Coronavirus Aid, Relief, and Economic Security Act ("CARES Act")
Executive Summary for Restaurants

Small Business (<500 Employees) Interruption Loans

How Does It Work?

- The plan provides $300 billion in cash flow assistance through 100% federally guaranteed loans to employers who maintain their payroll during this emergency.
  - A loan can be obtained for payroll support, such as paid sick or medical leave, employee salaries, mortgage payments, and any other debt obligations.
- The maximum loan amount will be $10 million per entity through December 31, 2020.
- If employers maintain payroll, the loans are forgiven, with the goal to help workers remain employed so that the economy can return to function after the crisis.
  - If a business is a seasonal employer, the average total monthly payments for payroll shall be for the period beginning March 1, 2019 and ending June 30, 2019.
- The program is retroactive to March 1, 2020, to help bring workers who may have already been laid off back onto payrolls.
- Loan forgiveness may also cover any additional wages paid by businesses to tipped employees (as defined in the *Fair Labor Standards Act*).

What Businesses Are Eligible?

- Eligible businesses with 500 employees or less, unless the covered industry's Small Business Administration (SBA) size standard allows more than 500 employees.
  - The restaurant industry's SBA size standards are based on a firm's total revenue.
- Private nonprofit organizations are eligible for loans made under this Act.

What Is Loan Forgiveness?

- Businesses would receive loan forgiveness in an amount equal to the payroll cost and costs related to pre-existing debt obligations for the covered period of March 1, 2020 to June 30, 2020. This would be conditional upon the business retaining their employees and payroll levels during the covered period.
- The amount of the loan eligible for forgiveness will be reduced proportionally the number of employees laid off during this period relative to the borrowers prior employment levels.
- The covered loan period begins on March 1, 2020 and ends December 31, 2020.

Mechanics of the Loan

- A business seeking loan forgiveness must submit to the lender documentation that verifies the number of full-time equivalent employees on payroll and pay rates, including 1) payroll tax filings reported to the IRS; 2) state income, payroll, and unemployment insurance filings; 3) financial statements verifying payment on debt obligations incurred before the covered period; and any additional documentation for SBA.
- The program is administered through the (SBA) 7(a) Loan Program, and the government guarantee increases to 100% through December 31, 2020, and then reduce to 75% for loans exceeding $150,000 and 85% for loans equal to or less than $150,000.
- Waives both borrower and lender fees for 7(a) loans.
- Allows complete deferment of 7(a) loan payments for one year.
- Increases the maximum loan for an SBA Express loan from $350,000 to $1 million through December 31, 2020.

March 20, 2020

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Qualified Improvement Property

- Businesses will be able to immediately write off costs associated with improving facilities instead of having to depreciate those improvements over the 39-year life of the building.
- This corrects the error in the Tax Cuts and Jobs Act and increases a business' access to cash flow by allowing them to amend a prior year return, while incentivizing investment.

Modifications for Net Operating Losses (NOLs)

- The provision relaxes limitations on a company's use of losses from prior years. NOLs are currently subject to a taxable income limitation, and they cannot be carried back to reduce income in a prior tax year. This provision provides that a loss from 2018, 2019, or 2020 can be carried back five years.
- This also temporarily removes the taxable income limitation to allow an NOL to fully offset income.

Delay of Payment of Employer Payroll Taxes

- Employers can defer payment of the employer share of the Social Security tax.
- 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.

Additional Tax Relief

- The tax filing deadline will be extended from April 15 to July 15
  - Businesses and individuals can postpone estimated tax payments due from the date of enactment until October 15, 2020 with no cap on the amount of payment postponed
- Modification of limitation on losses for taxpayers other than corporations
- Modification of credit for prior year minimum tax liability of corporations
- Modification of limitation on business interest

Exchange Stabilization Fund for Severely Distressed Sectors of Economy

- $150 billion in Treasury Department collateralized loans under an Exchange Stabilization Fund for eligible businesses
- An entity is only eligible for relief if the Treasury Secretary determines its continued operations are jeopardized as a result of losses stemming directly from the coronavirus outbreak.
- Interest rates on any loans extended by the Treasury Secretary may be no less than the current average yield on outstanding marketable obligations of the United States of comparable maturity.
- The legislation explicitly bars the Treasury Secretary from using the funds provided to make grants or direct cash payments to entities.
  - The legislation mandates that entities receiving assistance do not increase compensation for, or provide golden parachutes to, executives over a two-year period from the date of enactment.
- The legislation directs the Secretary of the Treasury, to the extent feasible and practicable, to ensure that the Government is compensated for the risk assumed in making loans and loan guarantees. To that end, "the [Treasury] Secretary is authorized to enter into contracts under which the Government, contingent on the financial success of the eligible entity, would participate in the gains of the eligible entity or its security holders through the use of such instruments as warrants, stock options, common or preferred stock, or other appropriate equity instruments."

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