

Planning Commentary

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The 2020 CARES Act: Key Planning Provisions for Individuals and Small Businesses

OVERVIEW

On the afternoon of Friday, March 27, 2020 President Trump signed into law the [Coronavirus Aid, Relief, and Economic Security Act \(CARES Act\)](#), a more than \$2 trillion package which is aimed at providing financial relief for the economic downturn caused by the coronavirus pandemic.

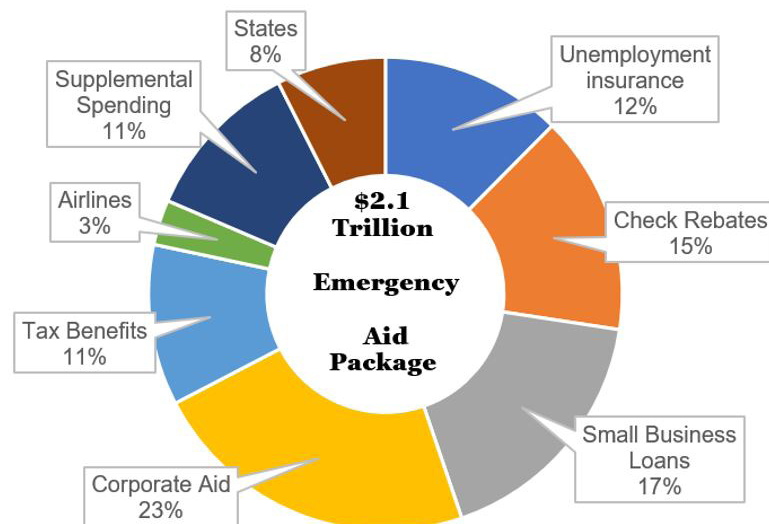
The Act is the product of negotiations between Democrats and Republicans for a bipartisan response to the crisis. It is intended to be a third round of federal government support in the wake of the coronavirus public health crisis and associated economic fallout, succeeding the \$8.3 billion in public health support passed two weeks ago and the Families First Coronavirus Response Act.



Photo: Jim Watson/Getty Images

The CARES Act of 2020 is an estimated \$2.1 trillion package, including nearly half a trillion dollars in individual rebate checks, another \$500B for support of several severely-damaged industries, nearly \$400B support including tax credits for wages and payroll tax relief, over \$300B of support for state and local governments, and almost \$150B for various initiatives to support hospitals and the health care system.

Here is a breakdown of how the dollars will be spent:



Source: Wall Street Journal

BENEFITS FOR INDIVIDUALS

There are several aspects of the CARES Act that are directed to individuals, and the assistance comes from a variety of places and methods.

Filing Taxes

- Filing and payment of Federal personal income tax filings are automatically extended to July 15, 2020. Many states have followed suit.
- Trusts and Corporations due 4/15/2020 are automatically extended for filing and payments to 7/15/2020.

Check Rebates to Taxpayers

The CARES Act includes one-time direct payments to most households. Here are the key details:

- All U.S. residents with adjusted gross income up to \$75,000 (\$150,000 joint filers) are eligible for a \$1,200 (\$2,400) payment.
- Additionally, taxpayers will receive an additional \$500 for each qualified child.
- The amount is reduced by \$5 for every \$100 over the income limit above, so it would be fully phased out for those with incomes over \$99,000 (single) and \$198,000 (joint filers) with no children.
- Notably, while individuals must have a work-eligible Social Security number (and not be claimed as a dependent), they do not have to have had reportable income in 2019 and can also be eligible for other income benefit programs as well.
- The proposed recovery rebates will use 2019 tax returns (2018 if the taxpayer has not filed in 2019) to determine the advanced rebate amount and reconcile the rebate based on 2020 income. This means that taxpayers who receive a smaller rebate than they are eligible for based on 2020 income will receive the difference after filing a 2020 tax return, **but overpayments of rebates due to a higher income in 2020 will not be clawed back.**
- According to estimates by the Tax Foundation, over 90% of taxpayers should receive some amount of Recovery Rebate. Estates and trusts are not eligible for this rebate.

- The IRS could start issuing payments within three weeks, said U.S. Treasury Secretary Steven Mnuchin. The agency hasn't announced a schedule. It will be able to move fastest for people who have filed 2019 tax returns with direct-deposit information and significantly slower for those who will need paper checks.

Retirement Account Changes

Notable provisions of the CARES Act include:

- The elimination of the 10% early withdrawal penalty on distributions (up to \$100,000) from retirement accounts for so-called "Coronavirus-Related Distributions"
- Option to spread income taxation on those distributions over three years.
- The ability to recontribute back to those same accounts via rollover within three years.
- The suspension of required minimum distributions (RMDs) in 2020 for a wide variety of retirement accounts, as well as the ability to return current-year distributions.
- For the next 6 months, the 401(k) loan maximum is doubled to \$100,000 (or 100% of vested amount, if less).

Unemployment Benefits Expanded

- The Act expands unemployment insurance provisions to include an additional \$600 per week payment to each recipient for up to four months, and extends benefits to self-employed workers, independent contractors, and those with limited work history. The federal government will provide temporary full funding of the first week of regular unemployment for states with no waiting period and extend benefits for an additional 13 weeks through December 31, 2020 after state benefits end.

Charitable Gifts

- The Act creates an “above the line” deduction of up to \$300 for charitable contributions for taxpayers who do not itemize. The Act also suspended the 50% of Adjusted Gross Income (AGI) cap of charitable contributions for individuals who itemize for 2020.

Mortgages

- **Mortgage Relief for Homeowners:** The Act requires the servicers of federally backed mortgages to postpone mortgage payments at the request of the borrower, provided the borrower affirms financial hardship due to COVID-19. The postponement must be granted for up to 180 days and extended for an additional period of up to 180 days at the request of the borrower.
- **Foreclosure Moratorium:** Prevents the servicer of a federally backed mortgage loan to initiate any foreclosure process for at least 60 days beginning on March 18, 2020.
- **Eviction Relief for Renters:** For 120 days after the CARES Act date of enactment, landlords with mortgages backed by the U.S. Department of Housing and Urban Development (HUD), Fannie Mae, Freddie Mac, and other federal entities cannot pursue eviction for their tenants. Landlords also can't charge any fees or penalties related to nonpayment of rent.

Student Loans/Education

- **Loan Payment Suspension:** The CARES Act suspends payments automatically for federal student loans through Sept. 30, 2020, with no interest accruing or penalties during the period of suspension.
- Effective now through December 31, 2020 employers can pay up to \$5,250 towards an employee's student loans. These payments are not taxable to the employee and do not apply to dependents of employees.
- **Additional Provisions:** Contains a variety of other emergency-relief provisions related to education, and specifically the impact of many students being sent home mid-semester.

BENEFITS FOR SMALL BUSINESSES

With respect to small businesses that have been impacted by COVID-19, the programs and initiatives in the CARES Act are intended to assist business owners with needs they have right now. There will be many new resources available for small businesses, as well as certain non-profits and other employers.

The [U.S. Senate Committee on Small Business and Entrepreneurship](#) provides the following questions that might help point small business owner's in the right direction.

HOW TO MOVE FORWARD AS A BUSINESS OWNER:

- **DO YOU NEED** capital to cover the cost of retaining employees? Then the **Paycheck Protection Program** might be right for you.
- **DO YOU NEED** a quick infusion of a smaller amount of cash to cover you right now? You might want to look into an **Emergency Economic Injury Grant**.
- **DO YOU NEED** to ease your fears about keeping up with payments on your current or potential SBA loan? The **Small Business Debt Relief Program** could help.

Paycheck Protection Program Loans

For small business owners, the cornerstone provision of the CARES Act is the “**Paycheck Protection Program**,” an emergency lending facility, administered by the Small Business Administration (SBA) under its 7(a) lending program, to provide small business loans on favorable terms to borrowers impacted by the current state of economic uncertainty.

At \$349 billion in new lending capacity, it accounts for the vast majority of the small business assistance provided in the Phase III legislation and is one of the most important aspects of the Congressional response to the pandemic thus far.

- Certain small businesses will be able to take out loans (up to \$10 million depending on payroll costs and other factors). Eligible businesses include:
 - Small Business (includes public and private non-profits, sole proprietors & independent contractors). Less than 500 workers in single location.

- Small Agricultural
- Private non-profit
- Must be in business as of 2/15/2020
- All collateral requirements are waived. During the period from 2/15 to 6/30, the loans are non-recourse if the funds are used for permitted purposes.
- The SBA is waiving all fees associated with the loans. Lenders are receiving payment from the SBA equal to a percentage of the total loan amount.
- Loans will be eligible to be forgiven if used to cover payroll and other expenses (like rent and utilities). The forgiven amount of the loan is excluded from gross income.
- Loans are available through June 30, 2020.

Economic Injury Disaster Loan (EIDL) & Emergency Economic Injury Grants

- EIDLs are lower interest loans of up to \$2 million, with principal and interest deferment up to 4 years, that are available to pay for normal operating expenses that could have been met had the disaster not occurred, including payroll and other operating expenses.
- Emergency Economic Injury Grants provide an emergency advance of up to \$10,000 to small businesses and private non-profits harmed by COVID-19 within three days of applying for an Economic Injury Disaster Loan (EIDL). To access the advance, you first apply for an EIDL and then request the advance. **The advance does not need to be repaid under any circumstance**, and may be used to keep employees on payroll, to pay for sick leave, meet increased production costs due to supply chain disruptions, or pay business obligations, including debts, rent and mortgage payments.

Small Business Debt Relief Program

This program will provide immediate relief to small businesses with non-disaster SBA loans, in particular 7(a), 504, and microloans. Under it, 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 President signing the bill into law.

- 7(a) - Up to \$5 million – small businesses that cannot get credit elsewhere.

- 504 – up to \$5.5 M to acquire fixed assets – long-term, fixed rate financing.
- Microloan – up to \$50,000 – designed to help small businesses and non-profit childcare centers to start up and expand.

Other Provisions related to Small Business

- **Delay in the employer's portion of Social Security payroll tax** until January 1, 2021 (with half of the deferred amounts due at the end of 2021, and the other half due at the end of 2022),
- For employers with 100 or fewer full-time employees in 2019, Section 2031 of the CARES Act introduces a **new payroll tax credit** of up to 50% payroll tax liability on qualified wages (Capped at first \$10,000 in wages per employee). Generally, eligibility requirements include:
 - Fully or partially suspended Operations
 - Business at least 50% impacted by COVID-19
 - **Not eligible if receiving SBA loans.**
- More flexible **Net Operating Loss** rules to obtain immediate refunds. Firms may take net operating losses (NOLs) earned in 2018, 2019, or 2020 and carry back those losses five years. The NOL limit of 80 percent of taxable income is also suspended, so firms may use NOLs they have to fully offset their taxable income. The bill also modifies loss limitations for non-corporate taxpayers, including rules governing excess farm losses, and makes a technical correction to the treatment of NOLs for the 2017 and 2018 tax years.
- The **net interest deduction limitation**, which currently limits businesses' ability to deduct interest paid on their tax returns to 30 percent of earnings before interest, tax, depreciation, and amortization (EBITDA), has been expanded to 50 percent of EBITDA for 2019 and 2020. This will help businesses increase liquidity if they have debt or must take on more debt during the crisis.
- **Alternative Minimum Tax ("AMT") Credits:** The 2017 tax reform bill repealed the corporate AMT. Corporate AMT credits were available to corporate taxpayers as refundable credits over several years, ending in 2021. The CARES Act accelerates a corporate taxpayer's ability to recover AMT credits, which will allow the corporation to claim a refund now by amending the corporation's tax returns for 2018 and, to the extent previously filed, 2019.
- **Charitable Contributions:** The 10% limit on charitable contributions is increased to 25% of taxable income.

BEYOND BENEFITS FOR INDIVIDUALS AND BUSINESSES

The CARES Act provides for \$454 billion in emergency lending, not only to states and municipalities, but to airlines and other businesses critical to US national security, and another \$150 billion allocated proportionally to state and local governments to offset amounts used to respond to the pandemic.

CONCLUSION

The CARES Act is a historic emergency relief program for Americans and provides much-needed assistance for those affected by the pandemic and the resulting economic damage. And with changes in tax laws, come planning opportunities for clients. Pallas Capital Advisors is committed to providing updated information to help our clients make critical decisions for themselves, and their small businesses.

Please reach out to a member of the team if you would like to discuss any of the above information in greater detail.

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