

March 27, 2020

## Relief for Businesses in the COVID-19 CARES Act

See Additional Updated Information on the CARES Act and PPP Loan [here](#).

On Friday, March 27 (Enactment Date), in response to the coronavirus (COVID-19) pandemic, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was passed by Congress and signed by President Trump. This alert summarizes the certain loan programs and other *relief available to businesses* under the CARES Act. As we continue our review of the CARES Act, we will provide a more detailed advisory on this topic in the [Corporate and Business section](#) of our COVID-19 Insights page.

### *Loans Available Under the CARES Act*

#### **Loans Available to Small Businesses (Paycheck Protection Program or PPP)**

- There is \$349 billion available for forgivable loans to any business with 500 or fewer employees (which may be greater for certain industries).
- Funds used towards payroll costs, paid sick or medical leave, insurance premiums, and certain mortgage interest, rent and utility payments are eligible for forgiveness.
- Maximum loan amount is 250% of monthly payroll costs up to \$10 million.
- Borrowers that rehire workers previously laid off will not be penalized for having a reduced payroll.
- Loans will be made through current SBA lenders and other financial institutions authorized by the U.S. Department of Treasury (Treasury).
- Customary personal guarantees and collateral requirements are waived.
- Borrower must certify that (1) the uncertainty of current economic conditions makes necessary the loan request to support the ongoing operations of borrower and (2) that the funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments and utility payments.

#### **Loans Available to Larger Businesses**

- There is \$454 billion available for eligible businesses.
- Loans made directly by the Treasury or through facilities of the Federal Reserve.
- Interest rate based on risk and term is up to 5 years.
- Limited to U.S. companies with employees located predominantly in the United States.
- Recipients must maintain certain employment levels and agree to limitations on dividends, buybacks and executive pay.

#### **Additional Relief for Businesses**

- **Exclusion from income for certain employer payments of student loans.** For personal income tax purposes, certain employer-provided student loan repayment benefits and other educational assistance (e.g., tuition, fees, books), up to \$5,250, may be excluded from gross income by the employee receiving the benefit.
- **Employer retention credits.** The CARES Act provides eligible employers with a credit against employment taxes equal to 50 percent of wages paid to employees or incurred after March 12, 2020, and before January 1, 2021.

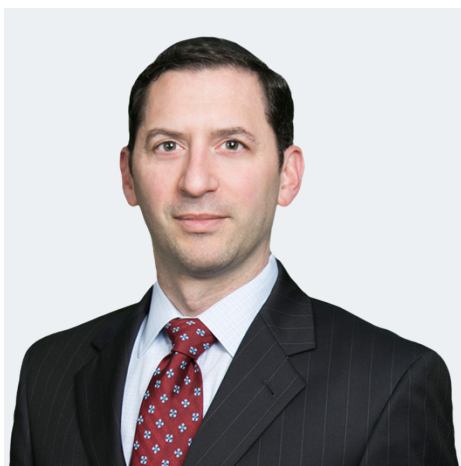
- **Payroll tax deferral.** Employers and self-employed individuals are permitted to defer payment of the employer share of the payroll tax from after the Enactment Date and before January 1, 2021, provided that the employer does not have indebtedness forgiven under the CARES Act.
- **Modifications for net operating losses.** The CARES Act relaxes certain limitations on a business's use of net operating losses. Likewise, the loss limitation applicable to pass-through entities and sole proprietorships is also modified to enable businesses to access critical cash flows to maintain operations and continue paying their employees' wages.
- **Increase to the business interest expense limitation.** The CARES Act increases the limitation amount to 50 percent of the taxpayer's adjusted taxable income for 2019 and 2020, and permits taxpayers to elect to use adjusted taxable income for 2019 in calculating the limitation for 2020.

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For more Day Pitney alerts and articles related to the impact of COVID-19, as well as information from other reliable sources, please visit our [COVID-19 Resource Center](#).

COVID-19 DISCLAIMER: As you are aware, as a result of the COVID-19 pandemic, things are changing quickly and the effect, enforceability and interpretation of laws may be affected by future events. The material set forth in this document is not an unequivocal statement of law, but instead represents our best interpretation of where things stand as of the date of first publication. We have not attempted to address the potential impacts of all local, state and federal orders that may have been issued in response to the COVID-19 pandemic.

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