



Managing Your Business Through the Covid-19 Crisis: Unwrapping the “CARES Act” Federal Relief Package

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Welcome



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Today's Agenda

- Paycheck Protection Loan Program
- Emergency EIDL Grants
- Federal Pandemic Unemployment Compensation
- Recovery Rebates
- Tax Favored Withdrawals from Retirement Plans
- Charitable Contributions Deduction Modifications
- Exclusions for Employer Payments on Student Loans
- Employee Retention Credits
- Payroll Tax Deferment
- Technical Amendments Regarding Qualified Improvement Property
- Modifications of Limitation on Business Interest Expense
- Modifications for Net Operating Losses

Today's Presenters



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Paycheck Protection Loan Program

- Loan covering payroll costs incurred during the period beginning on February 15, 2020 and ending on June 30, 2020
- Eligible Recipients include:
 - Small businesses with less than 500 employees (*aggregated for affiliates*)
 - Certain nonprofit organizations, veteran's organizations, or Tribal business concerns with less than 500 employees
 - Businesses operating as sole proprietorships
- Loans can be obtained through banks or the SBA



Paycheck Protection Loan Program

- An applicant business must certify that:
 - The applicant does not have an application pending for another loan under Section 7(a) for the same purposes; and has not received loan proceeds from another loan under Section 7(a) during the period February 15, 2020, to December 31, 2020, for the same purposes
 - Lenders may only consider whether an applicant was in operation on February 15, 2020 and had employees for whom the applicant paid salaries and payroll taxes



Payroll Costs Included

- Payroll costs include the sum of payments of any compensation with respect to employees that is:
 - Salary, wage, commission, or similar compensation;
 - Payment of cash tip or equivalent;
 - Payment for vacation, parental, family, medical, or sick leave;
 - Allowance for dismissal or separation;
 - Payment required for the provisions of group health care benefits, including insurance premiums;
 - Payment of any retirement benefit; or
 - Payment of State or local tax assessed on the compensation of employees; and
- The sum of the payments to an independent contractor that would be subject to SE tax that do not exceed \$100,000



Excluded Payroll Costs

- Payroll costs shall not include:
 - Payroll of an employee that exceeds \$100,000 (*need to prorate over the covered period if less than a year*)
 - Compensation to an individual whose principal place of residence is outside of the U.S.
 - Payroll tax withholding
 - Wages for which a credit was taken under Families First Coronavirus Response Act
 - Qualified family leave wages for which a credit is allowed under section 7003 of the Families First Coronavirus Response Act



Maximum Loan Amount

- During the covered period, with respect to a covered loan, the maximum loan amount shall be the lesser of:
 - 2.5 times the average total monthly payments by the applicant for payroll costs incurred during the 1 year period before the date on which the loan is made or \$10,000,000
 - There are also rules around calculating the average for new businesses that have not been in existence for a full year
 - In the case of an applicant that is a seasonal employer, the average total monthly payments for payroll shall be for the 12-week period beginning February 15, 2019, or at the election of the eligible recipient, March 1, 2019, and ending June 30, 2019



Allowable Uses of the Loan Proceeds

- Payroll costs;
- Costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums;
- Employee salaries, commissions, or similar compensations;
- Payments of interest on any mortgage obligation (*which shall not include any prepayment of or payment of principal on a mortgage obligation*);
- Rent (*including rent under a lease agreement*);
- Utilities; and
- Interest on any other debt obligations that were incurred before the covered period



Structure of the Loan

- 10 year maturity with interest not to exceed 4%
- 6 month deferral of principal and interest
- No personal guarantees, collateral and other common SBA loan conditions



Amount of Loan Forgiveness



- Not automatic
- An amount equal to the sum of the following costs incurred and payments made during the 8-week period beginning on the date of the origination of the loan:
 - Payroll costs
 - Any payment of interest on any covered mortgage obligation (*which shall not include any prepayment of or payment of principal on a covered mortgage obligation*)
 - Any payment on any covered rent obligation
 - Any covered utility payment

Amount of Loan Forgiveness

- The loan forgiveness cannot exceed the principal
- The loan forgiveness will be reduced to the extent there is a reduction in payroll during the 8-week covered period (*there is an exception for rehired employees*)
- The amount of forgiveness is excluded from gross income
- Forgiveness cannot be combined with the *Payroll Tax Deferral* (discussed later)



Application for Loan Forgiveness

- Borrowers must submit an application for forgiveness to their lender that includes a certification and documentation demonstrating the relevant FTE figures, as well as their payroll costs, mortgage payments, rent payments and utilities payments
- Forgiveness will not be given without sufficient documentation, so borrowers are encouraged to develop and implement comprehensive recordkeeping practices
- Lenders are required to render a decision on an application no later than 60 days after it is submitted



Emergency EIDL Grants

- Grant is equal to \$10,000
- The amount of the grant would reduce the loan forgiveness amount to the extent a Paycheck Protection Loan was obtained and forgiveness was sought
- Eligibility for access to EIDL's include ESOPs with fewer than 500 employees or any individual operating as a sole proprietor or an independent contractor during the covered period (*January 31, 2020 to December 31, 2020*)
- Grant is given within 3 days of the Administration receiving the application
- Proceeds can be used to fund payroll costs as well as other business-related expenses



Federal Pandemic Unemployment Compensation

- The federal government to fund to the state an additional unemployment benefit equal to \$600 per week (*in addition to what is received in state benefits*)
- The \$600 payments end July 31, 2020



Recovery Rebates

- \$1,200 (\$2,400 in the case of eligible individuals filing a joint return), plus \$500 per dependent child
 - The amount is decreased by 5% or so much of the taxpayer's adjusted gross income that exceeds:
 - \$150,000 in the case of a joint return;
 - \$112,500 in the case of a head of household, and;
 - \$75,000 in the case of a taxpayer filing as single
 - The term 'eligible individual' means any individual other than any nonresident alien individual, an individual that is claimed as a dependent on someone else's return and an estate or trust
 - The government may certify and disburse refunds electronically to any account to which the payee authorized, on or after January 1, 2018
 - If a tax return has not been filed for 2019, the 2018 year will be utilized to determine adjusted gross income



Tax Favored Withdrawals from Retirement Plans

- Individuals can withdraw up to \$100,000 for coronavirus-related purposes
- The distribution will not be subject to the 10% early withdrawal penalty
- It will be subject to income tax but can be spread over a three-year period
- Return distributions to the retirement account over three years, with such redeposits not subject to annual contribution limits
- Loans can also be taken from a qualified retirement plan equal to the lesser of the vested balance or \$100,000. Repayment can be deferred up to a year
- There is also a temporary waiver for 2020 RMD's



Charitable Contributions

- Corporations
 - Temporary increase of the 10% limit on charitable contribution deductions to 25% of taxable income
 - Excess contributions may be carried forward to future years
- Individuals
 - Above-the-line deduction for “qualified charitable contributions” up to \$300 for individuals who do not itemize deductions
 - Increases the income limitations on charitable deductions by suspending the 50% adjusted gross income (AGI) limitation for 2020
 - Thus, individuals may deduct qualified contributions in 2020 up to 100% of their AGI. Any excess qualified contributions are carried forward to future years in the same manner as other charitable contribution carryovers
 - This above-the-line charitable deduction may not be used to make contributions to a non-operating private foundation or to a donor advised fund



Employer Payments on Student Loans

- Employees can exclude up to \$5,250 from income to the extent an employer pays a portion of student loans for payments made before January 1, 2021



Employee Retention Credits

- Businesses that do not receive SBA loans eligible for forgiveness may be entitled to claim refundable credits against their quarterly payroll tax liabilities
 - Maximum credit is 50% of qualified employee wages up to \$10,000 of wages (*a credit of \$5,000 per employee*) that have been paid between March 12 and December 31, 2020
 - For employers with more than 100 employees, only wages paid to employees who are not working due to COVID-19 are eligible for the credit
 - There is no work requirement for employers with 100 or fewer employees
 - The credit is reported on the employer's quarterly employment tax return and is a refundable credit to the extent that it exceeds the combined employer and employee payroll and withholding taxes



Payroll Tax Deferment

- Employers and self-employed individuals may defer payment of the 6.2% employer payroll tax on wages paid during 2020
 - Applies only to the employer's share of Social Security tax
 - Does not apply to the employer's Medicare taxes nor to the employee's share of Social Security or Medicare taxes
- Half of the amount otherwise payable is due December 31, 2021 and the remainder is due December 31, 2022
- Not available to an employer who has any SBA loan forgiven under the program previously discussed

DEFERRED

Qualified Improvement Property

- Allows taxpayers to apply the accelerated bonus depreciation rules to qualified improvement property (QIP)
- Retroactive to the TCJA's enactment
- Potential refund opportunities for taxpayers
 - Amended 2018 return
 - Possibly an accounting method change with the taxpayer's 2019 return



Business Interest Expense

- Temporarily modifies the 30% of adjusted income (ATI) to 50%
 - May elect to use the 30% limitation instead (*would affect taxable years beginning in 2019 or 2020*)
 - May elect to use 2019 ATI to calculate 50% of ATI limitation for 2020
- Partners of partnerships subject to the business interest expense limitation rules
 - Able to treat 50% of any allocated excess business interest expense from the partnership during 2019 as fully deductible in tax year 2020
 - Remaining 50% is subject to the normal rules under IRC §163(j) and is only deductible by the partner in a future year if that same partnership passes through excess taxable income or excess business interest income



Net Operating Losses (“NOLs”)

- 2018, 2019 or 2020 NOLs can be carried back five years
- Companies can fully offset taxable income with such carrybacks or carryforwards
(80% taxable income limitation suspended)
- Limitation on excess business losses for noncorporate taxpayers retroactively postponed until 2021
- May be an opportunity to amend to claim the additional loss and receive a refund



Questions



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