

CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT

CARES ACT - TITLES I & II

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SUMMARY

- The CARES Act expands access to SBA loans for those impacted by COVID-19, particularly as it relates to paying payroll, benefits, rent, and mortgage payments on businesses. Includes up to \$10k in emergency grants that do not require repayment. The program also includes loan forgiveness based on the payroll and other expenses paid using SBA loan proceeds.
- The Act expands access to grant money for those providing training and education to businesses specific to COVID-19 and its effects on business, and how to mitigate those effects.
- The Act provides limited tax relief to individuals and businesses through tax credits and modifications to existing tax law, including charitable contributions.
- Expands gross income deductions for businesses paying student loans for employees.
- Individuals required to take an RMD from certain retirement account types are not required to do so in 2020.
- The Act expands unemployment assistance for individuals impacted by COVID-19.

TITLE I: KEEPING AMERICAN WORKERS PAID AND EMPLOYED ACT

WHO IS IMPACTED BY THIS SECTION?

Small Business Concerns

- Generally speaking, this is a business “which is independently owned and operated and which is not dominant in its field of operation.” - AKA Small Business
- Expanded under Act to include organizations smaller than 500 employees OR a size standard established under the SBA
- Expanded to include sole proprietors, independent contractors, and self-employed people
- Had to be operating on 2/15/2020, had employees or paid independent contractors on 1099
- Borrower Requirements
 - o Must certify the loan is made in good faith and is necessary to support ongoing operations due to uncertainty of economic conditions
 - o Funds must be used to retain workers, payroll, or make mortgage/lease payments, utility payments
 - o Applicant cannot have an application for another SBA loan for the same purpose
 - o Applicant cannot have already received funds by the SBA for the same purpose
 - o REMOVES requirement that borrower was unable to first obtain credit elsewhere.
 - o REMOVES requirement to personally guarantee or put up collateral for a loan.

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WHAT DOES THIS SECTION COVER?

Paycheck Protection

- Expands loans to small business concerns through SBA
 - o Increases the amount contributed by SBA from between 75% - 80% to 100% to guarantee loans through December 31, 2020 to cover payroll expenses.
 - Payroll expenses can include:
 - o Salary, wage, commission, or similar compensation
 - o Cash tips
 - o Vacation, parental, family, medical or sick leave
 - o Allowance for dismissal or separation
 - o Payment for group health benefits and insurance premiums
 - o Payment of any retirement benefit
 - o Payment of state or local tax on the compensation of employees
 - Payroll does NOT include
 - o Self-employed wages/compensation for sole proprietors or independent contractors cannot exceed \$100,000 in 1 year
 - o Compensation of an individual employee in excess of \$100,000 annual salary
 - o Taxes imposed under Chapter 21, 22, 24 of IRS Code
 - o Compensation of an employee whose principal place of residence is outside of the US
 - o Sick leave wages / family leave wages for which a credit is allowed under Families First Coronavirus Response Act
 - Maximum Loan Amount:
 - o The lesser of:
 - Average Monthly Payments for Payroll Costs incurred during the 1-year period before the loan, x 2.5
 - \$10,000,000
 - Required Usage of Loans
 - o Payroll
 - o Continuation of benefits
 - o Salaries, commission, similar compensation
 - o Payment of interest on any mortgage obligation
 - o Rent
 - o Utilities
 - o Interest on any other debt obligations that were incurred before the covered period
 - Certain Fees Waived
 - o SBA Yearly Loan Fees
 - o Loan Guarantee Fees

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- o No prepayment penalty
- Interest rate may not exceed 4%
- Complete payment deferment required AT LEAST 6 months UP TO 1 year

Entrepreneurial Development Grants

- Provides grants to resource partners to provide education, training, and advising to covered small business concerns
- o Training can cover:
 - How to apply for resources
 - How to prevent COVID-19
 - Effects of COVID-19 on supply chains, distribution, and sale of products of small businesses, and how to mitigate effects
 - Management and practice of telework to reduce COVID-19 exposure
 - Risks of cyber threats impacting remote work
 - Other relevant business practices necessary to mitigate the economic effects of COVID-19

Loan Forgiveness

- SBA loans may qualify for forgiveness
- o “An eligible recipient shall be eligible for forgiveness of indebtedness on a covered loan in an amount equal to the sum of the following costs incurred and payments made during the covered period”
 - Payroll costs
 - Interest on mortgage
 - Payment of rent
 - Utilities
- o Forgiveness can be reduced if an employee’s compensation is reduced by 25%
- Detailed documentation and application requirements.

Minority Business Development Grants

- Similar requirements to Entrepreneurial Grants above.

Emergency Grants

- Allows for an emergency advance payment within 3 days after application;
- Cannot exceed \$10,000
- Based on credit history
- Must be used for:
 - o Paid sick leave for COVID-19 illness;
 - o Payroll to continue operations;
 - o Cover increased costs associated with disruption’
 - o Rent/mortgage obligations
 - o Repayment obligations that cannot be met due to revenue loss
 - o **DOES NOT REQUIRE REPAYMENT**
 - o The government appropriated \$10,000,000,000 to carry out these emergency grants specifically.

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TITLE II: ASSISTANCE FOR AMERICAN WORKERS, FAMILIES, AND BUSINESSES

Who Is Impacted By This Section?

Unemployed Meeting Certain Criteria

- Individuals not eligible for regular compensation or benefits under state or federal law, including unemployment who are otherwise able to work but:
 - o Has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and seeking a medical diagnosis
 - o Is living with an individual in their household who has been diagnosed with COVID-19
 - o Is providing care for a family member of member of household with COVID-19
 - o A child or someone in the household for which the individual has primary care-giving responsibility cannot attend school or use another facility due to COVID-19
 - o Is unable to reach place of employment due to COVID-19
 - o Was scheduled to start a job but could not due to COVID-19
 - o Individual had to quit a job because of COVID-19
 - o Head of household has died as a result of COVID-19
- **DOES NOT** include
 - o People who have the option to work remote with pay
 - o People receiving sick leave or paid leave

Certain Tax Payers

- Individuals, those with dependents
 - o Making less than
 - \$150,000
 - \$112,000 head of household
 - \$75,000
 - o **DOES NOT** include
 - Non-resident aliens
 - Estates/Trusts
- Those needing to take an RMD in 2020 from a:
 - o 403(a) or 403(b)
 - o 457(b)
 - o An individual retirement plan
 - o Does not apply to RMDs that should have been made in prior tax years.
- Those making charitable contributions for tax benefits purposes

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Employers

WHAT DOES THIS SECTION COVER?

- Expanded Unemployment Benefits
 - o Adds emergency unemployment compensation
- Creates Tax Credits against Tax Debt
 - o \$1,200 (\$2,400 joint) plus \$500 per dependent
- Temporarily waives RMDs on Certain Plans
 - o 403(a) or 403(b)
 - o 457(b)
 - o An individual retirement plan
 - o Does not apply to RMDs that should have been made in prior tax years
- Tax Benefits
 - o Adds partial above the line deduction for charitable contributions
 - o Allows employers to deduct from their gross income payments made before January 1, 2021 of principal or interest on any education loan.
 - o Creates a tax deduction for businesses paying retention bonuses to employees.
 - o Delays payment of employer payroll taxes
 - Taxpayers may defer paying the employer portion of certain payroll taxes through the end of 2020
 - o Deferred amounts can be repaid in two installments: Half at the end of 2021 and half at the end of 2022.
 - Deferrable taxes include:
 - o The employer portion of FICA taxes
 - o The employer and employee representative portion of Railroad Retirement taxes (that are attributable to the employer FICA rate)
 - o 50% of SECA tax liability

References

- <https://www.congress.gov/bill/116th-congress/house-bill/748/text#toc-H77B4D3AE3E144B039483546D7EC11D5D>
- https://www.sba.gov/sites/default/files/2019-03/Small_Business_Act.pdf