CARES Act Explained

April 1st, 2020

Hosted By:

imaginetime

Live Webinar With Special Guest | Katie Thomas, CPA

Leaders Online

Introduction

- Katie Thomas, CPA
- Owner of Leaders Online
- Consulting firm that serves accountants and other professional service providers
- Former accountant at two of the Big 4 accounting firms

Overview

- CARES Act Summary
- Economic Injury Disaster Loans (EIDL)
- Paycheck Protection Program (PPP) Loans
- Tax Provisions for Businesses
- Modifications to the Families First Coronavirus Response Act (FFCRA)
- COVID-19 Consulting Mastermind

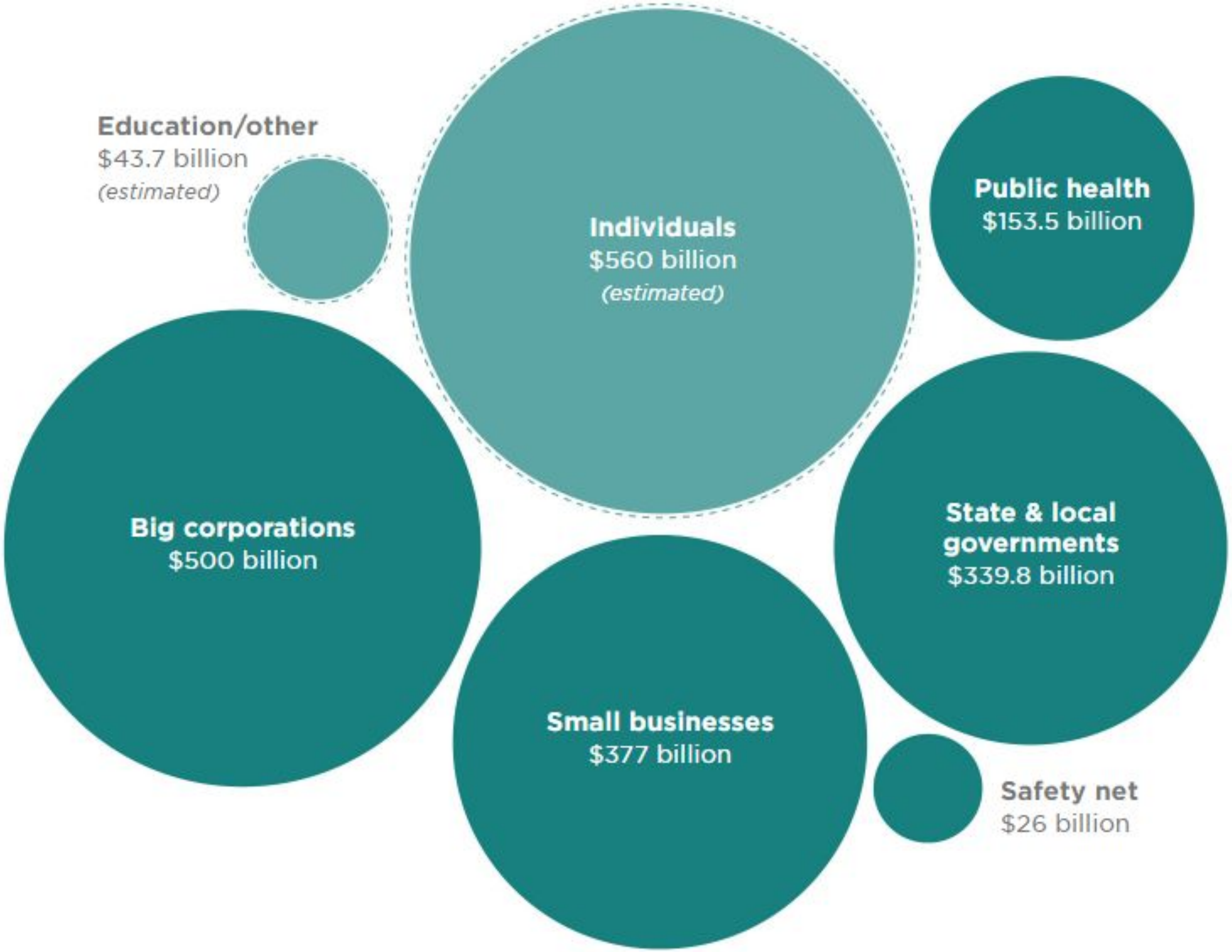
No Legal Advice Intended

- Intended to convey general information only and not to provide legal advice or opinions.
- Should not be construed as, and should not be relied upon for, legal, financial, or tax advice in any particular circumstance or fact situation.
- May not reflect the most current legal developments.
- Please do your due diligence!

CARES Act Summary

Amid an unprecedented public health and economic disaster, President Trump has signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act into law.

The $2 trillion stimulus package provides much needed relief to small businesses as they navigate the extraordinary challenges resulting from the coronavirus pandemic.



Source: Estimates for third relief bill based on bill text, committee and administration numbers.

Credit: Audrey Carlsen/NPR

imaginetime

Economic Injury Disaster Loans (EIDL)

The Economic Injury Disaster Loan (EIDL) program provides small businesses with working capital loans of up to $2 million to help overcome the temporary loss of revenue.

SBA
U.S. Small Business
Administration

Who are these loans for?

- Small businesses with 500 or fewer employees;
- An individual who operates under as a sole proprietorship, with or without employees, or as an independent contractor; or
- A private nonprofit or small agricultural cooperatives.

Your business must be directly affected by COVID-19 to qualify.

What can the money be used for?

These loans may be used to pay:

- Fixed debts (i.e. rent),
- Payroll,
- Accounts payable, and
- Other bills that could have been paid had the disaster not occurred.

What are the terms of the loan?

- Lender: The Small Business Administration (SBA)

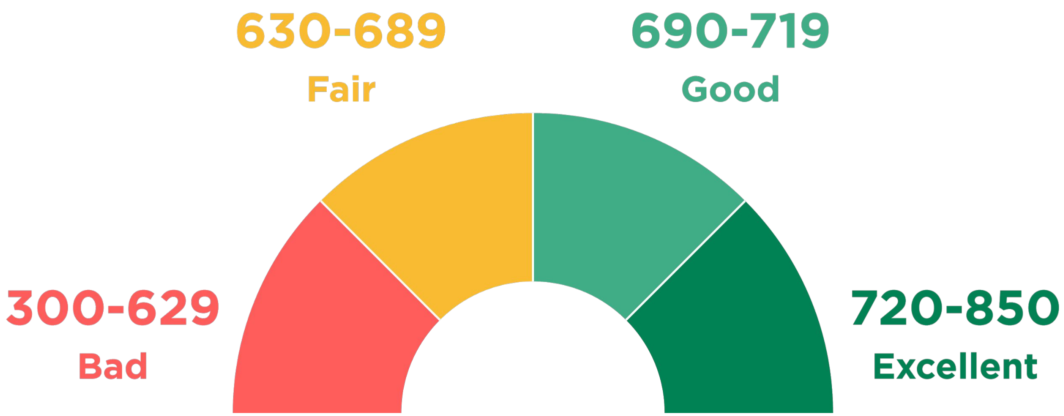
- Payment Terms: The SBA offers these loans with long-term repayments in order to keep payments affordable, up to a maximum of 30 years. Payment terms are determined on a case-by-case basis, based upon each borrower's ability to repay.

- Interest Rates:
  - 3.75% for small businesses
  - 2.75% for non-profits

Credit Rating and Personal Guarantees

- Credit Score Requirements: There is no minimum credit score required; however, applicants must have a credit history acceptable to SBA.

- Requirements for Personal Guarantees: Personal guarantees for loans up to $200,000 are not required.
  - Personal guarantees by owners of >20% of the business are required for loans in excess of that amount.



Emergency Grant Cash Advance

- Borrowers can receive $10,000 in an emergency grant cash advance within 3 days of applying for a disaster loan.
- This grant is not required to be repaid if used for purposes authorized under the SBA Disaster Loan Program.

If approved for a loan under the Paycheck Protection Program, this grant is deducted from the loan forgiveness amount.

What is the loan application process like?

- Apply online at covid19relief.sba.gov.
- As of March 30th, the SBA has introduced a streamlined online application process.
- According to the SBA, the estimated time for completing the entire application online is 2 hours and 10 minutes.
- Application determination will take roughly 2 to 3 weeks.
- Initial disbursement will occur within 5 days of receiving signed loan closing documents.

Paycheck Protection Program (PPP) Loans

The Paycheck Protection Program provides federally-guaranteed loans up to a maximum amount of $10 million to eligible businesses, which can be partially forgivable.

U.S. Small Business Administration

Who are these loans for?

Businesses and nonprofits that employ not more than the greater of:

- 500 employees; or
- If applicable, the number of employees the SBA has established as the size standard for the business's primary North American Industry Classification System (NAICS) code.

The applicant must not have received another SBA loan for the same purposes (i.e. no "double-dipping").

- If you accept the disaster loan (EIDL), and you subsequently qualify for the PPP loan, you can refinance the disaster loan with the PPP loan.

What can the money be used for?

- Payroll costs;
- Group healthcare benefits during periods of paid sick, medical or family leave, and insurance premiums;
- Payments of interest on mortgage obligations;
- Rent/lease agreement payments;
- Utilities; and
- Interest on any other debt obligations incurred prior to accepting the loan.

What is the maximum loan amount I can receive?

The lesser of $10,000,000

OR

2.5x the average total monthly payroll costs during 2019.

+

The outstanding amount of a loan made under the SBA's Disaster Loan Program between January 31, 2020, and the date on which such loan may be refinanced as part of this new program.

What is included in payroll costs?

- Wages, commission, and salary
- Cash tips or equivalents
- Vacation, parental, family, and medical or sick leave
- Severance, separation pay, and any retirement benefit
- Group health care benefit pay including insurance premiums
- State or local tax on the compensation of employees

Not included:

- Annual compensation above $100,000 for any one employee
- Payroll taxes
- Compensation for employees whose principal place of residence is outside the US
- Qualified sick leave and family emergency leave wages

What is the “covered period”?

- The 8-week period beginning on the date a PPP loan is funded. A borrower will be eligible for forgiveness and cancellation of indebtedness for up to the full principal amount of such loan.

What portion of the loan is forgivable?

The amount eligible for forgiveness is equal to the total costs spent during the covered period for qualified expenses such as:

- Payroll costs prorated for the covered period;
- Group health care benefits during periods of paid sick, medical or family leave, and insurance premiums;
- Payments of interest on mortgage obligations;
- Rent/lease agreement payments;
- Utilities; and
- Interest on any other debt obligations incurred before the covered period.

Can the forgivable amount be reduced?

- The loan forgiveness amount can be reduced by:
  1. The proportional decrease in full-time equivalents (FTEs)

$$\frac{\textit{Average number of full-time equivalent employees (FTEs) per month for the eight-week covered period}}{\textit{Average number of FTEs per month from February 15 to June 30, 2019 or January 1 to February 29, 2020}}$$

  2. The proportional decrease in salaries in excess of a 25% reduction

- These reductions in the forgivable amount will be waived if employees are rehired and/or wage reductions return to acceptable limits prior to June 30, 2020.

PPP Loan and Loan Reduction Examples

1. ABC Co. had $2.4 million of total payroll costs for 2019. ABC Co.'s average monthly payroll costs were thus $200,000. ABC Co. is eligible for a Paycheck Protection Loan equal to the lesser of: $500,000, or $10 million.

2. During the first 8 weeks after ABC Co. borrows $500,000, it incurs payroll costs, mortgage interest, and utilities of $450,000. The $450,000 is eligible for forgiveness, and the remaining $50,000 loan is deferred for at least six months and up to a year.

3. ABC Co. had 35 full-time employees during the 8-week period after it borrows $500,000. During the period February 15 – June 30, 2019, it had 50; just as it did from January 1, 2020 through February 29, 2020. The loan forgiveness of $450,000 must be reduced by 15/50 or 30% or $135,000.

What is required to apply for loan forgiveness?

The following documentation is required for loan forgiveness:

- Verification of the number of employees on payroll and pay rates, including IRS payroll tax filings and state income, payroll and unemployment insurance filings.
- Verification mortgage interest, lease, and utility payments.
- Certification that documentation is true and correct, and that the amount considered for forgiveness was used appropriately under Paycheck Protection Program guidelines.

What are the terms of the loan?

- Lender: SBA-approved lenders with delegated authority to make and approve PPP loans under Section 7(a).
- Payment Terms: No payments for the first 6 months then a 2-year term with no loan fees or prepayment penalties.
- Interest Rates: 0.5%
- All requirements for collateral or personal guarantees have been waived.

What is the loan application process like?

- Download the application at home.treasury.gov.
- After you complete your application, you should contact your current financial institution. If they are not an SBA-approved lender, you can find one using the SBA’s online referral tool (Lender Match).
- Beginning April 3, 2020, SBA-approved financial institutions will begin accepting applications from small businesses and specific nonprofit organizations with under 500 employees.
- Starting April 10, 2020, independent contractors and self-employed individuals can apply.

Tax Provisions for Businesses

- Employee Retention Credit
- Delay of Employer Payroll Tax Payments
- Modification of Net Operating Losses
- Modification of Limitation on Losses for Taxpayers Other than Corporations
- Modification of Limitation on Business Interest
- Technical Correction of Bonus Depreciation for Qualified Improvement Property

Employee Retention Credit

- A payroll tax credit created to encourage employers to retain employees and maintain salary during the rest of 2020.
- The credit is equal to 50% of "qualified wages" paid to each employee, and is done on a calendar quarter basis. It applies only to wages paid after March 12, 2020 and before January 1, 2021.

Employee Retention Credit - Eligible Employer

An employer who was carrying on a trade or business during 2020 and satisfies for ANY calendar quarter in 2020:

- A furlough test: A full or partial suspension due to orders from an appropriate government authority limiting commerce, travel, or group meetings due to COVID-19.

  OR

- A drop in receipts test. A quarter for which:
  - Gross receipts for the quarter is less than 50% of gross receipts for the SAME calendar quarter in the prior year, and continuing until
  - The quarter for which receipts returns to at least 80% of gross receipts for the same quarter in the prior year.

Employee Retention Credit - Qualified Wages

"Qualified wages" are dependent on the number of full-time employees:

- If you had more than 100 full-time employees during 2019:
  - Count all wages paid during any quarter for which someone *was not providing services* during a quarter in which you pass the furlough test or drop in receipts test.

- If you had less than 100 full-time employees,
  - Count all wages paid to employees *whether or not they were providing services* during a quarter in which the furloughed test or any the "drop in receipts" test.

Employee Retention Credit - Limitations and Exclusions

- Qualified wages are limited to $10,000 per employee for all calendar quarters. This means the maximum amount of credit allowed for a single employee is $5,000 ($10,000 x 50%).
- Qualified wages do not include any wages taken into account as qualified sick leave or qualified family leave under the Families First Coronavirus Response Act (FFCRA) and the employment provisions within the FFCRA.
- Qualified wages may not exceed the amount an employee would have been paid for working an equivalent duration during the last 30 days.
- Employers that obtain Paycheck Protection Program (PPP) loans are not eligible for this credit.

Delay of Employer Payroll Tax Payments

- The CARES Act allows employers to delay paying the employer-portion of payroll taxes through the end of 2020.

- The deferred amount is due in two installments:
  - 50% is due before December 31, 2021.
  - The remaining 50% is due before December 31, 2022.

Employers that obtain Paycheck Protection Program (PPP) loans are not eligible for deferred payments.

Modification of Net Operating Losses (NOLs)

- Five year carryback of NOLs arisings in 2018, 2019, 2020. Business can amend or modify tax returns dating back to 2013.

- The CARES Act retroactively suspends the 80% income limitation on use of NOL carryovers for tax years before January 1, 2021, and allows 100% of the taxable income to be offset by the amount of the carryforward.

- This 80% income limitation is reinstated (with slight modifications) for tax years after December 31, 2021.

Modification of Limitation on Business Interest

The limit has been increased from 30% to 50% of the taxpayer's adjusted taxable income for 2019 and 2020. For 2020, you can elect to use adjusted taxable income for 2019.

Technical Correction of Bonus Depreciation for Qualified Improvement Property

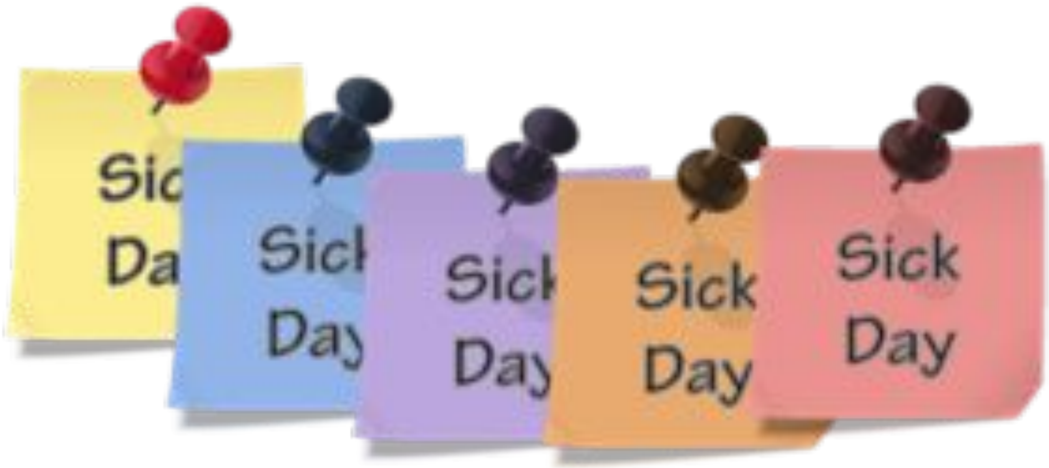
- The TCJA defined qualified improvement property (QIP) but failed to assign it a 15-year depreciable life, thereby preventing QIP from being treated as “qualified property” eligible for bonus depreciation.

- The CARES Act corrected this by assigning a 15-year depreciable life to QIP, thereby allowing it to be characterized as “qualified property” eligible for bonus depreciation.

This correction is effective retroactively as if it had been included in the TCJA.

Modifications to the Families First Coronavirus Response Act (FFCRA)

- Tax Credit Advances to Cover FFCRA Leave
- Rehired Employees Eligible for Paid FMLA Leave



Tax Credit Advances to Cover FFCRA Leave

- The FFCRA enacted the following credits for employers:
  - Sick leave: The credit is capped at $511 per employee per day if the employee takes leave for reasons of quarantine, self-quarantine, or symptoms/diagnosis and at $200 per employee per day if the employee takes leave to care for a quarantined individual, for qualifying child care reasons, or to care for an employee's own substantially similar condition.
  - FMLA leave: The credit is equal to 100% of the "qualified family leave wages" that the employer is required to pay for the applicable quarter. This credit is capped at $200 per employee per day, up to a maximum amount of $10,000 per employee.

- With the CARES Act, employers can now request the credits as an "expedited advance", but the process has not yet been established.

Rehired Employees Eligible for Paid FMLA Leave

The CARES Act modifies FFCRA's FMLA employee coverage rule by allowing employees who were laid off by an employer on or after March 1, 2020 to qualify for emergency paid FMLA leave if they are later rehired by the same employer.

A rehired employee must have worked for the employer for at least 30 of the last 60 calendar days prior to layoff.

Questions?
Submit them in the Q&A.

Looking for more support?
Sign up for the COVID-19 Consulting Mastermind.