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Ways The

# CARES ACT

Will Allow Dentists to Pay  
Your Expenses, Keep Your  
Employees and Put Money  
Back in Your Pocket



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# // Retirement Plans //

- Taxpayers may now take up to \$100,000 in distributions from retirement plans without a 10% early withdrawal penalty.

Available to:

- A taxpayer (or their spouse) who has been diagnosed with COVID-19;
- A taxpayer who experienced adverse financial consequences from being laid off, furloughed, quarantined, hours reduced or unable to work due to childcare.
- The CARES Act provides flexibility for loans from certain retirement plans for corona virus-related relief.

While you will avoid the 10% penalty, the distributions will be taxable unless you repay the distributions back to the plan within 3 years. If not repaid, the Act does allow you to spread the income over a 3-year period beginning in 2020.

- Required minimum distributions from retirement plans are waived for 2020.

***Observation: We believe it is best to not touch your retirement and there are better options available during this difficult time. However, this may be a necessity for some who have exhausted all other options.***

## // Federal Student Loans //

- Taxpayers now have the ability to pause the payments on your federal student loans for six months until September 30, 2020.
  - Interest shall not accrue during the suspension period.
  - These 6 months will count for purposes of any student loan forgiveness program.
  
- Employers can pay up to \$5,250 of your student loans tax free to the employee.

***Observation: This provision is a pause only, and your loan balance will not change. It is important to note that it only relates to federal student loans. Other loans from private sources do not qualify.***

# // Employer Payroll Tax & Self Employment //

- Employer's share of the 6.2% social security tax that would otherwise be due through 12/31/20 can be paid as follows:
  - 50% on 12/31/21
  - 50% on 12/31/22
- Not available to anyone who has a Paycheck Protection Loan that is forgiven (discussed below).
- A self-employed taxpayer can defer 50% of their self-employment tax over the same 2-year period noted above.

***Observation: Certainly the Paycheck Protection Loan discussed below is a more favorable provision; however, as a last resort, this could help with cash flow during lean times. Understand the liability remains and has to be repaid over the 2 years noted above. Generally, payroll taxes are not something you want to get behind on, so be sure to follow through.***

# // Employee Retention Credit //

- There is a one-year credit against the 6.2% share of the employer's payroll tax for businesses that continue to pay their employees during the following situations:
  - The operation was fully or partially shut down during any calendar quarter in 2020 (due to COVID-19 orders from governmental authorities).
  - The operation remained open; but during any quarter the gross receipts for that quarter were less than 50% of what they were for the same quarter in 2019. Eligible until a quarter in which gross receipts rebound to 80% of same quarter in prior year.
  
- Credits are equal to 50% of qualified wages for each employee (up to \$100,000) and are refundable.

***Observation: There are complications here regarding size and coordination with family medical leave and paid sick leave expenses previously enacted. Furthermore, if an employer taxes out a generally more favorable Payroll Protection Loan no credit will be available.***

# // Paycheck Protection Program //

- A \$350 billion loan program for small businesses that are 100% federally guaranteed. A few characteristics:
  - Loans will be made through FDIC Insured banks.
  - Available until 6/30/20
  - Will be non-recourse against owners if used for authorized purposes
  - No personal guarantees or collateral required
  - No fees will be collected from borrower
  - No requirement that borrower has the ability to obtain credit elsewhere
  - Portion not forgiven will have maturity of not more than 10 years
  - Interest rate shall not exceed 4%
  - Payments can be deferred for 6 months to 1 year – guidance will be forthcoming
  - You can refinance an existing Economic Injury Disaster Loan into a Paycheck Protection Loan
  - No prepayment penalties on any remaining debt after forgiveness
  
- Who qualifies:
  - Small business concerns, non-profit organizations or other groups who have 500 or fewer employees (full-time, part-time, other basis)
  - Sole-proprietorships, independent contractors and eligible self-employed individuals
  - Small business concerns must have experienced as a result of COVID-19:
    - Supply Chain Disruptions
    - Staffing Challenges
    - Decrease in Gross Receipts or Customer
    - A closure
  
- How can the proceeds be used?
  - Authorized uses include:
    - Payroll Costs (inc. salaries, commissions, etc.)
    - Health Insurance Benefits
    - Interest on Mortgage Obligations – no pre-payments or payments of principal
    - Interest on any other debt obligations incurred before the covered period.
    - Rent Utilities
  
- How is the loan amount determined?
  - Lesser of:
    - Average total monthly payments for payroll (defined below) for 1-year period before loan was made by 2.50 or \$10,000,000 and
    - Any disaster loan taken out after 1/3/20 and refinanced into this note.

# // Paycheck Protection Program Cont. //

- What is included in Payroll?
  - Salaries, wages, commissions, tips, separation payments, or other similar compensation.
  - Payment for vacation, parental, family, medical or sick leave.
  - Benefits including health and retirement.
  - Payment of state and local taxes assessed on compensation.
  - Sum of payment of any compensation to sole-proprietor or independent contractor that is not more than \$100,00 in 1 year prorated to the covered period.
  
- What is **not** included?
  - Compensation for any employee in excess of annual salary of \$100,000 prorated to the covered period.
  - Qualified sick or family leave for which a credit is allowed under Families First Act.
  - Payroll Taxes
  
- What are the forgiveness provisions?
  - Subject to certain limitations, the amount forgiven is the principal amount spent over the 8-week period following the loan origination on:
    - Payroll Costs
    - Interest on Mortgage Obligations that are:
      - Liabilities of the Borrower
      - Mortgages on real or personal property
      - Incurred before 2/15/20
    - Rent under a lease in force before 2/15/20.
    - Utilities for which service began before 2/15/20.
  - Treated as cancellation of debt income; however, will not be taxable.
  
- What are the forgiveness limitations?
  - May not exceed the existing principal balance of the loan.
  - Will be reduced if there is a reduction in the number of employees.
    - Multiply the potential exclusion amount noted above (i.e. spent on eligible uses) by:
      - Average full time equivalent (FTE) per month during covered period (8 weeks after origination) divided by either (at the borrower's discretion):
      - Average monthly FTE from 2/15/19-6/30/19
    - or
    - Average FTE from 1/1/20-2/29/20

# // Paycheck Protection Program Cont. //

- May also be reduced if greater than 25% reduction in total salary of any employees (with annualized wages less than \$100,000) during the covered period – i.e. 8 weeks after origination.
- Will be required to provide supporting documentation (i.e. payroll tax filings, check stubs, etc.) to qualify for loan forgiveness.
  
- So what should I be doing now to prepare for this program?
  - Reach out to your banking relationship, ask for any information they have, and whether they can get a head start on your application.
  - Get your books and records caught up now. Could potentially need a trailing 12-month P&L.
  - Start pulling Payroll data/reports including:
    - Payroll Summary Reports
    - Breakdown of Payroll Benefits – vacation, health insurance, retirement, separation payments, etc.
    - Most recent Mortgage Statements
    - Most recent Utilities Bills (Electric, Gas, Telephone, Water, Internet, etc.)
    - Current lease agreement
    - Copy of your 2018 and 2019 business and personal tax returns (or extensions if not filed)
    - Consider completing forms SBA has historically requested:
      - Form 1919 Borrower Information Form
      - Form 912 Statement of Personal History
      - Form 413D Personal Financial Statement

***Observation: Obviously this is the cornerstone legislation for which small businesses have been waiting. When the final guidance is released, we foresee a rush to obtain these funds that could potentially overwhelm the system. Hopefully the infrastructure can support it. Furthermore, the timing of receipt is of great interest to many small businesses who are struggling to keep the lights on. Many indicate it will be several weeks as of the date of this analysis (March 28<sup>th</sup>) before these funds will be available, and we are advising our clients to continue to manage their cash as if they were not available. One final note, while \$350 billion is a considerable sum, the ultimate question is it enough? Will these funds become exhausted well in advance of the 6/30/20 sunset of this program or will there be enough to go around? If they run out, will the fed allow more funds to be allocated? Those are all crystal ball questions for which no one knows the answer. Bottom line in our opinion is to be proactive and be prepared. Have your ducks in a row so when you are ready to apply the process is as streamlined as possible.***



# // About Us //

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