

The Coronavirus Aid, Relief, and Economic Security (CARES) Act

On March 27, 2020, President Trump signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act aiming to boost the economy with over \$2 trillion in relief. With much funding going towards hospitals, testing, and transportation, individuals and businesses will feel the relief as well. We are attempting to summarize some of the key provisions in the Act, though we understand many answers are still needed.

Small Business Loans

To prevent businesses from closing while maintaining their current employment base, the Act provides funding via Small Business Loans. Following is a summary of what we understand is available but there may be additional options or restrictions. We recommend contacting your banker, lender, or Small Business Administration (SBA) directly for specific details.

Small Business Act - Section 7(a)

The CARES Act provides funding to the SBA for its 7(a) loan program. Our understanding is that funding is being created to expand the horizon of availability for funding to businesses that would not normally qualify. This Act includes: the Paycheck Protection Program with possible Loan Forgiveness of Paycheck Protection Loans.

Any business, non-profit or veteran's organization that employs 500 or fewer employees will be eligible for the expanded loan program. If larger than 500 employees, consult the standard established for each industry specified by NAICS code.

Paycheck Protection Program Loans

- The covered period is from February 15, 2020 – June 30, 2020
- Fully guaranteed by the Federal Government (not by borrower)

- Limited to 2.5 times monthly payroll costs (as defined by the SBA for the preceding 12-month period) or \$10 million, whichever is less
- Payroll costs include wages, commissions, subcontractors, tips and paid benefits, etc.
- Payroll costs are capped at \$100,000 per individual
- Payroll costs do not include any qualified sick leave or family medical leave paid under FFCRA or employees outside of the U.S.

The motivation for this program is to keep employees on payroll. Proceeds may be used to cover payroll, mortgage payments, rent, utilities, and other obligations entered into before February 15, 2020. Loans will be available immediately through existing SBA-certified lenders, including banks, credit unions, and other financial institutions.

The maximum repayment term is 10 years with interest not to exceed 4% and standard SBA fees are waived. There may also be a possible deferment of repayment for some period not to exceed a year.

Loan Forgiveness of Paycheck Protection Loans

- Amount forgiven is not taxable
- Forgiven amount is reduced for decreases in FTE employees during eight-week covered period or if there is a reduction in salary of more than 25% for any employee making less than \$100,000
- Verification of documentation is required for forgiveness
- Total of payroll costs and capped wages (noted above), mortgage interest, rent, and certain utility payments during the covered period to be forgiven

The reduction in forgiveness may be avoided if the employer rehires or increases the employee's pay within an allotted time period.

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Small Business Act - Section 7(b)

Expanded Economic Injury Disaster Loan Program

<https://disasterloan.sba.gov/ela>

In addition to the expansion of the 7(a) business loan program, the CARES Act expands access to Economic Injury Disaster Loans (EIDL) available from January 31, 2020 to December 31, 2020 to include:

- A business with 500 or fewer employees including sole proprietorships and independent contractors.
- Waives personal guarantees on advances and loans of \$200,000 or less for all applicants;
- Waives the requirement the business operated for at least one year prior to January 31, 2020;
- Waives the requirement that an applicant be unable to find credit elsewhere.
- Allows the applicant to obtain an advance / grant up to \$10,000, which does not have to be repaid, even if the loan request is denied.
- Loans can be made based solely on credit scores.
- Loans available to all non-profit organizations, including 501(c)(6) entities.
- Maximum borrowing - \$2 million.
- Apply online, not through a bank.

If an entity receives the \$10,000 advance payment, but later qualifies for a Small Business 7(a) Loan, the advance amount will be reduced from any payroll cost forgiveness amount.

The current interest rates listed for EIDL's:

- Businesses – 3.75%
- Non-Profit Organizations – 2.75%

The CARES Act "should encourage lenders to provide payment deferments, when appropriate, and to extend the maturity of covered loans, so as to avoid balloon payments or any requirement for increases in debt payments resulting from deferments provided by lenders" during the COVID-19-declared emergency.

It is important to note a limitation in the CARES Act that states a borrower who receives assistance under section 7(b)(2) of the Small Business Act related to COVID-19 for purposes of meeting payroll and providing payroll support shall not be eligible for a 7(a) loan for the same purpose.

For additional information, please contact the SBA disaster assistance customer service center. Call 1-800-659-2955 or visit the website at sba.gov/disaster.

Florida Disaster Loan Program

In addition to Federal Loan Programs available, Florida Governor Ron DeSantis has announced a \$50 million Florida Small Business Emergency Bridge Loan Program to provide short-term, interest-free loans to small business owners located in all Florida counties that experience economic damage as a result of COVID-19.

- Direct loan from Florida Department of Economic Opportunity (no banks involved).
- Amount: Up to \$50,000 per eligible small business. Loans of up to \$100,000 may be made in special cases as warranted by the need of the eligible small business.
- Term: one year.
- Applications will be accepted by qualified for-profit, privately held small businesses that maintain a place of business in the state of Florida. All qualified applicants must have been established prior to March 9, 2020 and suffered economic injury as a result of the designated disaster.
- Qualified small business applicants must be an employer business with 2 to 100 employees.
- Interest Rate: Loans will be interest-free for the loan term (one year). The Interest rate will be 12% per annum on the unpaid balance thereafter, until the loan balance is repaid in full. Loan default is subject to a normal commercial collection process.
- Application Period: Applications will be accepted under this program through May 8, 2020, contingent on the availability of funds.

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Employee Retention Credit

The CARES act adds an Employee Retention Credit that is a refundable payroll tax credit available against an employer's portion of Social Security payroll taxes up to 50% of qualified wages paid by employers to employees during the COVID-19 pandemic.

If the amount of the credit exceeds the amount of the employer's portion of Social Security tax due for the quarter, the employer could have the excess treated as a refundable overpayment.

Employers with more than 100 f/t employees	<ul style="list-style-type: none">• the credit is available to employers who paid employees when operations were fully or partially suspended due to a COVID-19 related shutdown order, or• gross receipts declined by more than 50% when compared to the same quarter in the prior year. The employer will be entitled to the credit for each quarter in 2020 until the business has a quarter where its gross receipts exceed 80% of the same quarter in the previous year.
Employers with 100 or fewer f/t employees	<ul style="list-style-type: none">• all employee wages will qualify for the credit, regardless if the employer is open for business or subject to a COVID-19 related shutdown order, if the gross receipts declined in that quarter compared to the same quarter of the prior year.
Limitations	<ul style="list-style-type: none">• The Credit is provided for the first \$10,000 of compensation, including health benefits, paid to each eligible employee.• The total qualified wages cannot include any wages considered in determining the new payroll tax credit for Family Medical Leave or Sick Leave as part of the CARES Act.• The credit is provided for wages paid or incurred from March 13, 2020 through December 31, 2020.• The Employee Retention Credit is not available if an employer takes out a <i>Paycheck Protection Loan</i> under Section 7(a) of the Small Business Act (discussed earlier).

Delay of Payment of Employer Payroll Taxes

Eligible employers and self-employed individuals can defer payment of the employer share of the Social Security tax on employee wages. This deferred employment tax is required to be paid over the following two years with half of the amount required to be paid by December 31, 2021 and the remaining half by December 31, 2022. This deferral of payment of payroll taxes is not available to any employer that takes out a Paycheck Protection Loan.

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Business Tax Components

Included in the Act are amendments to some of the key business tax components included in the Tax Cuts and Jobs Act of 2017.

Qualified Improvement Property	Qualified improvement property is back to a 15-year life, allowing for immediate write-off of improvement property under 100% bonus depreciation. This is retroactive to property acquired and placed in service after September 27, 2017, allowing businesses to amend prior year returns for an immediate deduction.
Net Operating Losses (NOLs)	The 80% of taxable income limitation on the use of a NOL is temporarily removed for NOLs incurred before 2021. In addition, taxpayers can carry back NOLs arising in 2018, 2019, or 2020 up to 5 years by filing amended returns.
Excess Business Loss Limitations for Passthroughs and Sole Proprietors	The limitation on deductions for excess business losses for owners of passthrough entities and sole proprietors is eliminated for tax years 2018, 2019, and 2020.
Charitable Contributions	For corporations, the 10%-of-AGI limit is increased to 25% for tax year 2020. The deduction for the contribution of food inventory is increased from 15% of AGI to 25%.
Corporate Unused AMT Credits	Taxpayers can accelerate the recovery of unused refundable corporate AMT (Alternative Minimum Tax) credits by claiming a current refund of the remaining credits in 2019 or electing to claim in 2018.
Business Interest Expense Limitation	The business interest expense limitation has increased from 30% to 50% of Adjusted Taxable Income (ATI) for 2019 and 2020. For 2020, taxpayers can elect to use 2019 ATI to calculate the limitation.
2020 Waiver of Certain Excise Taxes	For calendar year 2020, the federal excise tax on distilled spirits will be waived for those used in the production of hand sanitizer as directed by the FDA. Also, excise taxes will be waived on aviation and kerosene used in aviation fuel.

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Individual Impact

The Act provides for immediate cash in the form of advanced credit payments to individuals and other changes to the Code as follows:

Individual Stimulus Payment	
Amounts	<ul style="list-style-type: none">• \$1,200 for single filers• \$2,400 for married filing jointly• \$500 for each child under age 17
Limitations	<ul style="list-style-type: none">• Single Filers: If Adjusted Gross Income (AGI) exceeds \$75,000, \$5 of payment is lost for every \$100 of AGI that exceeds the limit.• Married Filing Jointly: If AGI exceeds \$150,000, \$5 of payment is lost for every \$100 of AGI that exceeds the limit.
How and When	<ul style="list-style-type: none">• The IRS will begin sending payments between now and December 31, 2020 to individuals based on their 2019 tax return, 2018 tax return, or Social Security Statement.• The amount will be paid electronically if Direct Deposit information is on file from 2018 or 2019.• Any payment received will be an advance payment of credit that will need to be recomputed in 2021 with the filing of a 2020 tax return.
IRA/Retirement Plan Distributions	<p>The Act allows individuals to take a Coronavirus-related retirement plan or IRA distribution of up to \$100,000 penalty free in the year 2020. A distribution can be taken if an individual or family member has been diagnosed with COVID-19 or experiences adverse financial consequences due to being laid off, having work hours reduced, or being unable to work due to lack of childcare. It allows the income to be spread over a three-year period beginning with 2020. Taxpayers also have the option of repaying the distribution within three years to avoid any income recognition. Finally, required minimum distributions (RMDs) for 2020 have been waived for 2020 only.</p>
Charitable Contributions	<p>Charitable contributions are usually itemized deductions. However, this Act allows a taxpayer to deduct up to \$300 as an "above-the-line" deduction in computing AGI (similar to \$250 educator/teacher deduction). This is available for 2020 and beyond and is available only to taxpayers who do not itemize deductions. For taxpayers who do itemize, the Act increased charitable contributions to be deducted up to 100% of AGI for 2020, with any excess contributions carried forward for 5 years.</p>

Please contact your RGC professional with any questions to help guide you through this maze of uncertainty. We're all in this together. Be safe.

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