



PASSED – Federal CARES Act Stimulus Package

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The CARES Act was just signed into law by President Trump and provides comprehensive economic relief for individuals and businesses. The following is a detailed summary of the new law:

Relief for Individuals:

- Recovery Rebates - Individuals with gross income of \$2,500 to \$75,000 (\$150,000 for joint return) will receive checks of \$1,200 (\$2,400 for joint return), including \$500 for each child.
 - Based on 2019 tax return if filed, and 2018 return if 2019 return not yet filed.
 - The payment is reduced by \$5 for each \$100 a taxpayer's income exceeds the threshold and is not payable to individuals with income over \$99,000 (\$198,000 for joint filers).
- Retirement Funds - Temporarily waives the existing 10% tax penalty for early withdrawals from qualified retirement plans (e.g., 401k) up to \$100,000 for "Coronavirus-Related Distributions" during 2020.
- Emergency Unemployment Assistance – Under an agreement with the State, the Federal government will pay qualifying individuals an extra \$600 a week for up to four months, in addition to unemployment benefits paid by the State.
 - States may not reduce regular unemployment benefit amounts while receiving the assistance.
 - The Federal government will temporarily fund the first week of state unemployment if the State has waived the waiting period to receive benefits.
 - The Federal government will fund an extension of unemployment benefits, plus the additional \$600 a week, for unemployed individuals who have exhausted their unemployment benefits under State law if they are ready and able to work, seeking work and their unemployment is caused by COVID-19. The total period for receipt of any unemployment benefits cannot exceed 39 weeks.
- Credit Protection – If a creditor agrees to defer payments or make any other payment accommodations to consumers for reasons related to COVID-19 during the next 120 days, the account must be reported as current unless it was delinquent prior to the deferred payment arrangement.
- Moratorium on Evictions & Foreclosures – For the next 120 days, landlords may not initiate any eviction for non-payment of rent or charge any late fees or penalties for nonpayment of rent for any residential properties that are subject to a Federal program or Federally-backed mortgage loan program (FHA, VA, Fannie Mae, Freddie Mac, etc.). Likewise, all Federally-backed mortgage loans for residential property will be eligible for special forbearance terms deferring payment for up to 180 days, and may not be foreclosed for the next 60 days.

Relief for Employers:

- Tax Deferment – The law allows businesses (even if self-employed) to delay paying the 6.2% social security payroll taxes until January 1, 2021 and pay the remainder over the next two years (50 percent owed on December 31, 2021 and the other 50 percent owed on December 31, 2022).

- Payroll Tax Credit – In addition to payroll tax credits created under the FFCRA for Mandatory Paid Sick Leave and Mandatory Paid Childcare Leave, eligible employers could claim a payroll tax credit for qualifying wages paid to certain employees through December 31, 2020.
 - Employers are eligible to claim the credit during a calendar quarter if:
 - Closure - your business is closed or is partially suspended during that quarter because of a government order due to COVID-19; OR
 - Sales Decline - You experience a 50% or greater decrease in gross receipts (compared to the same quarter in 2019).
 - For employers who averaged over 100 employees during 2019 – you can count the wages paid to any employees who were not working (furloughed or laid off) during the qualifying quarter.
 - For employers who averaged 100 or fewer employees during 2019 – you can count the wages paid to all employees during a Closure, and all wages paid during a quarter when there was a Sales Decline.
 - Credit is equal to 50% of qualifying wages paid, up to a total of \$10,000 per eligible employee, and includes employer-paid health plan premiums.
 - The credit is claimed on quarterly tax payments and refundable if it exceeds the amount of tax liability.
 - The credit cannot be claimed for any wages paid as Mandatory Paid Sick Leave or Mandatory Paid Childcare Leave under FFCRA.

- Small Business Loans: Paycheck Protection Plan – Businesses with fewer than 500 employees are eligible for a small business loan through the SBA under the Paycheck Protection Plan (PPP), intended to provide funds to cover 4 months of operating expenses. Most FDIC insured banks will be able to process the loans.
 - \$349 Billion authorized for the PPP; loans are capped at \$10M per business.
 - Loan Amount - up to 4 times the average total monthly payments for payroll (based on last 12 months; seasonal employers should use the 12-week period beginning February 15, 2019), mortgage payments, rent payments, and payments for other debt incurred within 1-year before the loan.
 - PPP program is also available to sole-proprietors, independent contractors and other self-employed individuals, but the payroll relief will be capped at a salary equal to \$100,000 per year.
 - Loan can be used for payroll, including paid sick or family leave, group health plan costs, and salaries (up to \$100,000 annual), mortgage payments, rent, utilities and other debt obligations.
 - Certain portions of the loan may be forgiven:
 - Mortgage interest, rent obligations, and utility payments paid during the 8-week period following the loan date.
 - Amounts used for payroll and payments on pre-existing debt will be forgiven if you retain employees and payroll levels (as of February 15, 2020) until June 30, 2020.
 - Employers with tipped employees will receive forgiveness for additional wages paid to such employees through June 30, 2020.
 - Employers who re-hire workers previously laid off are not penalized for having a reduced payroll at the beginning of the loan.
 - The remaining loan balance that is not forgiven will be repaid within 10 years and guaranteed by the Federal government.
 - Collateral and personal guarantee requirements are waived.
 - All SBA 7(a) program loan payments will be deferred for at least 6 months, but not more than 1 year (SBA guidance will be issued for Lenders).
 - SBA Express loans will be capped at \$1M (up from \$350,000) through December 31, 2020.

- Emergency EIDL Grants – The law establishes a \$10B fund to provide emergency advances on Economic Injury Disaster Loans (EIDL) administered by the SBA and expands EIDL to include situations where a public emergency is declared. EIDL loans are available to businesses that are unable to pay normal operating expenses due to a public emergency or disaster declaration. The fund for emergency advances will be available on a first-come, first-served basis until exhausted.
 - Employers in operation as of January 31, 2020 with fewer than 500 employees can apply for the EIDL subject to relaxed rules and for an amount up to \$2M.
 - Eligible employers can receive an emergency advance of up to \$10,000 within 3 days of applying for the loan; the advance must be used to fund paid sick leave, payroll, and/or business obligations such as debt, rent and mortgages.
 - A certification will need to be signed by an applicant before receiving any advance.
 - The EIDL advance does not need to be repaid, even if the employer’s EIDL loan application is ultimately denied.
 - The advanced amount reduces the amount that can be forgiven under the Paycheck Protection Plan.

- Economic Stabilization Loans – The law establishes several lending programs for eligible businesses.
 - *Direct Loans*: The Secretary of the Treasury may establish a program that provides direct loans or financing through other banks and lenders to U.S. businesses with significant operations and a majority of employees located in the U.S.
 - Borrowers must agree to the following conditions which will apply during the loan and for 1 year after the loan terminates:
 - May not engage in stock buybacks of publicly traded stock of the company or its affiliates (unless required by a prior contractual agreement);
 - May not pay dividends or make capital distributions; and
 - Employees/officers who were paid over \$425,000 in 2019 cannot be paid more than their 2019 annual compensation, or receive more than double that amount under any severance agreement.
 - Employees/officers who were paid over \$3M in 2019 cannot be paid annual compensation exceeding 150% of the 2019 annual compensation.
 - *Midsized Companies*: Direct Loans to mid-size companies (with 500 to 10,000 employees) would carry a maximum APR of 2%, and may be excused from principal or interest payments for the first 6 months. In addition to the requirements above, the borrower must certify:
 - The uncertainty of economic conditions makes the loan necessary to support the ongoing operations of the business;
 - The funds will be used to ***retain at least 90% of the borrower’s workforce, at full compensation and benefits, until September 30, 2020;***
 - The business will restore at least 90% of the workforce (as of February 1, 2020) and to restore all compensation and benefits to all employees within 4 months after the Federal public health emergency declaration ends;
 - The business has not filed for bankruptcy;
 - The business ***will not outsource*** or offshore jobs for the term of the loan and for 2 years after repayment; and
 - ***The business may not revoke existing collective bargaining agreements for the term of the loan and for 2 years after repayment and will remain neutral in any union-organizing effort for the term of the loan.***

- *Main Street Lending Program*: The Federal Reserve is authorized to establish a program to support lending to small and mid-sized businesses per terms and conditions to be set by the Federal Reserve.
- Changes to Tax Provisions
 - *Net Operating Losses* – You may take net operating losses earned the past three years (2018, 2019, and 2020) and carry back those losses five taxable years.
 - *Interest Deduction Limit Increased* – The law temporarily increases the amount of interest expense businesses are allowed to deduct on their tax returns; the 30% limitation (set by Tax Cuts and Jobs Act) will increase to 50% of taxable income for 2019 and 2020.
 - *Qualified Improvement Property Deduction* – The law enables businesses to immediately write off costs for improving facilities instead depreciating the improvements over 39 years.

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BECKER** The employment practices team at Harpst Becker is available for your questions about COVID-19 and other employment concerns.

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