

Congress Enacts CARES Act, a \$2 Trillion Bill to Rescue the Economy

Issues: Retirement Savings, Small-Medium Business Loans

Date: March 27, 2020

Action Taken: On March 27, 2020 the House of Representatives followed up on the Senate's March 25 passage (by a 96 to 0 vote) of H.R.748, the CARES Act. The House passed the \$2+ trillion bill by a voice vote. The bill's goal is to rescue the economy and the millions of Americans struggling with the virtual nationwide shut-down of most commerce as a result of the coronavirus pandemic.

The law is stuffed with billions of dollars in loans, grants and direct payments to help individuals, people who have lost their jobs, small and medium sized businesses, big businesses especially hard hit by the coronavirus crisis, medical care providers, and states and localities battling the crisis. Below is a list of the CARES Act's programs that may be of particular interest to NAIFA members and/or their clients.

- ***Paycheck Protection Program:*** Included in the CARES Act is the new, temporary paycheck protection program (PPP). The PPP is open to businesses with fewer than 500 employees. It is available to self-employed individuals so long as they have employees. It allows these businesses to borrow enough money to meet payroll, pay rent or mortgage and utilities, and cover pre-existing debt obligations during the "coverage period." The coverage period is between Feb. 15, 2020 and April 30, 2020.

Borrowers apply for these loans through participating banks. They will pay no fees on these loans. If, a year later, the borrower has not reduced payroll, or reduced workers' compensation by more than 25 percent, the loans will be forgiven. And, the forgiven loan amounts will not be includible in the borrower's taxable income.

Eligible payroll expenses include wages and salaries, the amount of employer-paid group health insurance allocable to the program's coverage period, retirement benefit costs for the coverage period, and payroll taxes payable for the applicable period. The amount of the loan that will be forgiven excludes salary amounts above \$100,000, paid leave expenses covered by the government through the coronavirus-related paid leave requirements

enacted in the Families First Coronavirus Response Act, and mortgage principal and other loan principal amounts.

Loan amounts that are not forgiven will be regular loans, with terms not to exceed 10 years and at interest rates that cannot exceed four percent. The program will be administered through the Small Business Administration (SBA), which will buy the forgiven loans from the banks that issue them (with the SBA paying all loan origination costs) when the banks certify, a year later, that the borrower has complied with the terms of loan forgiveness.

The CARES Act requires that guidance on how the program will work must be issued within 30 days of the law's enactment (so, by around April 27).

- **Retirement Savings:** The CARES Act includes a number of retirement savings plan provisions. The Act:
 - Suspends required minimum distributions for 2020.
 - Allows plan participants to borrow all of their vested account balances, up to \$100,000, and extends the time for repaying these loans.
 - Waives the penalty tax on early withdrawals. Repayments of these withdrawals and loans (all of which must be coronavirus crisis-related) can be made within three years, and regular income tax on these withdrawals can be paid over a three-year period.
 - Includes a rule that allows single employer defined benefit (DB) plan sponsors more time to make required contributions to their DB plans. Such payments can be deferred for a year, but interest on the required contributions for the deferred year must be paid.

- **Employee Retention Tax Credit:** H.R.748 also provides for a refundable 50 percent tax credit on the employer-paid portion of payroll taxes on wages up to \$10,000 per employee. Excluded from this tax credit are payroll taxes that are covered under the new paid leave and/or paycheck protection program rules.

- **Delay in Payment of Payroll Tax:** The CARES Act also defers employers' obligation to make Social Security tax payments through the end of 2020. This provision applies to self-employed persons, too. The provision requires that the deferred employment tax be paid over the following two years, with half of the amount required to be paid by December 31, 2021 and the other half by December 31, 2022.

- **Unemployment Compensation Benefits:** The bill expands unemployment compensation, at the federal government's expense. Per the bill, unemployment will be paid under the applicable state rules, but for four months, and with an additional federally-funded \$600/week payment, when unemployment is as a result of the coronavirus crisis. It also expands eligibility

for unemployment compensation, including to self-employed individuals.

- **Direct Payments to Individuals:** The bill creates a program under which Americans will receive cash payments directly from the Treasury. The amount of the payment is \$1,200 per person (\$2,400 for a married couple) with income under \$75,000/year (\$150,000 for a married couple or \$112,500 for a head of household). An additional \$500 will be paid for each dependent child. People with incomes above these levels will receive a reduced payment. The reduction is at the rate of \$5 for every \$100 by which their incomes exceed the limits. Payments are fully phased out at incomes of \$99,000/single and \$198,000/married. Any individual with a valid Social Security number is eligible for the payment. The payments will be by direct deposit for taxpayers who receive their tax refunds/Social Security payments via direct deposit. Others will get either checks or debit cards, a decision the government has not yet made.

The CARES Act also sets up a loan program for businesses (usually big businesses) especially hard-hit by the coronavirus crisis—e.g., airlines, travel and cruise industries. It provides billions of dollars to states to help them battle COVID-19, and more billions in aid to hospitals, doctors and other medical care providers who desperately need more supplies like masks, ventilators, and personal protective equipment. It provides for more time for payments on student loans and federally-backed mortgages. In short, it is pumping more than \$2 trillion into an economy that has virtually ground to a halt under shelter-in-place and social distancing orders that have shuttered or stalled millions of businesses.

Next Steps: Congressional leaders are vowing that the CARES Act—the third coronavirus response law in the last month—will be followed by at least one and maybe more coronavirus response bills. The next one, said Speaker of the House Rep. Nancy Pelosi (D-CA), will be targeted at “recovery;” i.e., policies aimed at helping the economy create new well-paying jobs. Other Congressional leaders say if more help is needed by individuals or businesses, that help will be provided.

The timing on the next coronavirus response bill is unclear. Congress is likely to be out of session—joining the rest of America in working from home, sheltering in place and/or social distancing—until at least late April. Lawmakers do say, though, that they will come back into session before then should new emergency developments require it.



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