CARES ACT

Summary of Important Provisions for Individuals and Small Business Owners

On March 27, 2020, the Coronavirus Aid, Relief and Economic Security Act (CARES Act) was signed into law by President Donald J. Trump. The CARES Act provides emergency financial relief to individuals, businesses and specific industries in connection with the COVID-19 pandemic. The Act directs additional dollars and expands resources for a broad array of emergency relief measures. We have prepared this summary of provisions that may be of interest to you.

The material below is presented with a view to distilling the massive amount of information in the CARES Act into a friendly format. This summary is divided as follows:

- Part I: Extended Tax Deadline and Economic Impact Payments for Individuals
- Part II: Enhancements to Unemployment Benefits
- Part III: Withdrawing from your Retirement Plan and IRA or Waiving your RMD
- Part IV: Student Loan Deferment
- Part V: Changes to Charitable Contribution Limits
- Part VI: Loans Available to Small Businesses

I. EXTENDED TAX FILING DEADLINE AND ECONOMIC IMPACT PAYMENTS FOR INDIVIDUALS

When is the 2019 tax deadline?

The deadlines to file and pay federal income taxes, originally due on April 15, 2020 are extended to July 15, 2020.

Am I eligible for an Economic Impact Payment?

Maybe. Tax filers with an adjusted gross income up to $75,000 for individuals (and up to $150,000 for married couples filing jointly) are eligible to receive the full payment. For tax filers with income above those amounts, the eligible payment amount is reduced by $5 for each $100 above the $75,000/$150,000 thresholds. Single filers with income exceeding $99,000 ($198,000 for couples filing jointly) and with no children are not eligible.

In addition, Social Security recipients and railroad retirees who are otherwise not required to file a tax return are also eligible for a payment and will not be required to file a return.

What is the amount of the Economic Impact Payment?

Eligible persons who filed tax returns for either 2019 or 2018 will automatically receive an economic impact payment of up to $1,200 for individuals ($2,400 for married couples) and up to $500 for each qualifying child.

When will I receive my Economic Impact Payment?

The IRS is scheduled to begin sending payments in the next three weeks. For most filers, payments will be sent automatically. Individuals who receive Social Security benefits who are not typically required to file tax returns will not need to file to receive a payment; payments will be automatically deposited into their bank accounts. However, some individuals who typically do not file tax returns will need to submit a simple tax return to receive the economic impact payments.

How will the IRS know where to send my Economic Impact Payment?
The vast majority of people do not need to take any action. The IRS will calculate and automatically send the economic impact payment to those eligible. The economic impact payment will be deposited directly into the same banking account reflected on the 2019 (or 2018 return if a 2019 return has not been filed) return filed. For those individuals who do not have direct deposit information on file, there will be a Treasury Department online portal developed soon to obtain banking information for the IRS, so that payments may be immediately sent.

Can I receive a payment if I am not typically required to file a tax return?
Yes. The IRS plans to use the information on the Form SSA-1099 or Form RRB-1099 to generate payments to recipients of benefits reflected in the Form SSA-1099 or Form RRB-1099 who are not required to file a tax return and did not file a return for 2018 or 2019. This includes senior citizens, Social Security recipients and railroad retirees who are not otherwise required to file a tax return. Such persons would receive $1,200 per person, without any additional amount for any qualifying children.

I have not filed my tax return for 2018 or 2019. Can I still receive a payment?
Yes. Economic Impact Payment will be available throughout the rest of 2020. The IRS is encouraging persons who are required to file returns but who have not yet filed for 2018 or 2019 to file as soon as they can to receive a payment, and to include direct deposit banking information on the return.

II. ENHANCEMENTS TO UNEMPLOYMENT BENEFITS

Am I eligible for unemployment insurance?
Each state administers its own unemployment benefits program. As a result, eligibility will vary by state. The CARES Act extends eligibility to include individuals who are not typically eligible (e.g., self-employed individuals, part-time individuals, and independent contractors). The Act also expands eligibility to include persons who have been diagnosed with COVID-19, have a household member with COVID-19 or are unable to go to work because of quarantines, and individuals who had to quit their jobs or are laid off because of COVID-19.

What are the changes to unemployment benefits under the CARES Act?
The CARES Act increases the amount of unemployment benefits available to affected workers by $600 per week, and extends the length of time for payments for up to four months.

How do I apply for unemployment benefits?
Visit your state’s website or call to obtain more information about applying for benefits.

How soon will I receive benefits after I submit my application?
This will also vary by state and the volume of applications that are received.

III. WITHDRAWING FROM YOUR RETIREMENT PLAN OR IRA AND WAIVING YOUR RMD

The CARES Act permits certain retirement plans to make tax-favored distributions and authorizes expanded loans from retirement plans with the aim of providing financial resources for employees directly impacted by the COVID-19 pandemic.

Can employees take a distribution from their 401(k) plan if they have been affected by the coronavirus?

Yes, under certain circumstances. Under the CARES Act, a 401(k) plan can permit an employee to take a distribution from a 401(k) plan if the employee:

- is diagnosed with COVID-19,
- has a spouse or dependent diagnosed with COVID-19, or
- has experienced adverse financial consequences stemming from COVID-19 as a result of
  - being quarantined, furloughed or laid off,
  - having reduced work hours or
  - being unable to work due to lack of child care.

Can non-employee business owners also take a distribution from their 401(k) plans?

Yes. Plans can permit business owners to take a distribution from their 401(k) plan accounts if they or a spouse or dependent have been diagnosed with COVID-19 or if they have experienced adverse financial consequences stemming from COVID-19 as a result of the closing or reduction of hours of their business.

Is there a limit on how much can be distributed from a 401(k) plan for these purposes?

Yes. Distributions for the reasons described above (referred to as "coronavirus-related distributions") are limited to $100,000 from all retirement plans maintained by the same employer (and the employer's affiliates).

What if an employee or business owner is still working full-time and neither has COVID-19 nor has a family member with COVID-19, but has lost income due to the general business slow down. Is a coronavirus-related distribution available under those circumstances?

It is not clear whether a coronavirus-related distribution would be permitted in this situation. We expect that the IRS will issue addition guidance soon. Hopefully, it will address this situation.

If plan participants cannot take a coronavirus-related distribution because they do not meet the criteria, they still may be able to take 401(k) plan distributions if they meet other criteria. For example, plan participants who are over age 59 ½ or experiencing a financial hardship may be able to take a distribution if permitted under the plan. The standards for a hardship distribution are quite strict, however. Participants should check the summary plan description or plan document to see whether they meet the requirements.

Do participants have to pay tax on a distribution from their 401(k) plan?

Yes, but the CARES Act provides special favorable tax treatment for coronavirus-related distributions. Normally, if a plan participant take a distribution from a 401(k) plan, the distribution must be included in income in the year of distribution, is subject to 20% withholding and, if the participant is under age 59 ½, is subject to an additional 10% early distribution tax.

Coronavirus-related distributions of $100,000 or less are not subject 20% withholding, are not subject to the 10% additional tax on early distributions and can be included in income ratably over three years.

Can participants repay coronavirus related distributions in the future if they have the money to do so?

Yes. Coronavirus-related distributions can be repaid, in full or in part, at any time during the three years following the distribution.

Can participants take a loan from a plan instead of a distribution?

Yes, if the plan permits loans. If a participant meets the criteria for a coronavirus-related distribution, the participant may be able to borrow more than is normally permitted and postpone some of the loan repayments. The individuals eligible for these special loan provisions are participants who:

- have been diagnosed with COVID-19,
- have spouses or dependents diagnosed with COVID-19, or
- have experienced adverse financial consequences stemming from COVID-19 as a result of
    - being quarantined, furloughed or laid off,
    - having reduced work hours,
    - being unable to work due to lack of child care or
    - for business owners, the closing or reduction of hours of the owner's business.

How much can a participant borrow from a plan?

If the participant is an eligible individual described above, the participant can borrow up to the lesser of $100,000 or 100% of the participant's vested account balance. This special rule applies to loans made in the next 6 months (up to approximately September 27, 2020). If a participant is not an eligible individual (or the plan does not adopt the higher loan limits), a participant can borrow up to the lesser of $50,000 or 50% of the participant's vested account balance.

How long can a participant take to repay the loan?

Generally, any loan from a retirement plan must be repaid within 5 years, but participants who are eligible individuals described above can postpone for one year any loan payment that is otherwise due between March 27 and December 31, 2020.

Can participants who previously took a plan loan also postpone their loan repayments?

Yes. Participants who are eligible individuals described above can postpone for one year any plan loan payments otherwise due between March 27 and December 31, 2020, if the plan permits the deferral.

Does interest accrue on the loan payments that are suspended?

Yes. Interest still accrues on suspended payments. The remaining payments must be adjusted to reflect the suspension.

Are retirement plans required to allow coronavirus related distributions and loans?

No. Plans are not required to permit these distributions or loans, and some plan recordkeepers may not be able to program their systems immediately (or ever) to accommodate these new options.

I am typically required to take a RMD from my retirement plan and/or IRA. Do I have to take my RMD this year?

In addition to the changes described above, the CARES Act allows defined contribution plans and IRAs to suspend making required minimum distributions in 2020, including any initial required minimum distributions for 2019 that would have been due by April 1, 2020. Required minimum distributions are the distributions that retired participants are required to take when they reach age 70 ½ (recently changed to age 72).

Additionally, any distributions made in 2020 that, but for the CARES Act, would have been a required minimum distribution, and thus not eligible for tax-free rollover, will instead be eligible for rollover, but not subject to the 20% withholding that normally applies to eligible rollover distributions.

If an individual has already received a required minimum distribution in 2020, it appears that amount is now eligible to be rolled into an IRA or another qualified plan, if the rollover requirements can otherwise be satisfied. Additional IRS guidance on this issue may be forthcoming.

IV. STUDENT LOAN FORBEARANCE

Which student loans are eligible for forbearance?

Federal student loan borrowers are automatically being placed in an administrative forbearance, which allows students to temporarily stop making your monthly loan payments until Sept. 30, 2020. Students can still make payments if you choose. This forbearance does not apply to private student loans.

Do I need to apply for student loan deferment?

For federal student loans, the forbearance will be automatic. You are not required to take action. Automatic payments are automatically suspended during forebearance.

Which student loans are eligible for 0% interest rates?

From March 13, 2020 through Sept. 30, 2020, the interest rate is 0% on the following types of federal student loans owned by the U.S. Department of Education: (1) defaulted and non-defaulted Direct Loans; (2) defaulted and non-defaulted FFEL Program loans; and (3) Federal Perkins Loans. However, some FFEL Program loans are owned by commercial lenders, and some Perkins Loans are owned by the institution you attended. These loans are not eligible for a 0% interest rate.

Do I need to apply for a 0% interest?

If your federal student loans are eligible, the Department of Education will automatically adjust your account so that interest does not accrue effective March 13, 2020.

If I made a student loan payment for March, can I request that my payment be refunded?

If your payment was made on or after March 13, 2020, you may contact your loan servicer to request that your payment be refunded.

V. CHANGES TO CHARITABLE CONTRIBUTION LIMITS

What are the charitable contribution changes under the CARES Act for individuals?

Beginning in 2020, the CARES Act increases the deductible amount for an individual's "qualified contributions" to 100% of the individual's adjusted gross income, subject to a reduction for other charitable contributions.

In addition, individuals who take the standard deduction may claim an above-the-line tax deduction for cash donations to qualified charitable organizations, up to $300.

VI. LOANS AVAILABLE TO SMALL BUSINESSES

The CARES Act expands eligibility for certain loan programs available under the Small Business Act, and also provides additional funds for existing programs and borrowers. If you are looking for capital for your small business to cover the cost of retaining employees, then you may want to read about the Paycheck Protection Program. If you are in need of a smaller amount of cash to cover immediate needs, you may want to look into an Economic Injury Disaster Loan and Loan Advance. If you are concerned about keeping up with payments on a current or potential SBA loan, then you may be eligible to qualify for six months of loan payments to be made by the Small Business Administration. A summary of these programs are included in the charts below.

Paycheck Protection Program

Under the CARES Act, the Paycheck Protection Program provides up to $349 billion for job retention and certain other expenses. Small businesses and individuals who are self-employed or are independent contractors are eligible. Small businesses may qualify for up to $10 million, depending on the small businesses 8 weeks of prior average payroll costs, plus an additional 25% of that amount. Most importantly, loans may be fully or partially forgiven under this program, depending on the use of the loan proceeds and the ability of the small business to maintain full-time employees and salaries.

	Paycheck Protection Program
Eligibility	Generally, small businesses with less than 500 employees (including sole proprietorships, independent contractors and self-employed persons) affected by COVID-19.
Criteria	The small business must certify in good faith that: (1) the loan request is necessary due to uncertain times; (2) the proceeds of the loan will be used for allowable expenses; (3) it has not applied for certain other loan programs.
Fees	No fees, collateral, or guarantees required.
Deadline to apply	June 30, 2020 (lenders may begin processing loan applications as soon as April 3, 2020)
How to apply	In general, through any existing SBA lender or participating bank or credit union.
Approval	Lenders must notify you of approval within 60 days of receiving your application.
Interest Rates	Maximum interest rate is 4%. As of 4/3/2020 the interest rate is 1% fixed and a 2-year note term.
Restrictions on use	Small businesses must use the proceeds of loan by June 30, 2020 for: (1) payroll costs; (2) costs related to the continuation of group health care benefits during periods of paid sick, medical or family leave and insurance premiums; (3) employee salaries, commissions or similar payments; (4) payments of interest on any mortgage obligation (which cannot include any prepayment of or payment of principal on a mortgage obligation); (5) rent (including rent under a lease agreement); (6) utilities; and (7) interest on any other debt obligations that were incurred by June 30, 2020.
Loan Forgiveness	Full or partial forgiveness are available if the proceeds are used for payroll, rent, mortgage interest, or utilities. In addition, the

	amount of loan forgiveness will be reduced by decreases in either full-time headcount or salaries and wages.
Deferment	Loan payments may be deferred for at least six months, but no longer than one year.

COVID-19 Economic Injury Disaster Loans

Separate from the Paycheck Protection Program, the CARES Act establishes additional funds for the SBA's Economic Injury Disaster Loans (EIDL) and Loan Advances for small business owners. EIDLs are a low-interest loans that are administered directly through the SBA. Typical EIDLs require a small business that is applying for the loan to be located in an area that has been declared an "eligible area." However, given the far-reaching impact of the COVID-19 pandemic, the CARES Act deems all small businesses to be impacted and eligible for EIDLs. Typical EIDLs do not provide loan advances upon completion of an application, however, the CARES Act provides a loan advance (up to $10,000) that functions more like a grant because it does not have to be repaid. If a small business has already applied for a EIDL, it may now supplement its application to request a loan advance.

Eligibility	**Generally, small businesses with less than 500 employees (including sole proprietorships, independent contractors and self-employed persons) affected by COVID-19 and that were in business as of January 31, 2020.**
Criteria	The loans are available to businesses in all 50 states. The CARES Act notes that small businesses will need to certify to their eligibility.
Fees	The CARES Act does not provide details on fees or collateral. No personal guarantees are required for loans and advances totaling less than $200,000.
Deadline to apply	December 31, 2020
How to apply	Small businesses should apply directly with the SBA.
Approval	The loan advance will be issued within 3 days of receiving your application. Loan approval will depend on volume.
Interest Rates	The CARES Act does not specify the maximum interest rate. However, the SBA interest rate for profit businesses is 3.75% and 2.75% for non-profits.
Restrictions on use	The loan advance may be used to: (1) provide paid sick leave to employees unable to work due to COVID–19; (2) maintain payroll to retain employees; (3) meet increased costs to obtain materials unavailable from original sources due to interrupted supply chains; (4) make rent or mortgage payments; and (5) repay obligations that cannot be met due to revenue losses.

	The loan may be used to pay fixed debts, payroll, accounts payable, or other bills that cannot be paid because of the COVID-19 pandemic.
Loan Forgiveness	The loan advance does not need to be repaid under any circumstance, even if you are not approved for the EIDL program. However, if a small business applies for an EIDL, receives a loan advance, and is later approved for the Paycheck Protection Program, then the advance amount will be subtracted from any loan forgiveness under the Paycheck Protection Program.
Deferment	You may not defer payment on EIDLs, but these loans typically offer longer maturities.

SBA Debt Relief Program

In addition to expanding the availability of loans, the CARES Act allocates $17 billion in emergency relief for certain borrowers who have existing loans under the SBA. The SBA can use the allocated funds to make payments on behalf of borrowers. More specifically, the Small Business Administration will pay the principal, interest and any associated fees that are owed on a covered loan in a regular servicing status. This program excludes loans made under the Paycheck Protection Program.

Eligibility	Small businesses who have or obtain: (1) any SBA 7(a) loans (excluding loans under the Paycheck Protection Program); (2) SBIC loans; or (3) microloans.
Criteria	The loan must be in regular servicing status.
Deadline to apply	The CARES Act does address the deadline for this program.
How to apply	The CARES Act does address how to apply for this program.
Benefits	The Small Business Administration will pay principal, interest and fees, according to the following: For covered loans obtained prior to March 27, 2020 and not currently deferred, the Small Business Administration will make payments for 6 months beginning with the next payment due. For covered loans obtained prior to March 27, 2020 and currently deferred, the Small Business Administration will make payments for 6 months beginning with the next payment due after the deferment ends. For covered loans obtained between March 27, 2020 and ending 6 months after, the Small Business Administration will make payments for 6 months beginning with the first payment due.