

CORONAVIRUS AID, RELIEF AND ECONOMY SECURITY (CARES) ACT

H.R. 748



➤ Speaker Bio



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Eric serves as Managing Partner of the Lancaster Office and as Chairman of the RKL Board of Directors. Throughout his more than two decades in public accounting, Eric has enjoyed the ongoing challenge of applying evolving tax and financial regulations for the benefit of his clients. As Partner in RKL's Tax Services Group, he primarily advises closely held and family owned companies regarding tax and general business matters, including succession planning.

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➤ CARES Act Overview

- Price tag of \$2.2 trillion – most expensive legislation ever passed
- Senate approved on 3/25/20 with vote of 96-0
- House passed and President signed Friday, 3/27/20



➤ Small Business Loans a.k.a. “Paycheck Protection Loans”

- Overview
 - Loans are referred to as “Paycheck Protection Loans”
 - Cost of \$349 billion
 - Applies to businesses with fewer than 500 employees; includes sole proprietorships and nonprofits
 - Accommodation and Food Services sector (NAICS 72) is eligible if not more than 500 employees per physical location of the business
 - Loans are fully guaranteed by the federal government through 12/31/20
 - After 12/31/20 loans over \$150K will be 85% guaranteed



➤ Small Business Loans a.k.a. “Paycheck Protection Loans” (continued)

- Amount of available “Paycheck Protection Loan”
 - Lesser of:
 - 2 ½ months of “Payroll Costs” based on the 12 months prior to the date of loan origination
OR
 - \$10 million
- “Payroll Costs” defined
 - Include the following:
 - Wages, commissions, salary, tips, or similar compensation to an employee or independent contractor
 - Vacation, parental, family, medical or sick leave
 - Group health care benefits, including premiums
 - Do NOT include in Payroll Cost
 - Employees whose annual compensation exceeds \$100,000
 - Payroll taxes
 - Compensation of employees with principal place of residence outside USA
 - Any qualified sick leave or family medical leave for which credit is allowed under *Families First* coronavirus legislation



➤ Small Business Loans a.k.a. “Paycheck Protection Loans” (continued)

- Terms of Loan
 - Covered loan period begins 2/15/20 and ends 6/30/20
 - Maximum maturity of 10 years
 - Interest rate not to exceed 4%
 - Proceeds of loan may be used to cover payroll, mortgage payments, rent, utilities and any other debt service requirements
 - Typical SBA Section 7 fees are waived
 - No personal guarantee from business owner or collateral is required
 - May be potential to defer repayment of loan for 6-12 months



➤ Small Business Loans a.k.a. “Paycheck Protection Loans” (continued)

- Loan Forgiveness of Paycheck Protection Loans
 - Loan can be forgiven on a tax-free basis for costs incurred during 8 week period after origination date of the loan
 - Amount of forgiveness after substantiation
 - Payroll costs (as defined previously)
 - Mortgage interest
 - Rent
 - Certain utility payments
 - Potential reduction in loan forgiveness
 - 2020 FTE (full time equivalent) employee count must be equal to or greater than 2019 FTE count for 2/15 – 6/30 testing period of each year.
 - Employee compensation cannot be reduced more than 25 percent compared to prior year
 - Reduction can be avoided if employer rehires a furloughed employee or increases the employee’s pay within an allotted time period



➤ Employee Retention Tax Credit (ERTC)

- For any business closed or suspending operations due to coronavirus, if employer continues to pay employees.
- Eligible for credit via two ways:
 - Operation of business fully or partially suspended during any calendar quarter during 2020 due to orders from appropriate government authority resulting from COVID-19.
 - Business remained open, but during any quarter in 2020, gross receipts for that quarter were less than 50% of what they were for the same quarter in 2019. The business will then be entitled to a credit for each quarter, until the business has a quarter where it’s recovered sufficiently that its receipts exceed 80% of what they were for the same quarter in the previous year.



➤ Employee Retention Tax Credit (ERTC) (continued)

- Credit amount
 - 50% of “qualified wages” paid to each employee for that quarter; ends on 12/31/20
- Qualified wage base for credit calculation:
 - For companies with more than 100 employees during 2019
 - Qualified wages are limited to wages paid by the employer during the quarter for the period of time the business was shut down
 - For companies with less than 100 employees in 2019
 - Qualified wages include those paid to employees during a shut-down, AND
 - Wages paid for each quarter that the business has suffered a sharp decline in year-over-year receipts, as described above
- For any size company, qualified wages include group health plan costs.
- **In all cases, the amount of qualified wages for each employee for all quarters may not exceed \$10,000 (generating \$5,000 max credit per employee).**
- Reported via quarterly payroll tax returns and credits are refundable by IRS.
- If an employee receives a “Payroll Protection Loan” as part of this Act, no employee retention credit will be available.



➤ Delay of Payment for Employer Payroll Tax and Self-Employment Tax

- Employer share of 6.2% Social Security tax on payroll from date of enactment through 12/31/20 will be due 50% on 12/31/21 and 50% on 12/31/22.
- Also applies to 50% of self-employed individual’s S/E tax with deferral until 12/31/21 and 12/31/22.



➤ Net Operating Loss Rules

- Prior to 2018, net operating losses (NOLs) could be carried back two years and forward 20 and offset 100% of taxable income.
- Tax reform rules effective 1/1/18 precluded carrybacks of NOLs and limited losses carried forward to 80% of taxable income.
- CARES Act rule: Losses from 2018, 2019 and 2020 can be carried back 5 years and can offset 100% of taxable income.



➤ Summary of Federal Tax Landscape

- Federal income taxes
 - 2019 taxes – due 7/15/20; consider a refund if overpaid
 - 2020 quarterly estimates – 1st quarter due 7/15; 2nd quarter due 6/15 (one month earlier)
- Federal employer share of payroll taxes
 - Defer paying 50% until 12/31/21 and 50% until 12/31/22
- Credits
 - Paid sick and/or paid leave credits (*Family First act*)
 - Employee Retention Tax Credit
- Paycheck Protection Loans/Forgiveness
 - Potential of up to \$10 million of loan forgiveness under CARES for companies with fewer than 500 employees

