stimulus checks”, PhillyVoice, March 27, 2020, https://www.phillyvoice.com/coronavirus-checks-united-states-1200-what-to-know-covid-19-relief/ [↑](#endnote-ref-2)
3. Josh Geller and Aaron Moss, “The Federal CARES Act – What You Need to Know About the Largest Stimulus Bill in History”, Greenberg Glusker, March 27, 2020, https://www.greenbergglusker.com/publications/the-federal-cares-act-what-you-need-to-know-about-the-largest-stimulus-bill-in-history/ [↑](#endnote-ref-3)
4. Alistair M. Nevius, “CARES Act tax provisions aim to stabilize pandemic-ravaged economy”, JofA’s, Journal of Accountancy, March 27, 2020, https://www.journalofaccountancy.com/news/2020/mar/cares-act-economic-relief-coronavirus-tax-provisions.html [↑](#endnote-ref-4)
5. Robert A. Shimberg, “Summary of CARES Act”, Hill Ward Henderson, The National Law Review, March 29, 2020, https://www.natlawreview.com/article/summary-cares-act [↑](#endnote-ref-5)