

Summary of Legislative Action, March 25, 2020

Phase 3 coronavirus federal legislation has arrived and it is substantial. The Coronavirus Aid, Relief, and Economic Security Act or the CARES Act passed in the Senate last night March 25 and is headed to the House of Representatives as soon as today March 26. With a \$2 trillion dollar price tag it is almost half the size of the annual federal budget and two times the size of the largest economic stimulus package to date, the 2009 Recovery Act. The Senate and President Trump seem to have reached an agreement on its provisions and once it passes most provisions are available to individuals and businesses almost immediately.

Senator Ben Sasse authored a last minute amendment to the bill that would have capped unemployment insurance benefits at 100% of an employee's pay prior to losing their job. His concerns were that employees could potentially earn more by not working because of the expanded unemployment benefits. He viewed this as a problematic disincentive to helping the economy recover. This amendment was considered, but ultimately failed to be attached to the bill.

Summary of Key CARES Act Provisions (Adapted from the National Manufacturing Association Summary)

Business Provisions

- \$500 billion in loans to eligible businesses
 - Targeted at companies that do not receive adequate relief from other provisions of the bill, located in the U.S. and a predominantly U.S. employee base
 - Must maintain employment levels from March 24, 2020 to September 30, 2020
 - Prohibits stock buybacks, dividend payments and increasing compensation for certain high wage employees
 - \$46 billion of set aside for passenger airlines (\$25 billion), cargo air carriers (\$4 billion) and businesses important to national security (\$17 billion)
- \$350 billion in small business loans administered through SBA, called the Paycheck Protection Program
 - Targeted at companies with less than 500 employees or otherwise specified by SBA standards
 - Loans can be used for payroll, mortgages, rent, insurance premiums and utility payments.
 - Up to \$10 million per company available
 - Cannot apply for SBA disaster loan related to COVID 19 and loans under this program at the same time
 - Loans can be forgiven up to the amount spent by the borrower during the eight weeks from loan origination on payroll costs up to \$100,000 in wages, mortgage interest, rent or utilities
 - Forgiveness is reduced by layoffs or pay reductions in excess of 25%.
 - Forgiveness is not treated as taxable income
- \$24 billion in relief to stabilize the farm economy

Tax Provisions

- Net operating loss carry: Allows companies to use tax losses in 2018, 2019 and 2020 to offset income from the prior five years.
- Increase in Allowable Interest Deductions: The maximum amount of business interest deductions is increased for 2019 and 2020 from 30% of to 50%.

- Payroll Tax Deferral: Allows an employer to defer its share of 2020 payroll tax and pay them over two years.
- Payment of Tax Refunds: Tax reform imposed a one-time tax on earnings held overseas, which could be paid over eight years. The IRS has taken the position that companies cannot receive refunds until the eight-year period is completed. The bill overturns the IRS position.
- Employee Retention Tax Credit: Creation of a new, temporary refundable payroll tax credit for companies who keep workers on their payroll during the COVID 19 pandemic, up to \$5,000 per worker.
- Corporate Alternative Minimum Tax (AMT) Credits: This provision allows companies to accelerate recovery of corporate AMT credits.
- Qualified Improvement Property: Allows companies in retail, restaurants and hotels to write off certain facilities improvements immediately.

Health Care Provisions

- \$150 billion for hospitals and other health facilities
- Supply Chain: Provides permanent liability protections for makers of PPE that are called for public health emergency countermeasures.
- Access: Clarifies no COVID-19 cost sharing for private insurance, requires free vaccine coverage without cost sharing following current vaccine practices guidelines and includes a range of public health measures to address COVID-19 treatment and response, including liability protections for doctors who volunteer.
- Telehealth: Removes barriers and facilitates telehealth services, especially for high-deductible health plans that utilize health savings accounts. Provides \$200 million to boost telehealth services.

Labor Provisions

- Paid Leave: Sets a cap on maximum payments employers will be required to pay for new emergency paid leave requirements. The provision also allows employers to receive an advance tax credit on paid leave rather than having to be reimbursed on the back end.
- Unemployment Insurance: Provides an additional \$600 per week for up to four months on top of state unemployment benefits. The provision also establishes short-term compensation programs for states that allow for employers to reduce workers' hours while still providing employees a pro-rated unemployment benefit.

Individual Provisions

- Individual Rebate Checks: This provision provides checks of up to \$1,200 to single individuals and \$2,400 to married couples (increased by \$500 per child). Check amounts begin to reduce as income exceeds a threshold amount (\$75,000 for individuals/\$150,000 for married filers) and are completely eliminated once income reaches \$99,000 for individuals/\$198,000 for joint filers with no children).
- Distributions from Retirement Plans: Waives the 10% penalty for distributions from certain retirement plans. Only applicable to individuals diagnosed with COVID-19, whose spouse or dependents have been diagnosed or who experience adverse financial consequences from the virus.

Other Provisions

- \$25 billion for food assistance programs
- \$30 billion for emergency education funding for colleges, universities, states and school districts