



THE CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT

As the COVID-19 pandemic continues and new legislation has passed, we are continually navigating this rapidly changing landscape in order to understand it and advise our clients and community accordingly. We want to support you and your organization as we navigate this complicated and evolving situation together. Our goal is to not only help you weather the storm but help you achieve your business objectives by accessing these new government programs, including tax credits and grants, which are being established for your benefit.

Included in the following pages is an overview of The Coronavirus Aid, Relief, and Economic Security (CARES) Act as it relates to small businesses, non-profits, transportation, higher education and health care providers:

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Small Business

The stimulus related to small businesses is centered around loans and program changes to prop up small businesses to be able to weather the COVID-19 storm and retain their workforce to be poised to make a recovery.

Funding Highlights

- ❖ Emergency Injury Disaster Loan (EIDL) – Viewed as the first line of support, this is not a new loan program. EIDLs have been available to help respond to disasters for quite some time, but this is the first virus or pandemic event that has been defined as a such. In order to combat the effects of COVID-19, the stimulus package specially allots \$10 billion for EIDLs. Businesses in every state and territory, that were in business by January 31, 2020, are now eligible to apply. These loans offer several favorable terms and provisions:
 - Loans up to \$2 million
 - 30-year term
 - Interest rates are 3.75% for small business and 2.75% for nonprofits
 - First month's payments are deferred a full year from the date of the promissory note
 - Can be approved based solely on an applicant's credit score, not repayment ability and no tax return is required
 - Personal guarantee is not needed for loans smaller than \$200,000
 - Waives the requirement that applicants must be unable to obtain credit elsewhere. Applicants can still apply even if they already have a credit line
 - \$10,000 can be received as an emergency grant cash advance that will be forgiven if spent on paid leave, maintaining payroll, increased cost due to supply chain disruption, mortgage or lease payments or repaying obligations that cannot be met due to revenue lost
 - Applicants can receive this emergency cash funding even if they do not qualify for additional funds
 - Applicants can apply for these loans directly through the SBA at www.SBA.gov/disaster.

- ❖ Paycheck Protection Program Loan Guarantee (PPP) – Through this loan program, the Small Business Administration (SBA) backs small-business loans through local lenders. Currently, the SBA is working with 1800 lenders, but plan to expand this number due to the anticipated demand of loans required to combat the effects of COVID-19. These loans offer several favorable terms and provisions:
 - Available for small businesses with fewer than 500 employees, select types of business with fewer than 1,500 employees, 501(c)(3) non-profits with fewer than 500 workers and some 501(C)(19) veteran organization. Self-employed, sole proprietors, freelance and gig economy workers are also eligible to apply (have to be in operation before February 15, 2020).

- Loans are given up to a maximum of the lesser of \$10 million, or 2.5 times the average monthly payroll costs (including wages for employees making under \$100,000, as well as expenses for paid sick leave, healthcare and other benefits) during the 1-year period before the date on which the loan was made.
- Maximum interest rate is 4%
- 10-year term
- No personal guarantee or collateral is required
- Payments can be deferred for up to 12 months
- If spent on operating expenses, portions of PPP loans may be forgiven, and will not count as income, if funds are spent on operating expenses during the first eight weeks.
- Loans may be forgiven when the proceeds are used for:
 - Payroll costs, excluding prorated amounts for individuals with compensation greater than \$100,000
 - Rent pursuant to a lease in force before February 15, 2020
 - Electricity, gas, water, transportation, telephone, or internet access expenses for services which began before February 15, 2020
 - Group health insurance premiums and other healthcare costs.
 - In order for the amounts to be forgiven, applicants must maintain the same average number of employees for the first eight-week period beginning on the origination date of the loan as they did from February 15, 2019 - June 30, 2019 **or** from January 1, 2020 until February 15, 2020.
 - Reductions to the amount forgiven will also incur if applicants cut compensation for employees who make under \$100,000 by more than 25%, as compared to the most recent quarter.
 - The US Chamber of Commerce offers a comprehensive overview of PPs [here](#).
- Applicants for PPPs should apply through their local lending institution

Helpful Tips and Tricks for Small Business Loans

The demand for COVID-19 relief loans for small business will be high. Here are a few helpful tips that may provide you additional guidance when deciding how to move forward in these uncharted times:

- ❖ Applications will be reviewed as they are received. If you are still unsure what is best for your company, go ahead and apply for a loan now. Once you submit an application, you are under no obligation to accept the funding. There are no guarantee fees, servicing fee or prepayment fees went submitting.
- ❖ If applying for an EDIL, make sure you have a good sense of what your companies working capital needs are as this is the basis of the loan funding amount.

- ❖ As long as the loans cover different expenses, applicants can receive funding from both the EDIL and PPP loan programs.
- ❖ Make sure to specify the economic loss as it pertains to COVID-19.
- ❖ There are some companies that won't have access to these loans. Cannabis companies, for instance, won't qualify, as their business is still illegal on the federal level, despite being legal in 11 other states and DC.

Additional Measures Covered in the CARES Act

There are several tax credits in the CARES Act to ease the burden of maintaining employees on payroll at small businesses. These include:

- ❖ Employee retention benefit: 50% refundable payroll tax credit during COVID-19 crisis for businesses that either fully or partially shut down OR have a 50% decrease in receipts versus the same quarter in the previous year and continue to pay employees.
- ❖ Based on qualified wages paid to employees during crisis, tied to number of employees (100+ full time employees = wages paid when they are not providing services due to COVID-19 and less than 100 full time employees – wages paid regardless of business closure status).
- ❖ Covers up to \$10,000 paid per employee, to include benefits, for the period 3/13/20 – 12/31/20.
- ❖ Payroll tax deferred, payments to be spread over 2 years.
- ❖ Net operating losses (NOLS) modification: NOLs arising in FY's 2018, 2019 and 2020 can be carried back five years.
- ❖ AMT credits available as refundable credit through 2021 can be claimed as a refund now.
- ❖ Allowable deductible interest expenses are increased from 30% to 50% for 2019 and 2020.

Non-Profits

A critical part of the CARES Act was for non-profits to be included under small businesses with the Small Business Administration (SBA) and how these loans can be turned into grant-like funding. Although advocates are seeking more federal help for charities than the bill provides, including a \$60 billion aid package specifically for nonprofits, there was widespread approval of the legislation with hopes for more to come.

Funding Highlights

- ❖ **Emergency Small Business Loans:** Provides funding for special emergency loans of up to \$10 million for eligible nonprofits and small businesses, permitting them to cover costs of payroll, operations, and debt service, and provides that the loans be forgiven in whole or in part under certain circumstances.
 - **General Eligibility:** Available to entities that existed on March 1, 2020 and had paid employees.
 - **Nonprofit Eligibility:** Available for charitable nonprofits with 500 or fewer employees (counting each individual – full time or part time)
 - **Loan Use:** Loan funds could be used to make payroll and associated costs, including health insurance premiums, facilities costs, and debt service.
 - **Loan Forgiveness:** Employers that maintain employment between February 15 and June 30 would be eligible to have their loans forgiven, essentially turning the loan into a grant.

- ❖ **Economic Injury Disaster Loans (EIDL):** Creates emergency grants for eligible nonprofits and other applicants with 500 or fewer employees enabling them to receive checks for \$10,000 within three days.

- ❖ **National Endowment for the Arts & Humanities (NEA) includes:**
 - \$75 million for the National Endowment for the Arts
 - \$75 million for the National Endowment for the Humanities;

Money will be used to assist state arts and humanities agencies and partners.

Policy Highlights

- ❖ **Charitable Giving Incentive:** Includes a new above-the-line deduction (universal or non-itemizer deduction that applies to all taxpayers) for total charitable contributions of up to \$300.
 - The incentive applies to contributions made in 2020 and would be claimed on tax forms next year.

- ❖ The bill also lifts the existing cap on annual contributions for those who itemize, raising it from 60 percent of adjusted gross income to 100 percent.
 - For corporations, the bill raises the annual limit from 10 percent to 25 percent.

- Food donations from corporations would be available to 25 percent, up from the current 15 percent cap.
- ❖ The bill creates a refundable payroll tax credit of up to \$5,000 for each employee on the payroll. To be eligible, a nonprofit must have experienced a drop in revenue of at least 50 percent in the first quarter of 2020 compared with the first quarter of 2019. The credit is available each quarter until the nonprofit's revenue exceeds 80 percent of the same quarter in 2019.
 - Nonprofits receiving emergency SBA loans are not eligible for these credits.
- ❖ Nonprofits that self-fund unemployment benefits could get reimbursed for up to half the costs of benefits provided to their laid-off employees.

Transportation

The CARES Act includes funding and financing for airlines and aviation businesses as well as grants for airports, public transit and Amtrak. The Airline industry successfully lobbied for the amount of money they were seeking to combat the effects of COVID_19. Airlines would receive \$29 billion in grants, and \$29 billion in loans and loan guarantees, as well as a reprieve from paying three of their major excise taxes on the price of a ticket, the fuel tax and a cargo tax. That funding comes with strings, though — no stock buybacks, and limits on executive compensation, to start. Half the funds would go toward “the continuation of payment of employee wages, salaries, and benefits” while the other half would go to loans and loan guarantees for passenger airlines, repair stations and ticket agents — subject to conditions.

Funding Highlights

- ❖ \$500 billion was provided to the Treasury’s Exchange Stabilization fund to provide loans, loan guarantees and other investments:
 - \$25 billion has been authorized to the Secretary of Treasury to make loans and loan guarantees for passenger airlines, repair stations and ticket agents
 - \$4 billion to cargo airlines
 - \$17 Billion for businesses important to maintaining national security (Boeing)

- ❖ \$32 billion in grants to pay wages, salaries and benefits of employees:
 - \$25 billion available for passenger airlines
 - \$4 billion for cargo airlines
 - \$3 billion for airline contractorsGrants are based on the wages, salaries and benefits that employees received from April 1 to September 30, 2019.

- ❖ \$48.5 billion in supplemental appropriations for transportation programs to address COVID-19 impacts to the transportation sector.

- ❖ \$10 billion for Federal Aviation Administration Airport Improvement Program (AIP) grants to maintain airport operations in light of the significant drop in revenues at airports.
 - Of the amount, at least \$100 million is for general aviation airports.
 - The funding will be distributed by formula.
 - Hub airports that receive funding must continue to employ at least 90 percent of the people employed as of the day of the bill’s enactment until the end of the year.

- ❖ \$56 million for the Essential Air Service Program to maintain existing air service to rural communities.

- ❖ \$25 billion for Federal Transit Administration (FTA) grants transit grantees for operating and capital expenses.
 - Funding will be distributed using existing FTA formulas.
- ❖ \$1.018 billion for Amtrak operating assistance to cover revenue losses related to coronavirus.
 - In addition, funding will be provided for states to pay their contribution for state supported routes.
- ❖ \$5 million for the Department of Transportation (DOT) to cover increased administrative expenses as a result of the coronavirus.
- ❖ \$5 million for the DOT Inspector General to provide oversight over funds and guard against fraud, waste and abuse.

Policy Highlights

- ❖ The loans and loan guarantees and grants come with conditions to protect the federal government's investment and workers. The Secretary of Treasury is authorized to receive warrants, stock options and other financial instruments as a condition of the financial assistance.
- ❖ Loans and loan guarantees may be no longer than five years.
- ❖ Airlines and other beneficiaries of loans and grants are restricted from engaging in stock buybacks unless contractually obligated or pay dividends.
- ❖ Borrowers must maintain their employment levels as of March 24, 2020, "to the extent practicable," until the end of September and are prohibited from cutting employment levels by more than 10 percent from what they were on that date, and loans cannot be forgiven.
- ❖ A recipient also must agree to certain restrictions on compensation of employees making more than \$425,000 in total compensation.
- ❖ Air carriers receiving grants must agree that before September 30, 2020, they will not conduct furloughs, reduce pay rates, buy back stock or pay dividends.
- ❖ The carriers are also required to continue service to any point served before March 1 to the extent practicable.
- ❖ Suspends the collection of certain aviation excise taxes, which will make ticket prices more attractive to consumers.
 - Excise taxes are applied to the transportation of persons (i.e. ticket tax), the transportation of property (i.e. cargo tax) and aviation fuel.

- ❖ Language clarifying that states can issue special permits for overweight vehicles and loads to carry emergency supplies for the duration of the fiscal year assuming the President's emergency declaration is still in effect.

Education

Education stimulus seems to be focused mainly on financial aid relief for students. There are also some incentives for businesses to pay employee student loans.

Highlights

- ❖ The CARES Act provides more than \$14 billion overall for colleges and universities. These funds are in place to allow higher education institutions to make up for lost revenue and provide various programs to meet the needs of students during the pandemic.
- ❖ There is \$1 billion in stimulus for Historically Black Colleges and Universities and other higher education institutions that serve minority and low-income students.
- ❖ Recent reports indicate that Florida's public higher education institutions are set to receive nearly \$249 million of the funds allocated in the stimulus package.

“Elementary and Secondary School Emergency Relief Fund”

- ❖ Grants for “elementary and secondary school emergency relief”. Funds go to the state (Governor/Department of Education) and states (or schools?) apply.
- ❖ The Education Secretary would also allocate funds to states / school districts based on low income students?
 - Training/development
 - Supplies to sanitize schools

“Covid-19 Pandemic Education Relief Act of 2020”

- ❖ Campus-Based Aid Waivers: Waives the requirement that a higher education institution provide a non-federal share to match federal funds provided to the institution.
- ❖ Use of Supplemental Educational Opportunity Grants (SEOG) for Emergency Aid: Provides that higher education institutions may award additional SEOG grants to students impacted by the pandemic. to award additional SEOG funds to students impacted by COVID-19 for unexpected expenses and unmet financial needs.
- ❖ Federal Work-Study During A Qualifying Emergency: Provides that higher education institutions may pay students in work-study programs who are unable to work due to closures resulting from the pandemic.

- ❖ Adjustments of Subsidized Loan Limits for Students Who Dropped Out of School As A Result of COVID -19: Provides that a period of time a student is unable to complete a semester or term due to the pandemic will be excluded from loan time limit requirements.
- ❖ Exclusion From Federal Pell Grant Duration Limit For students Who Dropped Out of School As A Result of COVID -19: Provides that a period of time a student is unable to complete a semester or term due to the pandemic will be excluded from Federal Pell Grant duration limits.
- ❖ Institutional Refund and Federal Student Loan Flexibility for Students Who Dropped Out of School As A Result of COVID -19: Provides that a student who withdraws from a higher education institution during the payment or enrollment period of a federal student loan is not required to return grants or federal student loans.
- ❖ Satisfactory Progress for Students Who Dropped Out of School As A Result of COVID -19: Provides that the student's grades (student referenced in the situations above) are not counted against the student with regard to federal academic requirements.
- ❖ Continuing Education at Affected Foreign Institutions: Provides that foreign higher education institutions may offer distance learning to U.S. students receiving certain federal funds during the time of official declaration of the COVID-19 pandemic.
- ❖ National Emergency Educational Waivers: Provides that the U.S. Secretary of Education has the authority to provide waivers from the Elementary and Secondary Education Act as appropriate due to the COVID-19 pandemic.
- ❖ HBCU Capital Financing Program: Provides that the U.S. Education Secretary may defer payments on HBCU Capital Financing Loans during the COVID-19 pandemic.
- ❖ Temporary Relief for Federal Student Loan Borrowers: Provides that the U.S. Secretary of Education will defer federal student loan payments – including principal and interest – for the six-month period continuing through September 30, 2020, without penalty to the borrower.
- ❖ Authorized Uses and Other Modifications for Grants: Provides that the U.S. Secretary of Education is authorized to waive or change current rules regarding allowable use of certain federal loan programs.

Health Care

The American Hospital Association (AHA), American Nurses Association and American Medical Association successfully lobbied for \$100 billion to support operations country wide. While the Federation of American Hospitals (private hospitals) did not see the full funding they lobbied for, \$225 billion, the organization has expressed support for the package, and it is encouraged by members already seemingly opening the door to additional legislation.

Due to the urgency of passing legislation to combat the ongoing crisis, there are loose parameters on how to divide the hospital funding allocated in the CARES Act. The U.S. Department of Health and Human Services (HHS) will be writing the rules and will be responsible for distributing funds. While the parameters are still not clear, there will be significant oversight and restrictions on funding. All requests will need to be justified.

Funding Highlights

- ❖ \$100 billion - No-strings-attached funding for hospitals and other providers so they "continue to receive the support they need for COVID-19 related expenses and lost revenue". Money can be used for protective gear for health-care workers, testing supplies and emergency operation centers, among other necessities
- ❖ \$16 billion for buying medical supplies for the Strategic National Stockpile
- ❖ \$11 billion to fund the development of vaccines, therapeutics, diagnostics and other medical needs
- ❖ \$1 billion for purchases under the Defense Production Act
 - Trump administration has resisted using so far despite the calls of hospitals, doctors and governors
- ❖ \$1.3 billion for community health centers in emergency funding
 - This funding is in addition to the \$100 million distributed by the Health Resources and Services Administration (HRSA) to CHCs on March 24th.
- ❖ \$150 billion to state and local governments
 - To be distributed proportional to population size, with a minimum of \$1.25 billion for states with the smallest populations.
- ❖ \$14 billion to pay medical expenses at the Department of Veterans Affairs
- ❖ \$250 million for increasing hospitals' surge capacity
- ❖ \$275 million to expand services and capacity for rural hospitals, telehealth, poison control centers and the Ryan White HIV/AIDS Program

- ❖ TBD - Some healthcare providers with fewer than 500 employees could have access to nearly \$350 billion in small business loans to help with cash flow. Some opportunity for loan forgiveness is possible, but is reduced if businesses lay off or reduce pay for full-time employees.
 - Through this program, a small business or organization can apply to an SBA-approved lender for a loan of up to 250% of your average monthly payroll costs to cover eight weeks of payroll as well as help with other expenses like rent, mortgage payments, and utilities. This loan can be forgiven based on maintaining employee and salary levels. For any portion of the loan that is not forgiven, the terms include:
 - a maximum term of 10 years
 - a maximum interest rate of 4 percent.
 - Small businesses and organizations will be able to apply if they were harmed by COVID-19 between February 15, 2020 and June 30, 2020. To be eligible, small businesses and 501(c)(3) non-profit organizations must have fewer than 500 employees, or more if SBA's size standards for the non-profit allows.
 - This program is retroactive to February 15, 2020, in order to help bring workers who may have already been laid off back onto payrolls.
 - Loans are available through June 30, 2020.

Policy Highlights

Several favorable payment policies to hospitals, doctors and others in the health care system were included in the package:

- ❖ Hospitals that treat Medicare patients for COVID-19 will get a 20% payment increase for all services provided.
- ❖ Employers and health insurers will be required to pay hospitals and labs whatever their charges are for COVID-19 tests if a contract is not in place. By comparison, Medicare pays \$51.33 for a commercial coronavirus test.
- ❖ Medicare's "sequestration," which cuts payments to providers by 2%, will be lifted until the end of this year.
- ❖ Labs won't face any scheduled Medicare cuts in 2021, and won't face delays in future payment cuts as well.
- ❖ Would extend Medicare and Medicaid programs that were set to expire on May 22 until Nov. 30, setting up a potential vehicle for legislation to ban surprise medical bills and address prescription drug prices after the 2020 election.
- ❖ Cuts to Medicaid disproportionate-share hospital payments would be delayed through November, though hospitals had aimed for a two-year delay. The package

eliminates \$4 billion in fiscal year 2020 cuts and reduces 2021 cuts from \$8 billion to \$4 billion.

- ❖ The bill would also allow more hospitals, including critical access hospitals and cancer centers, to request advance Medicare payments based on prior years' payments and pay them back over at least 12 months. Premier, which pushed for the change, said the upfront payments could help with hospitals' cash-flow issues as elective surgeries are delayed.
- ❖ Payroll tax payments would be reduced by 50% and delayed for employers, including hospitals and health systems, until January 2021. The remaining 50% would be spread out through the end of 2022.
- ❖ The bill would require the HHS secretary to develop and implement a new payment rule for federally qualified health centers and rural health clinics that provide telehealth services to eligible patients. Payment rates would be based on payment that currently applies to comparable telehealth services under the physician fee schedule.
- ❖ The law would allow Medicare beneficiaries to use telehealth services regardless of whether they had seen the provider in-person in the preceding three years.
- ❖ The package also mandates more reporting requirements about where drug makers source their materials and allows the FDA to prioritize drug applications that could help address a shortage.
- ❖ FDA policy would be amended so that laboratory developed tests and diagnostic kits could be used, and covered by private insurance plans, before receiving an emergency use authorization.
- ❖ Insurers would be required to pay either a negotiated price with a provider or a cash price posted by the provider for the test. Vaccines that meet certain effectiveness standards would also have to be covered with no cost-sharing.
- ❖ Education & training relating to geriatrics: HHS Secretary shall award grants and contracts for establishment or operation of Geriatrics Workforce Enhancement Program that meets the specified requirements
- ❖ For discharges of COVID-19 patients, the Secretary shall increase the weighting factor that would otherwise apply to the DRG to which the discharge is assigned by 20%. (20% add-on payment for COVID-19 patients).
- ❖ Waiver of site-neutral payment rate provisions for long-term care hospitals.
- ❖ Expansion of the Medicare Hospital Accelerated Payment Program during the COVID-19 Public Health Emergency.