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# COVID-19 – The Coronavirus Aid, Relief, and Economic Security (CARES) Act

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The Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into law by President Trump on March 27, 2020. Covering some \$2.2 trillion in expenditures, the CARES Act is, to date, the largest single piece of legislation ever passed in the U.S. The Act provides resources to both combat the Coronavirus pandemic as well as to support the U.S. economy.

## CARES Act Provisions Benefiting Business

A number of provisions in the CARES Act are designed to directly aid American businesses:

- **Paycheck Protection Loan Program (PPP):** Operated through the Small Business Administration, the PPP will provide up to \$349 billion in potentially forgivable loans to small (generally, less than 500 employees) businesses to pay their employees during the COVID-19 crisis. Proceeds from the loans may be used for payroll costs, interest on mortgage obligations, rent, and utilities. Loans may be up to two months of average monthly payroll costs, plus an additional 25% of that amount, with no more than \$100,000 (annualized) per employee, subject to a \$10 million cap. Loan forgiveness will not be included in taxable income. The forgiven amount will be reduced if there is a decrease in full-time employee headcount, or if salaries or wages are decreased beyond certain limits.<sup>1</sup>
- **Employee Retention Tax Credit:** Generally allows an employer a payroll tax credit of 50% of “qualified” wages for any calendar quarter in which the employer (1) had to fully or partially suspend operations under government orders due to COVID-19, or (2) had a decline of at least 50% in gross receipts compared with the same quarter in the prior year. Maximum total wages for any single employee are capped at \$10,000. The credit may be taken immediately against the employer portion of payroll taxes, with any excess treated as an overpayment to be promptly refunded by the IRS.<sup>2</sup>
- **Deferring payment of employer’s payroll taxes:** Allows an employer (including self-employed individuals) to defer payment of the employer’s portion of payroll taxes for the period 03/27/20 through 12/31/20. 50% of the taxes due must be paid by 12/31/2021 with any remaining balance due by 12/31/2022.<sup>3</sup>
- **Tax provisions benefiting business:** A number of temporary business tax breaks were included in the bill:
  - A relaxation of the rules regarding the deduction of Net Operating Losses (NOLs), with a five-year carryback for losses in 2018-2020.

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<sup>1</sup> A business with a Paycheck Protection Program (PPP) loan is not eligible for the Employee Retention Tax Credit.

<sup>2</sup> The credit is not available to a business with a Paycheck Protection Program loan.

<sup>3</sup> This payroll tax deferral is not available if a business has had debt forgiven under the Paycheck Protection Loan Program.

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- Increased refundability of the credit for prior year corporate minimum tax liability.
- An Increase in the allowable deduction for business interest.
- **\$500 billion distressed business fund:** A significant portion of the funds authorized by the CARES Act is earmarked for use by the Secretary of the Treasury to aid distressed businesses.

## CARES Act Provisions Benefiting Individuals

Many of the provisions in the CARES Act were designed to directly help *individual* taxpayers.

- **Stimulus payments:** The Act authorizes the payment of a credit (a “recovery rebate”) in the amount of \$1,200 for a single individual or \$2,400 for married taxpayers. An additional \$500 is allowed for each qualifying child. The credits are phased out by 5% of the amount by which a taxpayer’s Adjusted Gross Income (AGI)<sup>1</sup> exceeds a threshold amount: \$150,000 for married couples, \$112,500 for a head of household, and \$75,000 for all other taxpayers. The credits are, technically, an advance refund of credits against a taxpayer’s 2020 federal income tax liability; these credits will be taken into consideration in calculating a taxpayer’s 2020 income tax liability.
- **Increased charitable deductions:** For 2020, charitable contributions of cash of up to \$300 may be taken as an above-the-line deduction, in determining Adjusted Gross Income. The Act also provides for an expanded deduction for cash contributions for individual taxpayers who itemize deductions.
- **Required minimum distributions (RMDs):** For 2020, the Act temporarily waives the requirement that retired taxpayers take RMDs from traditional IRAs and qualified retirement plans; the waiver also applies to beneficiaries of inherited accounts.
- **Coronavirus-related distribution:** One section of the CARES Act provides for a “Coronavirus -related distribution” or CRD. A CRD – optional (not mandatory) for a plan sponsor - is a distribution made from January 1, 2020 through December 30, 2020 from a traditional IRA or qualified retirement plan. A CRD may not exceed \$100,000 per individual, is exempt from the usual 20% mandatory federal tax withholding, and must be made to an individual (or spouse or dependent) who has been diagnosed with SARS-CoV-2 or COVID-19, or who has experienced an adverse financial consequence as a result of the COVID-19 pandemic. A CRD is exempt from any 10% early withdrawal penalty that may apply and, unless the individual chooses otherwise, the CRD will be included in taxable income ratably over a three-year period. The CRD may be re-paid, without regard to the normal contribution limits, over a three-year period.

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<sup>1</sup> The AGI from the 2018 return is used, unless a taxpayer has already filed a 2019 federal income tax return.

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- **Expanded unemployment benefits:** The Act adds \$600 per week in unemployment benefits in addition to what a state normally pays, as well as providing an additional 13 weeks of benefits.
- **Expanded *eligibility* for unemployment benefits:** The Act temporarily expands eligibility for unemployment insurance benefits to include self-employed and “gig” workers, as well as covering state and local government and nonprofit employees. Further, the new law temporarily extends unemployment insurance to those who would like to work but can’t because they’re either sick or caring for a family member who is.
- **Renter protections – multi-family units backed by federal loans:** Another provision of the Act provides for up to 90 days of forbearance for multi-family unit borrowers who have experienced a hardship as a result of the COVID-19 pandemic. Such borrowers may not evict renters or charge late fees during a period of forbearance.
- **Federally insured home loans:** The CARES Act provides relief for home owners experiencing COVID-19 hardships and whose mortgages are owned by the federal government.<sup>1</sup> Such relief could include a forbearance plan for up to 12 months, relief from late fees, and repayment plans that allow either for a gradual catch-up of skipped payments, or a permanent loan modification to maintain or reduce the monthly payment.
- **Federal student loan borrowers:** The Act provides relief for student loan borrowers whose debt is owned by the U.S. Department of Education. For the period from March 13, 2020 to September 30, 2020 these loans will be placed in “administrative forbearance,” with a 0% rate of interest, allowing borrowers to stop making loan payments. Generally, this provision applies to (1) defaulted and non-defaulted Direct Loans; (2) Defaulted and non-defaulted FFEL Program loan; and (3) Federal Perkins Loans.<sup>2</sup>

## Other Appropriations

The CARES Act also provides funding for a number of targeted purposes, including some \$150 billion in aid to state and local governments as well as approximately \$130 billion to support hospitals and other organizations in the U.S. healthcare system.

## Online Resources

Online resources that may be helpful include:

- Internal Revenue Service, at: <https://www.irs.gov/coronavirus>
- U.S. Department of Labor, at: <https://www.dol.gov/coronavirus>

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<sup>1</sup> Such as loans purchased or securitized by the Federal National Mortgage Corporation, the Federal Home Loan Mortgage Corporation, the Department of Veterans Affairs or the Federal Housing Administration.

<sup>2</sup> Some FFEL Program Loans are owned by commercial lenders. Some Perkins Loans are owned by educational institutions. These loans are not covered by the “administrative forbearance” provided in the CARES Act.

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- U.S. Small Business Administration: <https://www.sba.gov/>
- Federal Financing Housing Agency: <https://www.fhfa.gov/>
- U.S. Department of Education: <https://www.ed.gov/>

### Seek Professional Guidance

The foregoing is a highly simplified overview of some of the more notable provisions of the Coronavirus Aid, Relief, and Economic Security Act. To receive maximum benefit from the new legislation, the advice and guidance of trained, experienced professionals is strongly recommended.