



WHAT YOU NEED TO KNOW ABOUT THE CORONAVIRUS AID, RELIEF AND SECURITY (CARES) ACT

We hope you and yours are well. These are trying times. Each passing day brings with it new restriction, confusion, disruption and uncertainty. In response to the federal and state legislation passed to deal with the COVID-19 outbreak throughout the United States, The Coronavirus Aid, Relief, and Economic Security, or “CARES Act” was signed into law today by President Trump. The attorneys at Oved & Oved have been painstakingly studying this proposed legislation in order to provide you with the most accurate and informative advice, guidance and solutions to help you successfully navigate the effect the CARES Act may have on your business.

Small Business Loans

Small businesses with 500 or fewer employees (including both full-time and part-time) during the period of February 15 to June 30th, including self-employed individuals, are eligible for loans from approved FDIC lenders of approximately 2.5 times their monthly payroll, plus certain other costs, up to \$10 Million dollars, with a cap of \$100,000 per employee. For businesses in the restaurant and hospitality industry, the employee count is per location. These loans may be used to pay salaries, paid sick/medical leave, insurance premiums, rent and utility payments.

Moreover, these loans may also be forgiven, tax free, provided that wages and employment levels stay the same, or if reduced-pay or laid-off employees are brought back to their prior salary levels and/or re-hired by June 30, 2020.

The CARES Act also expands the SBA’s Disaster Loan Program under which an entity may request an emergency advance from the Administrator of up to \$10,000, which does not have to be repaid, even if the loan application is later denied. Advances may be used for purposes already authorized under the SBA Disaster Loan Program, such as maintaining payroll during business disruptions during slow-downs, meeting increased supply chain costs, and making rent or mortgage payments.

Loans for Larger Companies

The CARES Act allocates nearly \$500 billion in loans, loan guarantees and investments to larger businesses, including \$25 billion for passenger airlines, \$4 billion for cargo airlines, \$17 billion for national security businesses. The balance of \$454 billion will be made available to provide loans, loan guarantees, and investments to mid-size businesses and eligible non-profit organizations that have between 500 and 10,000 employees, and will bear interest at up to 2%, with no payments required on interest or principal for six months. However, the businesses receiving these loans must bear significant restrictions, such as a prohibition on issuing dividends for up to a year after the loan repaid, and must retain 90% of employment levels as of March 24, 2020 “to the extent practicable,” through September 30, 2020. The loans cannot extend beyond five years, and will be overseen by a congressional committee.

CLIENT ALERT

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Unemployment Insurance Expansion

The CARES Act provides jobless workers with an extra \$600 per week for up to four months on top of their state benefits. While state unemployment checks prior to the COVID-19 crisis lasted 12-28 weeks depending on the state, the CARES Act allows for up to 13 additional weeks of benefits, fully covered by the Federal government. Further, a new pandemic unemployment assistance program will provide jobless benefits to those who are unemployed, partially unemployed or unable to work because of COVID-19 and do not qualify for traditional benefits, such as independent contractors, and self-employed individuals.

Mortgage Payment Extensions—Foreclosure and Eviction Prohibitions

The CARES Act includes significant protections against foreclosures on mortgages and evictions for renters providing up to 60 days of forbearance on federally-backed mortgages due to financial hardship from COVID-19, which can be extended for four periods of 30 days each. Servicers of federally-backed mortgages may not commence foreclosures for 60 days from March 18, 2020. The CARES Act also prohibits servicers of federally-backed mortgages from charging fees, penalties or additional interest to be charged as a result of delayed payments. The CARES Act also includes similar protections for those with multifamily federal mortgage loans, allowing them to receive a 30-day forbearance and up to two 30-day extensions. Importantly, those with federally backed mortgage loans who have tenants would also not be allowed to evict tenants solely for failure to pay rent for a 120-day period, nor are they permitted to charge fees or penalties to tenants for failing to pay rent.

Individual Stimulus Payments—Student Loan Relief

U.S. residents with an adjusted gross income of up to \$75,000 if single or \$150,000 if married filing jointly, and who are not dependent on another taxpayer or non-resident alien, are eligible to automatically receive a full stimulus payment of \$1,200 or \$2,400, respectively, with an additional \$500 per child. However, these stimulus payments are phased-out as adjusted gross income reaches \$99,000 or \$198,000, respectively. Recipients' adjusted gross incomes will be based on their 2018 returns or, if already filed, their 2019 returns. Though it is presently unclear, the government has indicated the checks will arrive in April or May.

In addition, the Department of Education will suspend payments on student loans without penalty through September 30, 2020.

Withdrawal of Retirement Account Penalty Waived

The 10% penalty for early withdrawal from retirement accounts is waived for the first \$100,000 withdrawn, on or before January 1, 2020, for a person who was diagnosed with COVID-19, whose spouse or dependent was diagnosed with COVID-19, or who experienced financial hardship as a result of COVID-19 because they were laid off, furloughed, had a reduction in hours, were quarantined, or unable to work because of a lack of childcare, or other factors promulgated by the Treasury. The prematurely-withdrawn sum must be repaid over three years or included as taxable income over three taxable years. Similarly, the requirement that certain defined benefit plans and IRAs make minimum distributions are waived for 2020.

Charitable Contributions

In order to encourage charitable contributions, individuals are allowed unlimited charitable contribution deductions for 2020 and corporations are allowed to deduct 25% of taxable income for charitable contributions, made in 2020, an increase from 10%.

Employee Retention Tax Credit

Employers whose operations were fully or partially suspended due to COVID-19 shutdown orders, or who had gross receipts decline by more than 50% from the same quarter last year, are entitled to a refundable credit against payroll tax equal to 50% of the first \$10,000 in wages paid by employers per employee between March 13, 2020 to December 31, 2020. This benefit changes depending on the size of the employer. Specifically, employers with more than 100 employees are only allowed relief for wages paid to those employees *not* providing services due to COVID-19, while employers with 100 employees or less are able to take advantage of the credit for all wages. Notwithstanding the foregoing, regardless of the number of employees employed, the credit is only for the first \$10,000 of compensation, including health benefits, per employee.

Deferral of Employer Side of Payroll Tax

Employers may defer payment, for two years, of the 6.2% employer portion of Social Security Tax for wages paid during 2020 as follows; one half of these amounts will be due on each of December 31, 2021 and December 31, 2022.

Modification to Declaring Business Losses

The CARES Act amends the carryback rule for a business's net operating losses such that losses that arise in 2018, 2019, and 2020 may be carried back five years. In addition, the 80% taxable income limit for net operating losses has been removed and the excess business loss limitation for pass-through businesses and sole proprietors has been suspended for tax years beginning in 2018, 2019 and 2020.

Business Interest Deductions and Modified Depreciation

The limitation on interest expense deductions have been temporarily increased from 30% to 50% of adjusted taxable income for the tax years of 2019 and 2020. In addition, businesses may use their 2019 adjusted taxable income if it is more favorable for the 2020 calculation.

Depreciable life for property depreciations has been reduced from 39 years to 15 years, retroactive to the beginning of 2018, to permit investment property owners to take higher depreciation deductions.

Amendments Regarding Qualified Improvement Property

The CARES Act amends the prior legislation with respect to qualified improvement property. The depreciable life is amended from 39 years to 15 years retroactive to the beginning of 2018. In addition, taxpayers will now be able to take bonus depreciation on qualified improvement property.

We Are Here to Help

Information, disinformation and misinformation about the CARES Act abounds. You will have questions. We will have answers. Our expert attorneys are available to assist in seamlessly guiding you through this complex process during this particularly tumultuous period so that you can immediately apply for all of the relief your business is eligible for and desperately needs. Please do not hesitate to call or email us with any questions you may have. Stay safe. Be well. Remember, this too shall pass.