

Coronavirus Aid, Relief, and Economic Security (CARES) Act: Updated Guidance

Presented by

Jodie Arceneaux, CPA
Director, Tax Services

Micah J. Stewart, LL.M
Director, Tax Services

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Session Objectives

- Discuss how the CARES Act may impact you as:
 - A business or nonprofit
 - Seeking an SBA loan or holding an existing SBA loan
 - Wanting assistance in the form of payroll tax credits or payroll tax deferral to continue paying employees
 - Wanting more information on new and retroactive tax deductions that could generate tax refunds
 - An individual
 - Seeking information on the recovery rebates
 - Wanting to utilize and protect your retirement accounts

CARES Act Goals

- Stimulate the US economy through \$2.2 trillion of liquidity (cash)
- Package of loans, rebates, tax credits, and tax deductions (some retroactive)
- Designed to provide relief to individuals, businesses, and nonprofits

Small Businesses and Nonprofits

Small Business Interruption Loans

Two Loan Types

- Both are available to businesses, 501(c)(3) organizations, 501(c)19 Veterans organizations or Tribal business concerns (sec 31(b)(2)(C)) of the SBA with the greater of:
 - 500 employees, or
 - That meets the SBA industry size standard if more than 500 employees
- Economic Injury Disaster Loan (“EIDL”)
 - Directly through SBA
- Paycheck Protection Program (“PPP”) and Loan Forgiveness
 - Through local banks

Economic Injury Disaster Loan Summary

Maximum amount	2 million dollars, tied to the business economic injury from COVID-19
Grant	\$10,000 advances for applicants available within 3 days of applying for the loan
Interest rate	<ul style="list-style-type: none">• For 501(c)(3) organizations, 2.75%• For businesses, 3.75%
Terms	Can be extended up to 30 years
Uses	Working capital and ordinary expenditures
Lending criteria	<ul style="list-style-type: none">• 500 or fewer employees• Most non-manufacturing businesses with average receipts under \$7.5 million
Payment deferral	Can be deferred up to one year

Additional Economic Injury Disaster Loan Information

- [SBA.gov\disaster](https://www.sba.gov/disaster)
 - Online application is encouraged
 - Turnaround time is expected to be 14-20 days
 - Advances of \$10,000 to applicants within 3 days of applying; funded from \$10 billion included in the CARES Act
 - Approved by SBA directly
- Some variations by industry exist; review eligibility carefully

Paycheck Protection Program ("PPP") Loan Summary

Maximum amount	Lesser of: <ul style="list-style-type: none">• 2.5x the average monthly payroll costs for the prior one-year period AND the outstanding balance for an EIDL that was obtained between 1/31/20 and 4/3/2020 less any advance under an EIDL that does not have to be repaid• 10 million dollars
Interest rate	Currently, the interest rate is at 1.0%
Terms	2 year term
Prepayment penalty	Waived
Fees	Waived
Lending criteria	Lender has full authority to accept application and issue the funds the same day (no SBA pre-approval, no "credit elsewhere" test or "personal guarantee requirement")
Payment deferral	Automatically for first six months, extendable to one year

Has Loan Forgiveness Feature (explained later)

Average Monthly Payroll

Includes

- Salary wages, commissions or similar compensation paid to employees
- For Partnerships, Self Employment income of general active partners
- For Sole Proprietors, Net earnings from schedule C, line 31
- Vacation, sick & medical leave paid
- Group health care benefits, including insurance premiums
- Retirement benefits
- State or local tax on employee pay

Excludes

- Salary amounts in excess of \$100,000 per employee
- Pay to employees outside the United States
- Payments for which credits are allowed under the Families First Coronavirus Response Act

PPP Loan Forgiveness Feature

- On amounts spent during the 8 weeks after getting the loan
- Must maintain payroll defined by headcount and amount of wages
 - For headcount: maintain average number of FTEs from 2/15/20 to 6/30/20 as compared to 2/15/19 through 6/30/19 or 1/1/20 through 2/29/20
 - For wages: maintain wages at the rate of 75% by comparing the 8 week period following the origination of the loan to the most recent full quarter during which the employee was employed prior to the origination of the loan
- Qualifying Expenses include, however, of the total forgiven amount, not more than 25% of the forgiven amount may be for non-payroll costs
 - For corporations, employee payroll costs
 - For self-employed individuals, employee payroll costs plus schedule C line 31 net profit (8/52 of 2019 net profit from schedule C will be used for the self-employed individual)
 - For partnerships, employee payroll costs plus self employment income of general active partners
 - Mortgage interest, not principal payments
 - Rent
 - Utilities
- No recognition of income required for portion forgiven
- Principle and interest may be forgiven; SBA will issue guidance on loan forgiveness
- Interest begins to accrue when the loan is funded

Paycheck Protection Loan Summary Additional Information

- Loans available from local banks
- SBA-guaranteed
- Cannot have this loan type AND an Economic Injury Disaster Loan for the same purpose*
 - However, if you received an Economic Injury Disaster Loan between 1/31/20 to 4/3/20, you can receive assistance under the PPP through a refinancing mechanism
- CANNOT use with the employee retention credit discussed later

*Awaiting further guidance on this phrase

Existing SBA Loans from Prior Disasters

- Automatic deferments through 12/31/20
- No need to contact the SBA to cease payments

Planning for the Economic Injury Disaster Loan

- Begin the application process at [SBA.gov\disaster](https://www.sba.gov/disaster), making sure to select the economic injury disaster loan
- Gather:
 - Your tax returns and/or financial statements for the previous 1-3 years
 - Your year-to-date financial statements through the date of the loan application
 - A personal financial statement (SBA form 413) for any 20% or greater owner, each general partner or managing member and, for any owner who has more than a 50% ownership in an affiliate business
- Prepare a schedule of fixed liabilities (SBA form 2202 may be used)
- Prepare IRS form 4506-T for the business and each 20% or greater owner, each general partner or managing member and, for any owner who has more than a 50% ownership in an affiliate business
- Gather other data that can support the financial impact of COVID-19

Planning for the Paycheck Protection Loan

- Calculate the average monthly payroll over the last 12 months or for the calendar year 2019 and gather documents supporting your calculation
- Gather:
 - Proof of monthly payroll costs for the latest 12 months
 - Payroll tax returns, form 941s, etc.
 - Your tax returns and/or financial statements for the previous one to three years
 - Your year-to-date financial statements through the date of the loan application
 - Articles of Incorporation / Organization
- Contact your local banker to:
 - Inquire about what other documentation they will require
 - Arrange for an appointment to place your loan application

Loan Type Compare and Contrast Highlights

	Economic Injury Disaster	Paycheck Protection Program
Apply for at	SBA.gov\disaster	Local bank
Allows possible	Employee retention credit	Loan forgiveness
Maximum amount (lesser of)	<ul style="list-style-type: none"> • 2 million dollars, tied to the business economic injury from COVID-19 	<ul style="list-style-type: none"> • 2.5x avg monthly payroll plus balance of existing Economic Injury Disaster Loan • 10 million dollar cap
Interest rate	<ul style="list-style-type: none"> • For 501(c)(3)s, 2.75% • For businesses, 3.75% 	Currently, set at 1.0%
Terms	Extendable up to 30 years	2 years
Payments	Can be deferred up to one year	Automatic 6-month deferral, extendable up to one year

Which SBA Loan Is Right for You?

- Requires looking not just at the loan but at your entire financial picture, including taxes
- Contact LaPorte if you have questions about which is the right fit

Businesses

Payroll Tax Deferrals and Credits

Payroll Tax Deferral

- Employers can defer the payment of payroll taxes due beginning on the date the bill is signed and ending on December 31, 2020
 - The taxes will still be due in the future:
 - 50% will be due December 31, 2021
 - 50% will be due December 31, 2022
- For self-employed individuals, 50% of the self-employed taxes are granted the same deferral period
- For entities that receive an SBA loan, this deferral only applies if the loan is not forgiven

Employee Retention Credit

- Eligible employers will be entitled to a credit of 50% of qualified wages paid to employees who are not working due to the employer's full or partial cessation of the business or significant decline in gross receipts
 - The credit is refundable; however, the qualified wages for each employee for all quarters cannot exceed \$10,000
- Employers are not eligible for the credit if the employer receives a PPP loan from the SBA as described in the under paragraph (36) of section 7(a) of the Small Business Act and 1106 or 1109 of the CARES Act.

Business New and Retroactive Tax Deductions

Net Operating Loss Carryback

- Taxpayers will be allowed to carry back losses generated in 2018, 2019, and 2020 to taxable years beginning before December 31, 2017
 - This is in the same manner as was allowed before the Tax Cuts and Jobs Act of 2017 (“TCJA”)
 - The CARES Act allows the loss to be carried back up to five years
- The TCJA also limited the net operating loss (NOL) allowed to a taxpayer in any one year to 80% of the net income. The CARES Act allows the NOL to be applied to 100% of the net income for tax years beginning before 2021

Pass-Through Business Losses

- Under the TCJA, flow-through business losses were capped at \$250,000 if filing single (\$500,000 if married filing jointly)
- The CARES Act will put a halt on this cap
 - The halt will be retroactive to January 1, 2018
- Taxpayers who had limited losses in 2018 will want to file amended returns and seek a refund

Business Interests Expense Limitation

- The 2017 TCJA limited the amount of interest deductible for a business to 30% of the business's adjusted gross income (AGI) for companies with gross receipts of more than \$25 million in 2019 and \$26 million in 2020
- The CARES Act allows a deduction of up to 50% of a business's adjusted taxable income
- Special rules for partnerships

Qualified Improvement Property, Technical Glitch Corrected

- All leasehold improvement property is defined as qualified improvement property again and eligible for bonus depreciation
 - This change is retroactive to the enactment of the TCJA; in other words, it is as if the TCJA itself had defined leasehold improvements as qualified improvement property from the beginning
- Taxpayers who incurred expenses for qualified improvement property will want to file amended returns for the 2018 tax period to seek a potential refund

Minimum Tax Credits

- The current tax laws eliminated the alternative minimum tax for corporations, but any unused minimum tax credits carried forward could be used in 2021 to get a refundable credit
 - The credit was limited to 50% of the excess minimum tax and fully refundable in 2021
- The CARES Act accelerates the refunding of the credit

Corporate Charitable Contribution Deductions

- Instead of the normal 10% charitable deduction allowed to corporations, allowed to deduct up to 25% of the corporation's taxable income if the excess contributions consist of qualified contributions
- A qualified contribution is a contribution of cash or food to a charitable organization that is not a private foundation or a donor advised fund

Payment of Student Loans

- Payment is suspended for 3 months
- The interest for the three months will not be applied
- The Treasury Department can extend this for an additional three months

Excise Tax Relief

The Federal excise tax will not be charged for alcohol used for production of hand-sanitizing products, aviation fuel, and kerosene.

Planning Now to Take Advantage of these Provisions

- Examine depreciation schedules for leasehold improvements placed in service after December 31, 2017
- Examine old returns to see if a net operating loss was incurred in 2018 or 2019
- Review interest expenses and determine:
 - How the new law will affect current tax liability
 - Whether interest expenses alter past tax returns

Individual Provisions

Advanced Credit Rebate Stimulus Checks

Credit for	Amount	Phaseout begins at*	Totally phased out at*
Single taxpayer	\$1,200	\$75,000	\$99,000
Joint filers	\$2,400	\$150,000	\$198,000
Head of household	\$1,200	\$112,000	\$136,500
+Child under 17	+\$500		

- *Rebates phased out by \$5 for every \$100 of adjusted gross income (AGI) in excess of threshold amount
- Rebates not subject to reduction or offset; individuals will get funds they are entitled to by calculation
- Rebates are calculated based on 2019 AGI or by 2018 AGI if a return for 2019 is not yet filed
 - If neither return has been filed, calculation based on the 2019 Social Security Benefit Statement

How Will the Rebate Be Sent?

- Disbursed electronically to any account the payee authorized on or after January 1, 2018
 - OR
- Paper check sent to last known address
- 15 days after payment, a letter will be sent to the last known address of the taxpayer with details related to the payment including:
 - Amount
 - Date of payment
 - Method of payment
 - Instructions on what to do if the payment was not received

How Will the Rebate Be Sent?

(Continued)

Important Update – Rebates now being sent

- IRS began sending Economic Impact Payments April 13, 2020
- Web Portal to enter payment information for non-filers is live
- Social Security recipients who are not currently required to file returns will not need to in order to receive their payment.
 - They will receive payment directly to their bank account
 - At the portal listed below they can enter qualifying children under 17 to claim the \$500 payment per child
- Portal can be found at www.irs.gov/coronavirus/economic-impact-payments

Special Rules for Use of Retirement Funds: Coronavirus-Related Withdrawals

- Withdrawals of up to \$100,000 in aggregate from qualified retirement plans (IRAs, 401Ks, other qualified trusts and certain deferred compensation plans)
 - Not subject to 10% penalty on early withdrawals if a 2020 “coronavirus-related distribution” is made to either:
 - An individual who has been diagnosed with SARS-CoV-2 or COVID-19 by a CDC-approved test, or whose spouse or dependent has been diagnosed with the same
 - An individual who experiences financial hardship due to quarantine, business closure, layoff, furlough, reduced hours or being unable to work due to lack of childcare due to COVID-19
- If taken into income:
 - Can elect to include it in taxable income ratably over 3 years
 - Can recontribute the withdrawn funds within 3 years from the date of withdrawal without affecting retirement account caps

Special Rules for Use of Retirement Funds: Required Minimum Distributions (RMDs)

- Waived for certain retirement plans for 2020 to:
 - Allow those funds to remain in participant accounts
 - Potentially rebound from any losses experienced due to the pandemic

Special Rules for Use of Retirement Funds: Loans from Qualified Plans NOT Treated as Distributions

- Loan limit raised up to “the lesser of \$100,000 or the present value of the non-forfeitable accrued benefit of the employee under the plan” from “the lesser of \$50,000 or one half of the present value of the non-forfeitable accrued benefit of the employee under the plan”
- Individuals with a qualified plan loan outstanding and a repayment due from the date of enactment of the CARES Act through December 31, 2020, may delay their loan payments for up to a year

Charitable Contribution Limits

- For those itemizing deductions:
 - The 60% of AGI limit the TCJA specified is suspended for 2020 for cash contributions to qualifying organizations
 - Any excess contributions may be carried forward to future years based on current carryforward rules for excess charitable contributions
- For those not itemizing:
 - The CARES Act enables an “above the line” deduction of a contribution of up to \$300

Education Loan Payments

- Excludes up to \$5,250 of loan payments made by an employer for an employee's education loans to be excluded from income in 2020
 - The loans must be the employee's (not a loan incurred for the education of the employee's child)
 - The exclusion only applies to payments made by an employer after the date of enactment of the CARES Act and before January 1, 2021

Plan Now to Take Advantage of these Provisions

- Contact a LaPorte Tax Advisor to project tax year 2020 to:
 - Review qualified retirement plan account balances and projected cash needs to decide if a “coronavirus-related distribution” is advisable
 - Decide if a loan from your qualified retirement plan makes more sense than a “coronavirus-related distribution”
 - Decide if you can forgo RMD(s) during 2020 to allow your qualified retirement plan(s) to rebound
 - See if taking advantage of the charitable contribution limit easement is a viable tax strategy for 2020 if you itemize
 - If you aren’t itemizing in 2020, get guidance on the charitable contribution “above the line” deduction of up to \$300

Questions and Observations



Jodie Arceneaux, CPA
Director, Tax Services
jarceneaux@laporte.com

Micah J. Stewart, LL.M
Director, Tax Services
mstewart@laporte.com



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