Small Business Implications of the CARES Act*  
(“Coronovirus Aid, Relief and Economic Security” Act)

On March 27, Congress enacted a stimulus package, known as the CARES Act, which includes several proposed protections for “small businesses”, including:

- Loans to support paycheck protections,
- Loan forgiveness,
- Disaster relief loans,
- Streamlined bankruptcy processes, and
- Certain tax benefits.

Paycheck Protection Program - The act establishes a new Paycheck Protection Program benefiting small businesses, non-profits and individuals eligible to seek loans under the SBA’s Section 7(a) loan program.

- Terms of capital availability:
  - A total of $349 billion in total loans from Feb. 15 through June 30 – this is an increase of $319B from the current $30 billion authorization for fiscal 2020.
  - Fully guaranteed loans to eligible participants, compared with the current limits of 75%-85% guarantee.
  - Loans up to $10 million or 250% of their average monthly payroll costs, compared with current limits of of $5 million.
  - Interest rates during the covered period would be capped at 4%.
  - Recipients could use the loans to cover eligible payroll costs -- including salaries, commissions, regular paid leave, and health-care benefits -- as well as mortgage interest and utility payments.
    - Recipients would need to certify funds are used for these purposes.
    - Funds cannot be used for employees with annual pay >$100K or for emergency sick/family leave pay under the second coronavirus response package.
  - Payments on loans could be deferred for at least six months and as long as one year.

- Eligible participants are determined as of Feb 15 (or later) as:
  - Businesses, nonprofits, veterans groups, or tribal businesses with 500 or fewer employees, or a number set by the SBA for the relevant industry.
  - Sole proprietors, independent contractors, and eligible self-employed workers.
  - Hotel and food service chains with 500 or fewer employees per location.

The CARES Act also includes certain provisions making it easier to participate, such as waiving certain fees and collateral requirements. For information on how to apply, the SBA has set up a new webpage with information and an application. The webpage is as follows: https://www.sba.gov/disaster-assistance/coronavirus-covid-19.
**Loan Forgiveness** – The act also allows applications for loan forgiveness for eligible payroll costs and mortgage interest, rent, and utility payments. This canceled debt would not be included as income for tax purposes. Businesses that terminate employees or reduce their pay would have lesser access to these forgiveness provisions.

**Disaster Relief Loans** - The act expands the SBA’s disaster relief loan program from Jan. 31 through Dec. 31. Prior eligibility rules have been eased for disaster loans made in response to Covid-19. Under this program, the SBA can advance as much as $10,000 to existing and newly eligible disaster loan recipients within three days of receiving their applications. These funds would not have to be repaid, and could be used to pay sick leave to employees affected by Covid-19, retain employees, address interrupted supply chains, make rent or mortgage payments, and repay debt.

**Streamlined Bankruptcy Processes** - Businesses with as much as $7.5 million in debt could qualify for a streamlined Chapter 11 bankruptcy process, increased from the current debt limit of $2.73M. For one year, federal payments related to the coronavirus would be excluded from income calculations in the bankruptcy proceedings.

**Taxes** – The CARES Act includes a number of tax relief programs.

- **Payroll Tax Deferral** - Employer payroll tax payments are deferred through the end of 2020. Deferred funds would be paid over two years in 2021 and 2022. This does not apply to employers with debt forgiven under the act. Additionally, self-employed individuals can defer 50% of Social Security tax payments.

- **Employee Retention Credit** – For employers required to suspend operations (or whose gross receipts decline by certain thresholds), a refundable credit against employer payroll taxes is available for retaining their employees. The credit would be for 50% of eligible employee wages paid after March 12, 2020, and before Jan. 1, 2021, for up to $10,000 of compensation per employee (including health benefits). This credit is not available to employers that receive a loan under the Paycheck Protection Program, or if they also receive a credit under the work opportunity tax credit or a paid leave credit.


- **Other Business Provisions** - Companies could more quickly access their remaining alternative minimum tax credits. Businesses could deduct 50% of their interest expenses in 2019 and 2020, with adjustments, instead of 30%. Separate rules would apply for partnerships.

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