SHIMONOV LAW
COVID 19 relief

The Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") – Summary of Bill Language and Key Takeaways

On March 25, 2020, the Senate unanimously passed (96-0) the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), commonly known as "Phase Three" of coronavirus economic relief. The CARES Act provides much needed stimulus to individuals, businesses, and hospitals in response to the economic distress caused by the coronavirus (COVID-19) pandemic. On March 27, 2020, the House of Representatives passed the CARES Act by voice vote. President Trump signed the bill into law that same day.

Shimonov Law is available to assist in interpretation of the CARES Act for your business and can help you find ways to claim and/or use available funding for your company.

The CARES Act

Top 10 Takeaways:

1. Provides stimulus to individuals, businesses, and hospitals in response to the economic distress caused by the coronavirus (COVID-19) pandemic.

2. Creates a $349 billion loan program for small businesses, including non-profits and physician practices. These loans can be forgiven through a process that incentivizes companies to retain employees.

3. Allocates $500 billion for assistance to businesses, states, and municipalities, primarily to be used to support lending to eligible businesses, states, and municipalities.

4. Allocates $130 billion in relief to the medical and hospital industries, including for medical supplies and drug and device shortages.

5. Expands telehealth services in Medicare, including services unrelated to COVID-19 treatments.

6. Provides $1,200 to Americans making $75,000 or less ($150,000 in the case of joint returns and $112,500 for head of household) and $500 for each child, to be paid "as rapidly as possible."

7. Expands eligibility for unemployment insurance and provides people with an

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additional $600 per week on top of the unemployment amount determined by each state.

8. Expands the Defense Production Act, allowing for a period of two years when the government may correct any shortfall in resources without regard to the current expenditure limit of $50 million.

9. Provides the Secretary of the Treasury with the authority to make loans or loan guarantees to states, municipalities, and eligible businesses and loosens a variety of regulations prior legislation imposed through the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Economic Stabilization Act of 2008, and others.

10. Accompanied by supplemental appropriations to help the government respond to this pandemic.

Summary of the CARES Act:

- The Paycheck Protection Loan Program

  The program, at a price tag of $349 billion, covers the period February 15, 2020 through June 30, 2020 and greatly expands SBA loan eligibility. The loan program will allow businesses suffering due to the coronavirus outbreak to borrow money for a variety of qualified costs related to employee compensation and benefits, including (i) payroll costs, (ii) continuation of health care benefits, (iii) employee compensation (of those making less than $100K), (iv) mortgage interest obligations, (v) rent, (vi) utilities and (vii) interest on debt incurred before the covered period.

  The legislation greatly expands the number of businesses (including non-profits) that are eligible for SBA loans and raises the maximum amount for such a loan by 2.5 x the average total monthly payroll costs, or up to $10 million. The interest rate may not to exceed 4%.

  For eligibility purposes, requires lenders to determine whether a business was operational on February 15, 2020, and had employees for whom it paid salaries and payroll taxes, or a paid independent contractor. (This is likely to be interpreted to replace the determination of repayment ability which is not possible during the crisis.)

  All or a portion of the loan may be forgivable and debt service payments may be deferred for up to 1 year.

- Loan Forgiveness

  Establishes that the borrower under the Paycheck Protection Program shall be eligible for loan forgiveness equal to the amount spent by the borrower during an 8-week period after the origination date on (i) rent, (ii) payroll costs for workers making less than $100K, (iii) interest on a mortgage, and (iv) utility payments. The amount forgiven may not exceed the principal of the loan.

  Incentivizes companies to retain employees by reducing the amount forgiven proportionally by any reduction in employees retained compared to the prior year.

  To encourage employers to rehire any employees who have already been laid off due to the COVID-19 crisis, borrowers that re-hire workers previously laid off will not be penalized for having a reduced payroll at the beginning of the period.

- Unemployment Insurance Provisions

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The law expands the scope of individuals who are eligible for unemployment benefits, including those who are furloughed or out of work as a direct result of COVID-19, self-employed or gig workers, and those who have exhausted existing state and federal unemployment benefit provisions.

The only individuals expressly excluded from coverage are those who have the ability to telework with pay and those who are receiving paid sick leave or other paid benefits (even if they otherwise satisfy the criteria for unemployment under the new law).

The law provides an increase of $600 per week in the amounts customarily available for unemployment under state law. This increase applies for unemployment payments made from the date of the law's enactment through July 31, 2020 (approximately four months).

- Direct Payments and Other Individual Provisions

  "Recovery rebates" of $1,200 per adult ($2,400 for a married couple) and $500 per dependent child age 16 or younger. A married couple with two children is therefore eligible for $3,400. The rebates phase down gradually for couples with incomes above $150,000, heads of household with incomes above $112,500, and individuals with incomes above $75,000.

  These direct payments will be based off taxpayers recently filed tax return data (e.g., 2019 or 2018 tax returns), and will be subject to further adjustment upon the filing of 2020 tax returns.

  The 10% penalty for taking early distributions from qualified retirement plans, including IRAs and 401(k)s, is waived. The waiver applies to distributions taken between January 1, 2020 and December 31, 2020. Up to $100,000 of distributions can avoid the penalty. Retirement plan loan rules also are modified. The maximum loan amount is increased for loans that are made between the date of enactment of the CARES Act (March 27) and December 31, 2020. Normally the loan maximum is $50,000 or 50% of the vested account balance. During this period the maximum loan is doubled to the lower of $100,000 or 100% of the vested account balance. The due date for repayment of the loan is delayed one year.

  To qualify for these IRA and retirement plan changes, a loan or distribution must be coronavirus-related. That means the individual, the individual's spouse or a dependent must have been diagnosed with COVID-19. Or the individual must experience adverse financial consequences as a result of being quarantined, furloughed, laid off or having work hours reduced due to COVID-19.

- Payroll Tax "Holiday"

  Eligible employers will receive a credit against applicable payroll taxes for each calendar quarter in an amount equal to 50% of the qualified wages with respect to each employee. The amount of qualified wages taken into account for each eligible employee, however, will not exceed $10,000 per calendar quarter and the credit will not exceed the applicable employment taxes owed for such calendar quarter. The aforementioned credit is not applicable if the employer is alto taking advantage of the small business interruption loan.

  The CARES Act will allow for most employers to defer paying their share of applicable employment taxes from the time the CARES Act is signed into law through

December 31, 2020. Half of this deferred amount would be due on December 31, 2021 and the other half by December 31, 2022.

- Mortgage payment suspension, a moratorium on foreclosures and rent-default evictions.

  The CARES Act permits borrowers with federally backed residential mortgage loans to request a forbearance from making payments for up to 180 days, with the ability to request an extension for an additional 180-day period.

  During this period, a borrower with a federally-backed mortgage loan who is experiencing a financial hardship due, directly or indirectly, to the COVID-19 national emergency may, regardless of delinquency status, request a forbearance. To request a forbearance, a borrower must submit a request to the servicer and affirm that the borrower is experiencing a financial hardship due to the COVID-19 national emergency. At the borrower's request, either the initial or extended forbearance period may be shortened. During the forbearance period, no fees, penalties or interest, beyond the amounts scheduled or calculated as if the borrower made all contractual payments on time and in full under the terms of the mortgage contract, may accrue on the borrower's account.

  The Act requires that furnishers who agree to account forbearance, or agree to modified payments with respect to an obligation or account of a consumer that has been impacted by COVID-19, report such obligation or account as "current" or as the status reported prior to the accommodation during the period of accommodation (unless the consumer becomes current) if the consumer complies with the modified agreement.

  The Act prohibits foreclosures on all federally-backed mortgage loans for a 60-day period beginning on March 18, 2020 and provides up to 180 days of forbearance for borrowers who have experienced a financial hardship related to the COVID-19 emergency.

  For 120 days beginning on the date of enactment, landlords are prohibited from initiating legal action to recover possession of a rental unit or to charge fees, penalties, or other charges to the tenant related to such nonpayment of rent where the landlord's mortgage on that property is insured, guaranteed, supplemented, protected, or assisted in any way by HUD, Fannie Mae, Freddie Mac, the rural housing voucher program, or the Violence Against Women Act of 1994.

Sincerely,

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