

2020 CARES Act

Understanding the key elements of the \$2 trillion stimulus package.

The key elements of the \$2tn stimulus package include sending checks to individuals and families, a major expansion of unemployment benefits, money for health care providers, financial assistance for small businesses and loans for distressed companies. The entire package is broken out into eight different areas and the highlights are summarized below. Please note, there are additional details under each area and so clients should investigate further if they qualify.

Direct Payments (\$507 billion)

A centerpiece of the stimulus package is that all U.S. residents with an adjusted gross income of \$75,000 or less (or \$112,500 or less for a head of household) would get a direct payment of \$1,200 each, with married couples earning up to \$150,000 receiving \$2,400 and an additional \$500 per each child. The payment would scale down by income, phasing out entirely at \$99,000 for singles, \$146,500 (head of households) and \$198,000 for joint filers without children. Note that no minimum income is necessary to receive the payment.

Another aspect of the package is a waiver of 10% for early withdrawal penalty for distributions of up to \$100,000 from retirement funds for affected COVID-19 individuals. This provision applies to distributions from January 1, 2020 (rather than the date of enactment of the CARES Act) through December 31, 2020. Income attributable to the withdrawal will be taxable over three years (unless the taxpayer elects otherwise) and the taxpayer may re-contribute the amount within three years without regard to the cap on contributions. The bill also increases the maximum amount that an individual may borrow from a qualified plan from \$50,000 to \$100,000, allows an individual to borrow up to the present value of the employee's nonforfeitable accrued benefit (rather than merely one-half of that amount, as under current law), and if the loan would mature between the date of enactment and December 31, 2020, allows up to an additional year to repay the loan.

Loans to Industry (\$500bn) – Exchange Stabilization Fund

The package will provide the Treasury with \$500bn to backstop a \$4tn lending program by the Federal Reserve. Of this \$500bn, Airlines will receive \$50bn for passenger air carriers and \$8bn for cargo air carriers. Notably, the deal does not reference any such direct funding for those companies in the cruise ship industry or include the \$3bn Trump sought in order to fulfill his promise this month to add to the country's oil stockpile. Secretary Treasurer Mnuchin will also be required to testify about these transactions taking place in order to provide stability to the credit markets.

Companies who receive these loans must wait 12 months after the loan is repaid to repurchase any shares in the form of stock buybacks. Companies are also prohibited from making any dividend payments or other capital distributions to common stock shareholders during this time period. Notably, the dividend restriction can be waived by the Secretary Treasurer if "deemed necessary to protect the interests of the Federal Government".

Small Business Loans (\$250bn)

Businesses with less than 500 employees (including sole proprietors and nonprofits) will have access to loans during the “covered period” – February 15th, 2020 through June 30th, 2020. These “paycheck protection loans” are 100% guaranteed by the federal government through December 31st, 2020. Any loan extended beyond that date and greater in value than \$150,000 will be 85% guaranteed. The size of these loans will be the lesser of \$10mm or 2.5x the average total “payroll costs” for the 1-year period ending on the date the loan was made. These loans will have a maximum maturity of 10 years and no more than a 4% interest rate. Proceeds may be used to cover payroll, mortgage payments, rent, utilities, and any other debt service requirements. Standard fees are waived and no personal guarantee is required by the business owner.

A separate section of the CARES Act calls for a portion of the loans above to be forgiven on a tax-free basis. The act also expands access to Economic Injury Disaster Loans to include not only businesses with fewer than 500 employees, but also sole proprietors and ESOPs (Employee Stock Option Programs). Any loan made under this agreement before December 31st, 2020 will not require a personal guarantee if under \$200,000. Notably, the government will pay the principal and interest on a paycheck protection loan for the first six months on which payment is due. In addition, the Act creates a new Emergency Grant to allow a business that has applied for a disaster loan to get an immediate advance of up to \$10,000. The advance can be used to maintain payroll, and is not required to be repaid, even if the borrower’s request for a 7(b) loan is denied.

Unemployment Benefits (\$250bn)

The act outlined an increase in unemployment benefits, with those who are unemployed receiving up to an extra \$600 per week for up to four months. This is on top of existing state unemployment benefits. This benefit also includes those who are self-employed, independent contractors as well as gig economy workers.

Healthcare (\$140bn)

Under the new bill, health care providers would secure \$100bn in grants to help fight the coronavirus and make up for dollars they have lost by delaying elective surgeries and other procedures to focus on the outbreak. There will also be a 20% increase in Medicare payments for treating patients with the virus. The remaining funds will be dedicated to providing personal and protective equipment for health care workers, testing supplies, increased workforce and training, accelerated Medicare payments, and supporting the CDC, among other health investments. All testing and potential vaccines for COVID-19 will be covered with no cost to the patients affected. Notably, there was no relief outlined in the bill for health insurance companies.

State and Local Governments (\$150bn) - Coronavirus Relief Fund

State and local governments are receiving \$150bn in aid to combat the economic impact of the virus, distributed mostly by population, but with \$3bn reserved for U.S. territories and the District of Columbia and \$8bn set aside for tribal governments, along with a guarantee that each state receives at least \$1.25bn even if its population share would otherwise indicate a lesser amount.

Other Miscellaneous

- a) Food Stamps and Child Nutrition: \$25bn
- b) Agriculture Relief: \$24bn
- c) Emergency Relief for Education (colleges, schools..): \$30bn
- d) Defense Department (National Guard, R&D): \$10.5bn
- e) FCC Telemedicine: \$200mm.

Other Non-monetary

- a) Retailers, restaurateurs and hotels will be able to immediately deduct from their taxes what they spend on property improvements.
- b) Businesses would get a tax credit for keeping idled workers on their payrolls during the coronavirus pandemic. To qualify, businesses have to prove they took a 50 percent loss compared to the same quarter in years past. And to keep companies from double-dipping on aid under the bill, employers won't be able to get special SBA loans if they opt for the tax credit.
- c) Employers and Self Employed would get to defer the 6.2 percent tax they pay on wages that is used to fund Social Security. The deferred tax would have to be paid over the following two years: half by Dec. 31, 2021, and the other half by Dec. 31, 2022.
- d) Distilleries received a temporary exemption from an excise tax for alcohol they use to make hand sanitizer that's produced and distributed within Food and Drug Administration guidelines.
- e) Aviation excise taxes are suspended until January 1, 2021.
- f) The net interest deduction limitation, which currently limits businesses' ability to deduct interest paid on their tax returns to 30% of earnings before interest, tax, depreciation, and amortization (EBITDA), has been expanded to 50% of EBITDA for 2019 and 2020.
- g) 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.

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