

What the CARES Act Means For You: Small Businesses

On March 27, the President signed into law the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act. This law is designed to provide emergency assistance for “individuals, families, and businesses affected by the 2020 coronavirus pandemic.” It is estimated that the Act will cost the federal government more than \$2 trillion, which is about 9% of US GDP in a normal year. The Act affects both individuals and businesses. This article addresses the benefits for small businesses.

The provisions apply to small businesses defined as under 500 employees (unless there is a larger standard under the applicable NAICS Code). Key benefits under the CARES Act include generous SBA loan provisions, an employee retention credit, and deferral of payroll tax payments.

Below are details about some of these provisions. For benefits targeted toward individuals, see the accompanying article, “What the CARES Act Means For You: Individuals”. We recommend that small business owners consult with their financial advisor or CPA for details.

Special Provisions for Small Business Loans

Small businesses are eligible for liberalized provisions regarding (7a) Small Business Administration loans, otherwise known as paycheck protection loans. The CARES Act provisions include the following:

- Borrowers must make a good faith certification that the loan is necessary due to the uncertainty of current economic conditions created by COVID-19.
- The loans are up to a maximum of the lesser of \$10 million or 2.5 times the average payroll costs over the previous year (counting only compensation up to \$100,000 per person).
- The loans must be applied for by June 30, 2020.
- The maximum interest rate is 4%.
- The maximum maturity is 10 years.
- The loans will be 100% guaranteed by the SBA.
- The loans can be used to pay specified types of costs including payroll costs, group health insurance premiums, salaries, rent, mortgage interest (excluding prepaid interest), and utilities.
- Payments are deferred for a period of no less than six months and no longer than a year.
- Part of this loan can be forgiven to the extent the business maintains the same number of employees from February 15, 2020 through June 30, 2020, or from January 1, 2020 until February 15, 2020, as it did during the same period the previous year. The extent of the loan that can be forgiven is also reduced if employees with compensation under \$100,000 have their compensation cut by more than 25% compared to the most recent quarter.

- The loan is fully or partially forgiven to the extent, during the first eight weeks after the loan is made, the proceeds are spent on any of the following:
 - Payroll costs, excluding amounts for individuals with compensation of more than \$100,000;
 - Rent pursuant to a lease in force before February 15, 2020;
 - Certain utilities for services which began before February 15, 2020;
 - Group health insurance premiums and other healthcare costs.

Employee Retention Credit

This is available for businesses which either have had their operations fully or partially suspended as a result of a governmental shutdown or received gross receipts in 2020 of less than 50% of gross receipts from the same quarter in 2019. The credit is equal to 50% of wages up to \$10,000 for each employee. For employers with more than 100 employees, the eligible wages are only those paid to employees unable to work due to COVID-19. For employers with 100 or fewer employees, all wages count.

Deferral of payment for payroll and self-employment taxes

Under the CARES Act, there is a one-year credit against an employer's share of Social Security payroll taxes through the end of 2020. This applies for any business forced to suspend operations or close its doors due to COVID-19 as long as the business continues to pay its employees. Half of the payroll taxes owed will be due on December 31, 2021, the other half by December 31, 2022. Self-employed persons can defer half of their tax, which would then be due in two 25 percent portions, on December 31, 2021 and December 31, 2022. Note that this provision is aimed at helping with current liquidity; it does not actually eliminate the tax.