



SeldenBeattie

When you know your benefits, everyone benefits.

COVID-19 UPDATE

CARES ACT Update

As of 3/27/2020

The House passed on March 27 a \$2.2 trillion economic stimulus package as the third phase of emergency legislation in response to the coronavirus pandemic. The "Coronavirus Aid, Relief, and Economic Security Act," ([CARES Act](#)) contains tax and nontax relief measures that are designed to avert a U.S. economic collapse. We are hoping Trump signs the CARE Act today.

Stimulus Checks

A headline feature of the CARES Act is a one-time \$1,200 cash payment for eligible individuals (\$2,400 for married couples), with additional cash payments of \$500 per qualifying child. Payments for these "recovery rebates" will commence in the near term, with a desire by the Trump Administration to begin payments in as little as a few weeks. An individual is eligible for the full amount of the cash payment to the extent adjusted gross income (AGI) does not exceed \$75,000 (\$150,000 for married couples filing joint returns, and \$112,500 for head of household filers). The amount of the cash payment begins to phase out as AGI exceeds these levels.

The payments are structured as advance tax refunds for the 2020 tax year. To be eligible for a cash payment the taxpayer, and any qualifying children, must have a work-eligible social security number. Additionally, due to what appears to be a drafting error, individuals who are 17 or 18 years old are not qualifying children for purposes of the additional \$500 payment, nor are they eligible for their own individual payments (if they could be claimed as a dependent by another taxpayer), because they must reach a minimum age of 19.

Unemployment Benefits

Unemployed workers will be eligible for federal unemployment benefits of \$600 per week for four months. This amount is in addition to any state unemployment benefits. Additionally, the benefit is extended to independent contractors, self-employed individuals, individuals with a limited work history, and furloughed workers. Further, federal unemployment benefits will provide an additional 13 weeks of pay once a worker's duration of state unemployment benefits expires. The CARES Act also will fund 100% of the unemployment benefits for states that do not impose a 7-day waiting period.

To reduce the number of unemployed workers, the CARES Act will provide a new short-term compensation benefit. For private sector employers that reduce hours for employees in order to avert layoffs, funding will be provided for the difference between the reduced employer compensation and the unemployment compensation benefit. Employees who receive wages under such a program will be eligible for pro-rated unemployment benefits.

Small and Large Business Loans and Investments

The CARES Act also establishes two major federal loan programs. The first is a \$500 billion loan program for large businesses and municipalities. These funds are subject to oversight by a Treasury Inspector General. As a part of this oversight there is a provision that will "prohibit businesses controlled by the President, Vice President, Members of Congress, and heads of Executive Departments from receiving loans or investments from Treasury programs."

The other large loan program consists of \$367 billion in loans and grants to small businesses. The bulk of this money, \$349 billion, is for guaranteed loans made under the Small Business Act. However, a separate smaller component of this program allows business with 500 or fewer employees to access up to \$10 million each in forgivable loans for expenses such as payroll, mortgage or lease payments, or utilities. In order to obtain these loans, eligible businesses must compensate all employees for 8 weeks, and portions of the small business loans can be forgiven if the business generally does not terminate its employees or reduce their wages (monthly averaging formulas are provided), and waivers are provided for re-hiring by June 30.



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Employer Payroll Tax Holiday

The CARES Act will provide a payroll tax holiday that allows employers to defer the employer portion of their federal payroll tax liability (or 50% of the self-employment tax for the self-employed) through December 31, 2020. Businesses taking advantage of this holiday would repay 50% of the amount deferred in 2021 and the remaining 50% in 2022. The payroll tax holiday could lead to \$349 billion of deferred payroll taxes, though the final amount may be less given the anticipated rise in unemployment.

Employee Retention Credit

There is also a new employee retention credit that comes in the form of a payroll tax credit for 50% of wages paid by an affected employer. An affected employer is one whose operations were fully or partially suspended due to a COVID-19-related shutdown order, or whose gross receipts declined by more than 50 percent when compared to the same quarter in the prior year. This credit is based upon qualifying wages paid by an affected employer and is also dependent on the size of the employer. For small employers (100 or fewer full-time employees) the credit is based upon 100% of wages paid whether the employer is open or has been closed due to a coronavirus shutdown order. For large employers the credit is based upon the first \$10,000 of compensation, including healthcare benefits, paid to employees who are not providing services due to a coronavirus shutdown order. The credit covers the period from March 13, 2020 through December 31, 2020.

Tax Loss Limitation and NOL Carryback Changes

The TCJA also essentially eliminated the ability of businesses to carryback NOLs to prior years. Prior to the TCJA there was a 2 year carryback period; the TCJA generally repealed the ability to carry back NOLs and further reduced the ability to deduct current NOLs to 80% of taxable income. The CARES Act reverses the TCJA change and expands the scope of NOL carrybacks. Under the CARES Act, businesses may carryback NOLs incurred in 2018-2020 for 5 years, and may fully offset income in the carryback years. Also as a part of the changes to the provisions regarding losses, the excess business loss limitation has been modified. The CARES Act will suspend the excess business loss limitation until 2021.

Other Tax Law Changes

The limitation on business interest will also be modified under the CARES Act. For 2019 and 2020, the 30% limit used to determine the amount of deductible business interest will be increased to 50%. Corporations will also see an additional benefit because the rules for refunds of corporate AMT credits have been modified. Instead of receiving these refundable credits over a number of years, ending in 2021, corporations may now receive the entire refundable credit in 2019. Additionally, there is a temporary holiday for aviation fuel excise taxes and a temporary exemption from the excise tax on alcohol for all distilled spirits contained or used in hand sanitizer. This will likely help local alcohol brewers across the country, many of whom have switched to production of hand sanitizer as a response to reduced demand for alcoholic beverages and an increased demand for hand sanitizer.

Take Away

Assuming the House passes the CARES Act and it is signed into law by President Trump, it will be the largest single rescue package ever passed by Congress. With unemployment claims jumping by 3.3 million in a single week, and many states and cities expecting to be shut down for several weeks, at the least this measure is widely seen as a necessary step to recovery.