



# *Pellegrino, Saccomani & Wells, CPAs, LLP*

Coronavirus Relief for Small and Medium-Sized Businesses

Monday, March 30, 2020

# Agenda:

- Coronavirus Aid, Relief, and Economic Security Act (CARES Act)
- Economic Relief Plan for Individuals and Businesses
- Families First Coronavirus Response Act
- NYC, CT, NJ Relief Provisions
- SBA Disaster Assistance
- Current Status (filing, payment deadlines, etc.)
- Liquidity Concerns
- Surplus Cash Reserves
- Insurance Policies
- Landlords & Rental Properties
- Postponements
- Resources

# CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT

- **Purpose**
  - To help small businesses survive and recover from losses suffered during the coronavirus outbreak.
- **Key Components of the CARES Act**
  - Small Business Paycheck Protection Program
    - New lending program
  - Business tax provisions
    - Employers defer payment of employer's share of payroll taxes
  - Payments for individuals
    - Anticipated payments and eligibility
  - Unemployment assistance
    - Expanded availability

# CARES Act – Small Business Paycheck Protection Program

## ◦ Overview

- Lending program allowing businesses to borrow enough to cover monthly payroll costs for businesses for up to 2.5 months
  - If used for payroll, mortgage interest or other qualified expenses, these loans will be forgiven as long as the employer continues to employ its workers or rehires them when they reopen for business
  - Modeled after the existing SBA 7(a) loan program many businesses already know

## ◦ Eligibility

- Employer has fewer than 500 employees
- Select businesses with fewer than 1,500 employees
- 501 (c)(3) non-profits with fewer than 500 workers
- Some 501(c)(19) veteran organizations
- Self-employed, sole proprietors, and freelance and gig economy workers are also eligible to apply
- Businesses, even without a personal guarantee or collateral, can get a loan as long as they were operational on February 15, 2020

# CARES Act – Small Business Paycheck Protection Program, Continued

- **Loan Size and Terms**

- Maximum loan amount: Up to \$10 million, with an interest rate no higher than 4%
- No personal guarantee or collateral is required
- Lenders expected to defer fees, principal and interest for no less than six months and no more than a year

- **Possible Loan Forgiveness**

- Small businesses using these loans can get some or all of their loans forgiven\*

\* Employer must continue to pay employees at normal levels during the eight weeks following the origination of the loan, then the amount they spent on payroll costs (excluding costs for any compensation above \$100,000 annually), mortgage interest, rent payments and utility payments can be combined and that portion of the loan will be forgiven. Again, loans may be forgiven if a firm uses the loan for payroll, interest payments on mortgages, rent, and utilities. Loan forgiveness would be reduced proportionally by a predetermined formula.

# CARES Act – Details

Fully guaranteed by the federal government through December 31, 2020 (returning to an 85% guarantee for loans greater than \$150,000 after that date), are generally limited to the LESSER OF: the sum of 1) average monthly “payroll costs” for the 1 year period ending on the date the loan was made (an alternative calculation is available for seasonal employers) multiplied by 2.5, and 2) any disaster loan (discussed below) taken out after January 31, 2020 that has been refinanced into a paycheck protection loan, and \$10 million.

## Payroll Costs

- Wages, commissions, salary, or similar compensation to an employee or independent contractor
- Payment of a cash tip or equivalent
- Payment for vacation, parental, family, medical or sick leave
- Allowance for dismissal or separation
- Payment for group health care benefits, including premiums
- Payment of any retirement benefits
- Payment of state or local tax assessed on the compensation of employee

## Payroll Costs Do NOT Include

- The compensation of any individual employee in excess of an annual salary of \$100,000
- Payroll taxes
- Any compensation of an employee whose principal place of residence is outside the U.S.
- Any qualified sick leave or family medical leave for which a credit is allowed under the new Coronavirus Relief Act passed last week

# CARES Act – Details

- **Example**

- Frank's Car Repair applies for a paycheck protection loan on May 1, 2020. The business had \$1.2 million in payroll costs for the period May 1, 2019 through May 1, 2020, for a monthly average of \$100,000. Frank's Car Repair is entitled to a fully guaranteed federal loan – assuming it's made before December 31, 2020 – equal to the LESSER OF:
  - \$250,000 ( $\$100,000 \text{ in average payroll costs} \times 2.5$ ), or
  - \$10 million

- **Notes**

- The loans will have a maximum maturity of 10 years and an interest rate not to exceed 4%. Proceeds may be used to cover payroll, mortgage payments, rent, utilities, and any other debt service requirements. The standard fees imposed under Section 7 of the Small Business Act are waived, and no personal guarantee is required by the business owner.
- An additional provision in the CARES Act provides for possible deferment of repayment of the loans for a period of at least six months, but not to exceed a year.

# CARES Act – Details

## ◦ Loan Forgiveness of Paycheck Protection Loans

- A separate section of the CARES Act calls for a portion of the aforementioned paycheck protection loans to be forgiven on a tax-free basis. The amount to be forgiven is the sum of the following payments made by the borrower during the 8-week period beginning on the date of the loan:
  - payroll costs (as defined previously defined)
  - mortgage interest
  - rent
  - certain utility payments

## ◦ Notes

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 utility payments.

- *Example. Continuing the previous example with Frank's Car Repair, in the first 8 weeks after the business borrows the \$250,000, the business pays \$200,000 in payroll costs, mortgage interest, and utility payments. Frank's Car Repair is eligible to have \$200,000 of the \$250,000 loan forgiven. The forgiveness will not create taxable income. In addition, because of the deferment rules in the CARES Act, any payments due on the remaining \$50,000 will not be due for six months.*

There is a provision, however, that reduces the amount that may be forgiven if the employer either:

- Reduces its workforce during the 8-week covered period when compared to other periods in either 2019 or 2020
- Reduces the salary or wages paid to an employee who had earned less than \$100,000 in annualized salary by more than 25% during the covered period

\* This reduction can be avoided, however, if the employer rehires or increases the employee's pay within an allotted time period

# CARES Act – Business Tax Provisions

- **Provisions**

- **50% refundable payroll tax credit** on wages paid up to \$10,000 during the crisis. Available to employers whose businesses were disrupted due to virus-related shutdowns and firms experiencing a decrease in gross receipts of 50% or more when compared to the same quarter last year. Available for employees retained but not currently working due to the crisis for firms with more than 100 employees, and for all employee wages for firms with 100 or fewer employees.
- **Employer-side Social Security payroll tax payments may be delayed** until January 1, 2021, with 50 percent owed on December 31, 2021 and the other half owed on December 31, 2022. The Social Security Trust Fund will be backfilled by general revenue in the interim period.
- Firms may take **net operating losses (NOLs)** earned in 2018, 2019, or 2020 and carry back those losses five years. The NOL limit of 80 percent of taxable income is also suspended, so firms may use NOLs they have to fully offset their taxable income. The bill also modifies loss limitations for non-corporate taxpayers, including rules governing excess farm losses, and makes a technical correction to the treatment of NOLs for the 2017 and 2018 tax years.

# CARES Act – Business Tax Provisions, Continued

- Provisions
  - Firms with tax credit carryforwards and previous alternative minimum tax (AMT) liability can claim larger refundable tax credits than they otherwise could.
  - The **net interest deduction limitation**, which currently limits businesses' ability to deduct interest paid on their tax returns to 30 percent of earnings before interest, tax, depreciation, and amortization (EBITDA), has been expanded to 50 percent of EBITDA for 2019 and 2020. This will help businesses increase liquidity if they have debt or must take on more debt during the crisis.
  - **Technical corrections** to the depreciation treatment of qualified improvement property (QIP).

# CARES Act – SBA’s Economic Injury Disaster Loans (EIDLs)

- **Expanded Eligibility**

- Early March: Disaster loan program extended to all small businesses affected by COVID-19
- CARES Act extends access and makes it easier to apply
- Businesses can get both an EIDL and a Paycheck Protection Program loan\*

\*They cannot cover the same expenses. Contact your financial advisor or lender before taking both types of loans if you are unsure of the specifics

- **Changes to EIDLs**

- Available to Tribal businesses, cooperatives, and ESOPs with fewer than 500 employees; available to all non-profit organizations, including 501(c)(6)s; and to individuals operating as sole proprietors or independent contractors
- EIDLs can be approved by the SBA based solely on an applicant’s credit score
- EIDLs that are smaller than \$200,000 can be approved without a personal guarantee
- Borrowers can receive a \$10,000 emergency grant cash advance that can be forgiven if spent on paid leave, maintaining payroll, increased costs due to supply chain disruption, mortgage or lease payments or repaying obligations that cannot be met due to revenue losses

# CARES Act – Payments for Individuals and Unemployment Assistance

## Payment Details for Individuals

- Those who make less than \$75,000 a year will receive direct payments of \$1,200 per individual (\$2,400 joint return) plus \$500 per child
- This will phase out for incomes above \$75,000 (\$150,000 joint filings)

## Unemployment Assistance

- If your business is closed because of coronavirus and your employees cannot work from home, or your employees are unable to work due to illness or the need to take care of someone who is ill with the virus, they can collect unemployment.

# Economic Relief Plan for Individuals and Businesses

## Employer

- Eligible for a 50 percent refundable payroll tax credit on wages paid up to \$10,000
- Businesses disrupted due to virus shutdowns and those that had a decrease in gross receipts of 50 percent or more when compared to the same quarter last year
- Credit claimed for employees who are retained but not currently working due to the crisis for firms with more than 100 employees, and for all employee wages for firms with 100 or fewer employees
- Certain employer payments of student loans on behalf of employees are excluded from taxable income. Employers may contribute up to \$5,250 annually toward student loans, and the payments would be excluded from an employee's income.

## Individual

- Unemployment insurance provisions now include an additional \$600 per week payment to each recipient for up to four months, and extend UI benefits to self-employed workers, independent contractors, and those with limited work history
- The federal government will provide temporary full funding of the first week of regular unemployment for states with no waiting period and extend UI benefits for an additional 13 weeks through December 31, 2020 after state UI benefits end

# Families First Coronavirus Response Act

## ○ Overview

- Employers with under 500 employees will be legally required to provide employees, who are unable to work or telework, with paid sick leave under one of the following provisions:

- 1) The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
- 2) The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
- 3) The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
- 4) The employee is caring for an individual who is subject to a quarantine or isolation order as described in (1), above, or has been advised as described in (2), above.
- 5) The employee is caring for a son or daughter whose school or place of care has been closed, or the paid childcare provider is unavailable, due to COVID-19 precautions.
- 6) The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

If the leave is taken for reasons 1, 2, and/or 3 as stated above, an employer must pay up to a maximum of \$511/day and \$5,110 in the aggregate. If the employee is out of work due to reasons 4, 5, and/or 6, the employer must pay up to 2/3 of an employee's regular rate of pay up to a maximum of \$200/day and \$2,000 in the aggregate.

Full-time employees will be entitled to two weeks (80 hours) of leave and part-time employees are entitled to the typical number of hours they work in a 2-week period. Paid sick time will not carry over from one year to the next. There is no minimum time of employment required. Employers cannot require the use of paid leave provided in Company policies or otherwise before the use of time provided under the Act. This emergency sick leave will expire on December 31, 2020.

# Families First Coronavirus Response Act

- **Employer Requirements for Leave**

- Employers may require one of the following must occur for an employee to qualify for leave:
  - If 1, 2, 3, or 6 apply, an employee must provide the employer with a medical provider certification in the form of FMLA paperwork indicating they are subject to quarantine
  - If number 4 applies, an employee must inform the employer of the potential exposure, a medical provider certification and their relation to the individual
  - If number 5 applies, an employee will be required to provide proof of the closure (e-mail, news article, etc.)

- **Notes**

- Generally, the employee on leave must be restored to his or her prior position. This requirement does not apply to employers with fewer than 25 employees if the position held by the employee on leave no longer exists due to economic conditions or other changes in the employer's operating conditions caused by the coronavirus pandemic, and the employer makes reasonable efforts to restore the employee to an equivalent position.
- The Department of Labor will be authorized to issue regulations to (i) exclude certain health care providers and emergency responders from paid leave benefits, and (ii) exempt small businesses with fewer than 50 employees from the paid leave requirements "when the imposition of such requirements would jeopardize the viability of the business as a going concern."

# Families First Coronavirus Response Act

## ◦ Compensation to Employers

- Wages required to be paid to employees under the Families First Coronavirus Response Act will not be subject to the 6.2% social security tax usually paid by employers on employees' wages
- Refundable credits for the employer portion (but not the employee portion) of the 6.2% employer portion of the Social Security tax will be provided to employers to cover wages paid to employees for time off under the above sick leave and family leave programs
- The sick leave credit for each employee will be for wages (including qualified health plan expenses relating to those wages) of up to \$511 per day while the employee is receiving paid sick leave to care for himself or herself, or \$200 if caring for a family member or child whose school has closed. The credit will be limited to 10 days per employee per quarter.
- The family leave credit for each employee will be for wages (including qualified health plan expenses relating to those wages) of as much as \$200 per employee per day, and \$10,000 in the aggregate for all calendar quarters
- To prevent a double benefit, employers must include the amount of credits received in their gross income
- Any wages taken into account in determining the credit allowed under the above emergency provisions will reduce the Code section 45S paid family and medical leave credit established by the 2017 tax reform act available to the employer
- An employer can elect to not take the credit for a given quarter
- The Department of the Treasury will be authorized to issue regulations or guidance relating to the credits
- Amounts will be transferred to the social security and disability insurance trust funds from the general fund to cover the cost of the credits and lost wages

# Relief Provisions: New York City

- **Employee Retention Grant Program**

- Available to NYC businesses with 1 to 4 employees that can demonstrate at least a 25% decrease in revenue as a result of COVID-19. Eligible businesses will receive a grant covering up to 40% of their payroll for two months. Businesses can access up to \$27,000.

- **Eligible Businesses, including Non-Profits Must:**

- Be located within the five boroughs of New York City
- Demonstrate that the COVID-19 outbreak caused at least a 25% decrease in revenue
- Employ 1 to 4 employees in total across all locations
- Have been in operation for at least 6 months
- Have no outstanding tax liens or legal judgements
- To calculate the revenue impact of COVID-19, we will compare average revenue for two months in 2020 (after the COVID-19 impact) to both:
  - average revenue for the same two-month period in 2019
  - average monthly revenue based on total 2019 revenue
- City officials will check calculations to ensure at least a 25% decrease in revenue

# Relief Provisions: New York City, Continued

## To Verify Loss of Revenue

- You must upload:
  - Financial documents for two months in 2020 demonstrating revenue decrease due to COVID-19
  - Financial documents showing your revenue for the same two months in 2019 (unless you were not in business at that time)
  - Financial documents showing your revenue for the full 2019 calendar year
  - Financial documents can include point-of-sales reports, bank statements, quarterly sales tax filings, 2019 tax returns, or CPA-certified profit & loss statements

## To Determine Grant Amount and Process Your Grant

- You must upload:
  - Your most recent two months of payroll records
  - A signed Participation Affidavit\* verifying that you are eligible for the program and that you are applying in order to retain your employees
  - Your bank account information

\*[https://www1.nyc.gov/assets/sbs/downloads/pdf/businesses/COVID19\\_ERG\\_participation\\_affidavit\\_form.pdf](https://www1.nyc.gov/assets/sbs/downloads/pdf/businesses/COVID19_ERG_participation_affidavit_form.pdf)

# Relief Provisions: Connecticut

- **Connecticut Recovery Bridge Loan Program**

- Provides no-interest loans up to \$75,000
- Administered by the state's Department of Economic and Community Development (DECD)

- **Provisions and Eligibility**

- Zero percent interest rate
  - 12-month term with 6-month extension per request
  - Personal guaranty and credit score required
  - Approval contingent upon business being profitable prior to March 10, 2020 and no adverse personal credit reports 60 days past due for the last 6 months
  - Ineligible companies include those involved in real estate, multi-level marketing, adult entertainment, cannabis, and firearms
  - All eligibility and application information can be found on the state's COVID-19 website at [ct.gov/coronavirus](https://ct.gov/coronavirus)
- The **Connecticut Recovery Bridge Loan Program** will make \$25 million available to Connecticut businesses and non-profits that have 100 or fewer employees to assist with cash flow. Loan amounts are up to the lesser of either three months operating expenses and/or \$75,000.
  - Small businesses with questions about this SBA loan program or other assistance provided at the state-level can call 860-500-2333 to speak directly with a DECD representative. Businesses can also stay informed on news and guidance related to COVID-19 and its impact on Connecticut by visiting the state's dedicated coronavirus website at [ct.gov/coronavirus](https://ct.gov/coronavirus).

# Relief Provisions: New Jersey

- **New Initiatives from the New Jersey Economic Development Authority**
  - Grant program for small businesses, a zero-interest loan program for mid-size companies, support for private-sector lenders and Community Development Financial Institutions (CDFIs), funding for entrepreneurs, and resources providing technical support and marketplace information.
  - **Small Business Emergency Assistance Grant Program** – A \$5 million program that will provide grants up to \$5,000 to small businesses in retail, arts, entertainment, recreation, accommodation, food service, and other services – such as repair, maintenance, personal, and laundry services – to stabilize their operations and reduce the need for layoffs or furloughs
  - **Small Business Emergency Assistance Loan Program** – A \$10 million program that will provide working capital loans of up to \$100,000 to businesses with less than \$5 million in revenues. Loans made through the program will have ten-year terms with zero percent for the first five years, then resetting to the EDA’s prevailing floor rate (capped at 3.00%) for the remaining five years.
  - **Small Business Emergency Assistance Guarantee Program** – A \$10 million program that will provide 50 percent guarantees on working capital loans and waive fees on loans made through institutions participating in the NJEDA’s existing Premier Lender or Premier CDFI programs.
  - Applications are anticipated to be opened during the week of March 30th. To see which of these programs you are eligible for, use the [NJ COVID-19 Business Support Eligibility Wizard](#)\*

\* <https://assistance.business.nj.gov/>

# SBA Disaster Assistance (COVID-19)

## ◦ Overview

- Designated states and territories can receive low-interest federal disaster loans for working capital to small businesses suffering substantial economic injury as a result of the Coronavirus (COVID-19). Upon a Governor's request SBA will issue under its own authority, as provided by the Coronavirus Preparedness and Response Supplemental Appropriations Act that was recently signed by the President, an Economic Injury Disaster Loan declaration.

## ◦ Process

- Any such Economic Injury Disaster Loan assistance declaration issued by the SBA makes loans available statewide to small businesses and private, non-profit organizations to help alleviate economic injury caused by the Coronavirus (COVID-19). This will apply to current and future disaster assistance declarations related to Coronavirus.
- SBA's Office of Disaster Assistance will coordinate with the state's or territory's Governor to submit the request for Economic Injury Disaster Loan assistance.
- Once a declaration is made, the information on the application process for Economic Injury Disaster Loan assistance will be made available to affected small businesses within the state.
- SBA's Economic Injury Disaster Loans offer up to \$2 million in assistance and can provide vital economic support to small businesses to help overcome the temporary loss of revenue they are experiencing.
- These loans may be used to pay fixed debts, payroll, accounts payable and other bills that can't be paid because of the disaster's impact. The interest rate is 3.75% for small businesses. The interest rate for non-profits is 2.75%.
- SBA offers loans with long-term repayments in order to keep payments affordable, up to a maximum of 30 years. Terms are determined on a case-by-case basis, based upon each borrower's ability to repay.
- SBA's Economic Injury Disaster Loans are just one piece of the expanded focus of the federal government's coordinated response, and the SBA is strongly committed to providing the most effective and customer-focused response possible.

For questions, please contact the SBA disaster assistance customer service center at 1-800-659-2955 (TTY: 1-800-877-8339) or e-mail [disastercustomerservice@sba.gov](mailto:disastercustomerservice@sba.gov).

# Current Status

- **Income Tax Filing Deadlines**

- **Federal and many states: Extended to July 15**

- Taxpayers can defer federal income tax payments due on April 15, 2020 to July 15, 2020 – without penalties and interest, regardless of amount owed. Deferment applies to all taxpayers, including individuals, trusts and estates, corporations, and other non-corporate tax filers, as well as those who pay self-employment tax.

- **Income Tax Payment Deadlines – Extended July 15**

- **Sales Tax Filing and Payment Deadlines**

- **NYS**: The authority of the Commissioner of Taxation and Finance to abate late filing and payment penalties pursuant to section 1145 of the Tax Law is hereby expanded to also authorize abatement of interest, for a period of 60 days for taxpayers who are required to file returns and remit sales and use taxes by March 20, 2020, for the sales tax quarterly period that ended February 29, 2020.

- **NJ & CT**: No guidance. File and pay as usual.

- **Payroll Tax Filing and Payment Deadlines**

- No guidance. File and pay as usual.

# Liquidity

- **Focus on the Current Burn Rate**
  - Prepare upcoming cash flow needs
- **Preparing a Comparable Cash Flow**
  - Consider scenarios such as reduced payroll, cash loans, and other conditions you can expect to happen
- **Contact Your Lenders**
  - Banks have received funds to assist for possible loan repayments suspension
  - To learn about specific bank programs, visit <https://abaproduct01-204250-cm.azurewebsites.net/about-us/press-room/industry-response-coronavirus#AlphaC>

# Surplus Cash

- **Potential Risks**
  - Certain businesses have experienced a spike in activity, including (food retail, parcel delivery, parts distributors, etc.) and have too much cash on hand
- **FDIC Insurance Limits**
  - \$250,000 per financial institution
  - Other conditions also exist
- **Cash Management Policy**
  - Design a plan to cope with potential market collapses and keeping your money insured
- **Bank Recommendations**
  - Discuss creative solutions with bankers to help keep your cash insured

# Insurance Policies

- **Conduct a Comprehensive Review of Insurance Portfolios**
- **Contact Insurance Broker**
  - Determine if anything regarding the COVID outbreak is covered
  - File claims, if coverage is applicable
- **Potential Options to Mitigate Damages**
  - Pollution Liability/Environmental Impairment
  - General Liability
  - Worker's Compensation
  - Commercial Property Insurance (All-Risk Policies)
  - Other options

# Landlords & Rental Properties

- **Review Leases**
  - Are pandemics and epidemics included in *force majeure*?
    - If not, determine if other provisions of the lease excuse non-monetary obligations and perhaps monetary obligations
    - To the extent a *force majeure* provision is applicable, the party invoking the same may be required to send written notice to the other party, so both the *force majeure* and notice provisions of the lease should be carefully reviewed
- **Contact Your Attorney**
  - Are there are specific provisions within your lease covering pandemics?
  - Determine any necessary notices to be sent

# Consider Postponements

- Non-Essential Capital Purchases
- New Hires
- Discretionary Spending

# Forced Closure

- **Consider Alternative Sales Options**

- If distancing prolongs, people will return to normal purchasing and routines
- Prepare to realign your business model to adapt to the NEW economy post-pandemic
  - Sales to FEMA, CDC, or State Governments
  - Alternative vendors
  - Emergency supply pipelines
  - Meal programs run by local, state, or federal programs
  - Redesign your business to operate remotely
    - Retailers: Establish accounts with Amazon, eBay, and other platforms to continue sales
    - Car sales: Possible home delivery and showcasing inventory, an extension to current online sales
    - Vehicle maintenance: Modify maintenance services to allow clients to complete maintenance requests online, schedule pick up and delivery to designated spots to avoid gatherings

# Resources

- Pellegrino, Saccomani & Wells, CPAs LLP
  - Website - <http://www.pscpafirm.com>
    - We will continue to post updates and information
  - Webinars
    - Notifications will be sent via e-mail