**CARES Act Update and Overview**

As we are sure you are aware, Congress passed and the President has signed into law a $2+ trillion “relief” package aimed at providing some assistance to the American citizens and the business community. The small business owners are the driver of most of our economy and are the ones most likely to be adversely impacted by the Coronavirus. Unfortunately, as much of in this Act was needed, there may be more required as the medical community works to serve the patients and find solutions to mitigate the virus’ impact not just now but in the future.

Please keep those on the front lines in your prayers for wisdom, stamina and safety.

The [“Coronavirus Aid, Relief, and Economic Security Act” (CARES Act)”](https://www.congress.gov/116/bills/hr748/BILLS-116hr748eas.pdf)  (which is over 800 pages .... you can browse through it using the link) includes a variety of items ranging from various tax relief measures to stimulus funds for affected industries to increased unemployment compensation being subsidized by the federal government. But know this extra debt will have to one day be repaid so let’s pray not much more is needed.

One of the most important relief programs we see for our clients to understand are the Paycheck Protection Program then comes the Emergency Grant. There are other provisions that are important to consider but we are already receiving more inquiries on these aspects of the law.

**General overview**:

**SBA Loans/Paycheck Protection Program.** Businesses with less than 500 employees can take out loans up to $10 million to retain their employees between February 15 and June 30. The Act uses special terms such as “Covered periods”, “Covered employees”, “Payroll Costs” and more that can impact the calculations and may require further clarification. So caution is necessary in evaluating this program. Seek counsel before making final decisions. For example the loan limit calculation is based on a two and one-half month period yet there is an eight week reference in regards to spending the monies requested to be eligible for forgiveness. In one section discussing “Payroll Costs” it states you include wages of those making up to $100,000 per year. Preliminary interpretation is that if an employee makes $125,000 per year then you only exclude the excess $25,000 in your calculation of wages (and not exclude the full salary). The loans are limited based on a formula tied to “payroll costs”.

An important aspect is that the SBA is paying the banker’s fee for processing these so there should be no cost to company. Please be sure to inquire if your bank is SBA approved and if not have them refer you to a qualified SBA lender.

The loans may be forgiven later if the funds are used for designated costs which actually includes more than just payroll costs... the costs include mortgage interest (not principal nor other loan interest), rent and utilities. However, the forgiveness amount may be reduced if the number of Full Time Equivalent employees retained drops below a certain level. Therefore further clarification of this data and the retention of the documentation necessary to pursue loan forgiveness after June 30th will be a important for this program.

If you do acquire a loan under this program, we would recommend you consider setting up a separate account for said funds and pay the “allowable” costs out of that account for ease of reference when submitting your data later for the forgiveness to be processed.

**Emergency Grants for Small Business.** The Act provides $10 billion for economic injury disaster loans in the form of emergency grants to small businesses with 500 or fewer employees. This will benefit smaller companies in that the grants are intended to help cover operating costs yet are limited to $10,000.

**Other key tax and business highlights of the Act we see impacting our clients are as follow:**

**Business Related Provisions**

**Refundable Payroll Tax Credit.** Employers can get a refundable payroll tax credit for 50% of the first $10,000 in wages paid to employees during the COVID-19 crisis. The credit is available to employers whose (1) operations are fully or partially suspended due to COVID-19, or (2) gross receipts declined by more than 50% compared to the same quarter last year.

Companies with up to 100 employees can claim the credit for all employees whether the business is shut down or not. The credit is allowed for wages paid or incurred during a specific time frame - March 13, 2020, through December 31, 2020. For larger corporations the rules are slightly different.

**Deferral of Payroll Taxes.**  This unique provision allows employers (and even self-employed individuals) to defer payment of the 6.2% employer’s share of Social Security tax for the rest of 2020. The deferred tax may be paid over two years - note that at least half is required to be paid by December 31, 2021, and the other half by December 31, 2022. So you will need to budget the funds accordingly. We recommend you be careful as we have not yet noted if the non-payment of these taxes would fall under the Payroll Trust Fund Recovery rules meaning the owner of the business could be pursued for said monies if not paid .... our inclination is that would be the case as this is not part of the Paycheck Protection Program.

**Net Operating Loss Limitations Partially Restored.** This is a nice adjustment to a law they removed in the 2018 Tax laws. It allows losses arising in 2018, 2019, or 2020 to be carried back five years. The Act also temporarily removes the 80% of taxable income limitation to allow an NOL to fully offset income. These changes allow companies to use losses and amend prior year returns. However, since most of our clients are S-corporations there is no corporate NOL.

**Charitable Contribution Limits for Corporations.** The 10% limitation is increased to 25% of taxable income. Maybe the Federal government realizes the non-profit sector will be needed more to support those in need and do a better job than they can - this is my own added personal commentary.

**Excess Business Loss Limits Delayed.** We hope none of our clients experience this in 2020. The CARES Act delays until 2021 the excess business loss limitations for non-corporate taxpayers, sole proprietors, partnerships, S Corporations, limited liability companies and estates and trusts. For 2020, the limitations were set to be $(259,000) for single taxpayers and $(518,000) for joint filers, but these limits have been suspended for 2020.

**Qualified Improvement Property Write-offs**.  Enables businesses to write off immediately the cost of improving the interior of a building instead of having to depreciate those improvements over 39 years. The provision corrects what many saw as a drafting error in the Tax Cuts and Jobs Act (TCJA). So if you were already in the midst of expanding or know you needed to then this gives you an extra benefit.

**Individual Related Provisions**

**“Relief” monies for Taxpayers.** This is the most widely publicized aspect of the Act. Rebates of up to $1,200 per individual, $2,400 per married couple and $500 per child will be paid to taxpayers by the Treasury Department by direct deposit (if they have your account information from 2018 or 2019 filed returns) or by mail.

The Treasury Department states it wants to process the payments to taxpayers quickly. The payments are technically an advanced, refundable tax credit against 2020 taxes. Do not panic .... it is our understanding taxpayers will *not* have to pay Treasury back if, based on 2020 income, they received too large a payment.

IMPORTANT – If you have closed the account that was used on your 2018 return and not filed 2019 yet, then there could be a delay in processing your payment.

Payments will be based on your adjusted gross income as calculated on your 2019 taxes, or 2018 tax filings, if the 2019 returns have not yet been filed. Taxpayers must have a social security number and cannot be claimed as a dependent to be eligible to get the payment.

These amounts begin to phase out for singles with Adjusted Gross Income (AGI) of $75,000, couples filing jointly with AGI of $150,000, and heads of households with AGI of $112,500. The rebate is reduced by $5 per $100 above the threshold and is completely phased-out for single filers with incomes exceeding $99,000, head of household filers with income over $146,500, and joint filers with AGI over $198,000 with no children.

**Retirement Plan Withdrawals.** This is provision and deciding if and/or how to use it will also necessitate discussions with your financial planner. The 10% early withdrawal penalty will be waived for that they label as “coronavirus-related” distributions from retirement plans. Withdrawn amounts will be taxable over three years yet taxpayers can recontribute the withdrawn funds within three years. Eligible plans include IRAs, 401(k)s, other deferred compensation plans and qualified annuities.

**NOTE** - The required minimum distribution (RMD) for defined contribution plans and IRAs for the calendar year 2020 has been waived. You can also borrow additional monies from your 401k plan up to $100,000 (which is an increase from the existing $50,000 limit)

**Student Loan Relief.** Federal student loan payments are delayed through September 30 with no penalty or interest accruing.

**Other Relief Provisions**

**Expanded Unemployment Insurance.** The Act provides $250 billion in federal funding for “pandemic unemployment assistance” which includes a $600 increase per week for up to four months. In a very unique change the law is written such that even self-employed workers, independent contractors, “gig workers” and those with a limited work history are now eligible for unemployment benefits. The Act also extends state-level unemployment insurance by an additional 13 weeks, through December 31, 2020.

With this being “hot off the press” and the rush in which it was drafted and desire to implement it quickly, we are certain there are aspects that will need to be clarified by the various agencies who are carrying out the directives within the law as well as the bankers who will be managing the SBA’s PPP Loans. We know the grants and Paycheck Protection Program are attractive potential resources for many small businesses to use to help them reach the other side of this difficult time ... we all pray will more be temporary in nature than could have been.

Keep looking upward and forward as we all work together to stay healthy physically, emotionally and financially. Look around at all the positive actions of others and be inspired to do some as you can so other can be encouraged in these challenging time .... we appreciate you!

Your Team at Lee & Associates, CPAs LLC