



# CARES Act Webinar

**ACT**  
*with confidence*

April 2, 2020

# Session Overview

## □ Introduction

- Moderator – Brian J. Kassalen, CPA, CFF – Partner

- Panelists:

- Steven S. Robey, CPA, CGMA – Partner

- Kevin A. Highlander, CPA – Partner

- J. Marlin Witt, CPA - Partner

## □ Question & Answers

- Q&A function

- Email questions to [brian.kassalen@actcpas.com](mailto:brian.kassalen@actcpas.com)

# Session Overview

- Provide an overview of the CARES Act and other benefits to businesses specifically as it relates to:
  - ▣ Loans available to businesses:
    - Economic Injury Disaster Loans (EIDL)
    - Other Loan Provisions
    - Paycheck Protection Program
  - ▣ Other Business Provisions:
    - Payroll tax deferral
    - Employee retention credit
    - Stimulus payments
    - Family First Coronavirus Response Act

# Links to Important Resources

- ACT COVID-19 Resource Center
  - ▣ <https://www.actcpas.com/knowledge/covid-19-resource-center>
- Small Business Administration
  - ▣ <https://www.sba.gov/>
  - ▣ <https://www.sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources>
  - ▣ <https://www.sba.gov/document/sba-form--paycheck-protection-program-ppp-sample-application-form>

# Disclaimer

- The Paycheck Protection Program (PPP) and other loan or business benefits are contained within the Coronavirus Aid, Relief and Economic Security Act (CARES). The CARES Act was passed by Congress and signed by the President on March 27, 2020. The Act is comprised of approximately 880 pages. Guidance and clarifications relative to the Act is supposed to be issued within 30 days of enactment. In the meantime, we must rely on our interpretation of the statute. We cannot provide assurance at this time that our interpretation will ultimately be supported by future guidance.

# Economic Injury Disaster Loan

# What is an Economic Injury Disaster Loan (EIDL)

- Not a new loan under the CARES Act like the Paycheck Protection Program
- Offers up to \$2 million of financial assistance – based on amount of economic injury
- Can receive an advance of \$10,000 within 3 days of application:
  - This portion is considered a grant
  - Won't need repaid even if loan application is denied

# What is an Economic Injury Disaster Loan (EIDL)

- Who can get an EIDL?
  - ▣ Small businesses up to 500 employees
  - ▣ Private nonprofit organizations
  - ▣ Sole proprietor (with or without employees)
  - ▣ Independent Contractors
  - ▣ Others as defined in the program
- CARES Act updates certain aspects of EIDL's
  - ▣ Loans and advances up to \$200,000 – No personal guarantees
  - ▣ Waives the 1 year in business requirement (need to have been in business by January 31, 2020)

# What is an Economic Injury Disaster Loan (EIDL)

- CARES Act updates certain aspects of EIDL's
  - Loan decision CAN be based solely on the credit score of the applicant
  - Would not need to provide tax return necessarily
  - Use alternative methods to determine applicants ability to repay
  - If a business gets an EIDL and Paycheck Protection Program Loan
    - \$10,000 advanced is reduced from loan forgiveness
    - Can refinance EIDL into Paycheck Protection Program loan

# Other Loan Provisions

# Other Loan Provisions

- Benefits to existing SBA Loans:
  - SBA 7(a) loans get relief:
    - SBA will pay all principal, interest and fees due for a six month period
    - Borrower will be responsible for payments after the six month period
    - Payments covered by SBA WILL NOT have to be repaid by the borrower
  - Medium Size Business Loans:
    - Between 500 – 10,000 employees
    - Economic Stabilization and Assistance Loans
      - Loans at 2% interest
      - More stringent provisions in the CARES Act to receive these loans

# Paycheck Protection Program

# Basic Facts of Paycheck Protection Plan (PPP)

- Merely one of multiple loan packages available under the CARES Act
- \$349 billion appropriated to PPP
- How the funds will be allocated among states is unknown. (Will it be first come, first served?)
- The application period runs through June 30, 2020
- Many applications can begin as early as April 3<sup>rd</sup>, with independent contractors/self-employed by April 10<sup>th</sup>

# What is attractive about the Paycheck Protection Program?

- To the extent that loan proceeds are used for qualifying uses, principal will be forgiven
- Loan principal forgiven will not constitute taxable income
- Loan bears interest at 0.5%
- Payments under PPP loans will be deferred for 6–12 months
- Loan matures in 2 years
- No certification from borrower that it is unable to obtain credit elsewhere
- No collateral requirement
- No personal guarantees
- No government or lender fees

# Who May Participate

- Small businesses, generally defined as less than 500 employees
  - ▣ Exceptions apply to hospitality and dining industry relative to 500 employee limit where can count by location and not limited by company total
  - ▣ Aggregation rules determined under SBA rules
- Some nonprofits, mostly 501(c)(3)
- Includes independent contractors and those who are self-employed

# Other Requirements...

- The business was in operation on February 15, 2020; and
  - ▣ The business had employees for whom the borrower paid salaries and payroll taxes; or
  - ▣ Paid independent contractors as reported on a Form 1099-MISC
- Borrower certifies that the uncertainty of the current economic crisis makes the loan request necessary to support ongoing operations

# Other Requirements...

- The borrower will use the proceeds from the loan to retain workers by maintaining payroll, and/or paying their mortgage, rent, and utility payments
- The borrower has not received a loan for a duplicate purpose during the same time period (note there is the potential to refinance loans made under the Emergency Economic Injury Disaster section of the CARES Act under this Program)
- Precluded from deferred payment of employment taxes and claiming Employee Retention Credit

# Where Do You Apply?

- Federally insured bank
- Federally insured credit union
- Farm Credit Institution
- Unlike other CARES loans, application is not made directly to SBA
- Recommendation is to start with your current financial institution
- Can go to [www.sba.gov](http://www.sba.gov) to find a list of qualified providers in your area

# How Much Can Be Borrowed

- Lesser of 2.5X “average” payroll costs (based on 12 months preceding the loan application)  
OR  
\$10,000,000

# Payroll Costs Include

- Salary, wage, commission, or similar compensation (up to \$100,000 in annual compensation)
- Payment of cash tips, or equivalent
- Payment for vacation, parental, family, medical, or sick leave
- Allowance for dismissal or separation
- Payment required for the provision of group health care benefits, including insurance premiums
- Payment of any retirement benefit
- Payment of state or local tax assessed on the compensation of employees
- Certain payroll taxes and federal withholdings are excluded from the determination of “covered payroll costs”

\*\* Excludes Federal withholding and FICA as well as additional sick leave under Families First Act.

# Allowable Use of Loan Proceeds

- Payroll costs
- Costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums
- Employee salaries, commissions, or similar compensations
- Payments of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a mortgage obligation)
- Rent (including rent under a lease agreement);
- Utilities
- Interest on any other debt obligations that were incurred before the covered period

# Forgiveness of PPP Loan

- Forgiveness of PPP loan is based on accumulated expenditures during the 8-week period following receipt of loan proceed for:
  - ▣ Covered “payroll costs”
  - ▣ Utility payments, to the extent that service on those utilities started prior to February 15, 2020
  - ▣ Rent expenses, to the extent that the rent was obligated under a lease agreement in existence prior to February 15, 2020
  - ▣ Interest on a mortgage debt, to the extent that the mortgage was entered into prior to February 15, 2020
- The amount of loan forgiveness cannot exceed the principal amount of the PPP loan

# What May or Will Need to Provide as Part of Application?

- Tax returns and/or financial statements for the previous one to three years
- Year-to-date financial statements through the date of the loan application
- Prior Employment Tax Returns
- Proof of monthly payroll costs for the 12 months before the application date
- Any additional information that substantiates the direct financial impact of COVID-19

# Amount of Forgiveness Can Be Reduced If...

- If reduce workforce during the 8 weeks following the loan compared to similar periods in 2019 or 2020
  - ▣ Corrective action (rehiring employees) prior to June 30 can mitigate reduced forgiveness
- Reduce salary and wages of those making less than \$100,000 by 25% or more

# Other Business Provisions

# 2020 Recovery Rebates for Individuals

- The Act provides for immediate cash payments in 2020 to individual taxpayers.
- Amount of rebate is dependent on filing status and adjusted gross income of the taxpayer.
  - \$1,200 for individual taxpayers
  - \$2,400 for married taxpayers filing a joint return
  - \$500 additional payment per qualifying child

## 2020 Recovery Rebates for Individuals (continued)

- AGI Thresholds
  - ▣ Single - \$75,000
  - ▣ Head of Household - \$112,500
  - ▣ Married Filing Joint - \$150,000
- Recovery rebates reduced by 5% for income in excess of the above thresholds.
- Complete phase-out at the following thresholds:
  - ▣ Single - \$99,000
  - ▣ Head of Household - \$136,500
  - ▣ Married Filing Joint - \$198,000

## 2020 Recovery Rebates for Individuals (continued)

- Once the rebate is phased-out for the taxpayer, the rebate for each qualifying child phases out with each additional \$10,000 of AGI above the threshold amount.
- Qualifying child for purposes of the rebate
  - ▣ Same definition as applicable for the Child Tax Credit.
  - ▣ Must be under age 17 at the end of the year.

## 2020 Recovery Rebates for Individuals (continued)

- Taxpayers eligible for the rebate include any individual other than:
  - ▣ Nonresident alien individuals
  - ▣ Estates or trusts
  - ▣ Individuals that qualify as a dependent on another taxpayer's return

## 2020 Recovery Rebates for Individuals (continued)

- Return requirements
  - Rebate eligibility is based on 2019 return.
  - If no 2019 return has been filed, eligibility will be based on 2018 return information.
- 2020?
  - If AGI is too high in 2018 and 2019, there is still an opportunity to claim the rebate credit in 2020.
    - Will be dependent upon taxpayer's 2020 AGI

# Delay of Payment of Employer Payroll Taxes

- The Act provides that employers and self-employed individuals may defer 50% of Federal payroll taxes.
  - For payroll taxes incurred between March 27, 2020 through December 31, 2020
  - Employer's portion of the Old-Age, Survivors, and Disability Insurance (OASDI) Tax - 6.2% percent
  - 6.2% of OASDI for self-employed individuals

## Delay of Payment of Employer Payroll Taxes (continued)

- Extended payment dates
  - ▣ 50% of deferred payroll taxes due December 31, 2021
  - ▣ Remaining balance due December 31, 2022
- Deferral period does not apply to taxpayers with loan forgiveness under the Paycheck Protection Program.

# Retention Credit

- Up to \$5,000 per employee
  - ▣ Operations impacted by the shutdown
  - ▣ Significant decline in gross wages (50%)
  - ▣ Until gross receipts returns to 80%
  - ▣ 50% of Qualified Wages up to \$10,000
  - ▣ Refundable credit against EE and ER - 6.2% OADSI
- Employers < 100 employees
  - ▣ Applies to all employees
- Employers >100 employees
  - ▣ Applies to affected employees

# Retention Credit

- Available to tax exempt – for Shutdown
- Wages
  - ▣ based on similar period prior year
  - ▣ include allocable health care costs
- Not available:
  - ▣ 45S Credit claimed
  - ▣ If Small business interruption loans are taken

# Families First Coronavirus Response Act

- Employers  $\leq$  500
  - ▣ For COVID-19 affected employees
    - Emergency Sick Leave
    - Expanded FMLA coverage
- Effective April 1, 2020
- 80 hours for full time employees
- Offsetting tax credit against payroll taxes
  - ▣ Credit is for amounts paid for leave
  - ▣ Can offset federal payroll tax deposits
  - ▣ Apply for refund if credit is greater than liability

# Families First Coronavirus Response Act

- Emergency Sick Leave – 100% pay rate
  - Employee subject to Federal, State, or local quarantine or isolation order related to COVID-19
  - Employee has been advised by health care provider to self quarantine due to concerns related to COVID-19
  - Employee is experiencing symptoms of COVID-19 and is seeking diagnosis
  - \$511 per day/\$5,110 aggregate maximum

# Families First Coronavirus Response Act

- Emergency Sick Leave – 2/3 pay rate
  - Employee is caring for an individual who is subject order in 1 or 2 above
  - Employee is caring for a son or daughter if school or place of care is closed due to COVID-19 precautions
  - Is experiencing any other substantially similar condition specified by the HHS
  - \$200 per day/\$2,000 aggregate maximum

# Families First Coronavirus Response Act

- FMLA Expansion – 2/3 pay rate
  - ▣ Expands FMLA
  - ▣ Covers employers with less than 50 employees – for this provision only
- Covers 10 weeks
  - ▣ First two weeks unpaid/PTO/Other Sick time, etc.
  - ▣ Employee is caring for a son or daughter if school or place of care is closed due to COVID-19 precautions
  - ▣ \$200 per day/\$2,000 aggregate maximum

# ACT COVID-19 Task Force

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