



# Memo

**To:** Clients and Friends of SKMB, P.A.  
**From:** Ed Bortnick  
**Date:** March 27, 2020  
**Re:** Coronavirus Aid, Relief and Economic Security Act (CARES ACT)

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**Following is a summary of the Business Provisions of the CARES ACT has been passed to the Senate and sent to the House of Representatives, be modified by the House or be signed into law... There is no guarantee that it will pass the House However, we want our clients to be first in line for programs like the "Paycheck Protection Loans" as the bill includes \$350 billion for the xprogram and we expect the funds to go quickly.**

## Small Business Loans

Businesses with fewer than 500 employees will have access to nearly \$350 billion in loans

- A) The period for taking these loans (known as the "covered period" runs from February 15, 2020 through June 30, 2020.
- B) The loans are referred to as "paycheck protection loans."
- C) The loans are fully guaranteed by the federal government through December 31,2020.
- D) After December 31, 2020 loans in excess of \$150,000 are 85% guaranteed by the federal government.
- E) The loans are generally limited to:
  - 1. The average monthly "payroll costs" (Defined below) for the one-year period ending on the date the loan was made
  - 2. \$10 million
- F) Payroll costs are the sun of the following items:
  - 1. Wages, commissions, salaries, or similar compensation to an employee or contractor
  - 2. Payment of a cash tip or equivalent
  - 3. Payment for vacation, parental, family, medical or sick leave
  - 4. Allowance for dismissal or separation
  - 5. Payment for group health payments, including premiums
  - 6. Payment of any retirement benefits
  - 7. Payment of state or local tax assessed on the compensation of the employee
- G) Payroll costs do not include:
  - 1. The compensation of any individual employee with an annual salary in excess of \$100,000
  - 2. Payroll taxes
  - 3. Any employee whose principal place of residence is outside the United States'
  - 4. Any qualified sick or family medical leave for which a credit is allowed under the Coronavirus Relief Act

### **Small Business Loans (Continued)**

- H) The loans will have a maximum maturity of 10 years with an interest rate not to exceed 4%
- I) The standard fees imposed under Section 7 of the Small Business Act are waived
- J) The owner will not have to personally guarantee the loan
- K) The CARES Act provides for a possible deferral of repayment of the loans for a period of six months, not to exceed one year

### **Paycheck Protection Loans Loan Forgiveness**

- A) A portion of the “paycheck protection loan” can be forgiven tax-free
  - 1) The amount to be forgiven is the sum of the following payments made by the borrower during the eight-week period beginning with the date of the loan
    - Payroll costs (as listed above)
    - Mortgage Interest
    - Rent
    - Certain utility payments
- B) To seek forgiveness, a borrower must submit to the lender an application that includes documentation verifying the number of employees and pay rates, and cancelled checks showing mortgage, rent, or certain utility payment
- C) The amount to be forgiven will be reduced if the employer:
  - 1. Reduces its workforce during the 8-week covered period when compared to other periods in 2018 or 2019
  - 2. Reduce the salary or wages paid to an employee who has earned less than \$100,000 in annualized salary during the covered period

### **Payroll Protection Program**

- A) Good faith certification required- The following representations must be made:
  - 1. The current uncertainty makes the loan necessary to support ongoing operations
  - 2. The funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments

### **SBA Disaster Loans (EIDL)**

- A) The entire country has been declared a disaster loan
- B) A recipient of an economic injury disaster loan is generally not barred from obtaining a loan under the Payroll Protection Program
- C) Applies to any business, non-profit, veterans’ organization or Tribal business with generally not more than 500 employees
- D) An applicant can request an advance of \$10,000 to be provided within three days of applying
- E) The advance may be used for providing sick leave, maintaining payroll to retain employees, meeting increased material costs, making rent or mortgage payments, and repaying obligations which cannot be met due to revenue losses
- F) The advance does not need to be repaid, even if the loan is subsequently denied
- G) The “Payroll Protection” loan forgiveness is reduced by the advance

### **Charitable Contributions**

- A) The limitation for corporate deduction of charitable contributions has been increased to 25% of taxable income before the contribution including contributions of food

**Employee Retention Credit (In order to retain employees due to suspended operations)**

- A) Credit is 50% of each eligible employee's wages up to \$10,000
- B) The credit is taken against employment taxes and is refundable
- C) It is reduced for credit in Section 7001 and 7003 of the Families First Coronavirus Response Act
- D) Eligible employers are those whose operations have been suspended by the government or whose have a significant decline in gross receipts
- E) If a business takes this credit, then it cannot obtain the SBA forgivable loan

**Delay of Employer Payroll Taxes**

- A) Cannot be used by employers who had indebtedness forgiven under the Paycheck protection Program
- B) Payroll tax deposits from the date of enactment to December 31, 2020 can be delayed as follows:
  - 1. 12/31/2021- 50% of the amount due
  - 2. 12/31/2022- the remaining amount due
- C) Also applies to 50% of SECA taxes

**Net Operating Loss Modifications**

- A) 2016 & 2017 – Still a 3-year carryback, however, now can carry-forward indefinitely with no 80% cap on taxable income offset
- B) 2018 & 2019– Can amend and carryback 5 years, indefinite carry-forward and no 80% cap
- C) 2020 and 2021 – 20-year carryforward of NOL's before 1/1/2018 plus the lessor of all NOL's after 12/31/2017 of 80% of taxable income

**Limitation on Excess Business Losses**

- A) Current law before the CARES Act limited excess business losses to \$500,000 with the balance carried over as an NOL
- B) The ACT shifts the applicable date of limitation to 2021-2025
- C) Also makes changes in the limitation on interest deductions for companies with revenues in excess of \$25 million (50% limitation instead of 30%)

**If you have any questions, please feel free to contact us as below:**

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