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Senate Passes The CARES Act

The Senate has just passed a revised version of The CARES Act estimated to cost close to \$2 trillion by a unanimous vote. For a breakdown of how this bill would affect the industry, see below. The CARES Act now goes to the House, where leadership will attempt to pass the vote by voice vote Friday morning. Should this method fail, the House will pursue other methods of voting and will likely have to call some or all of the House back.

Revised CARES Act: What's changed?

Below is the original text released Thursday 3/19 by the Senate GOP. Updates are after each section showing what has changed in the final Senate package as of 9 PM on 3/25. *Please note, this is not yet law; additional changes may still be made.* While the House Democratic leadership has indicated they plan on passing as-is, if members object there is the outside chance this bill could fail totally or see changes. So, while businesses should start thinking about how to comply, it won't be final until the President signs into law.

Checks mailed to individuals: All calculations would be based on the 2018 tax filings. A \$1,200 tax rebate (\$2400 for married couples) would be sent to people who earned \$75,000 (\$150,000 for married couples), with a gradual decrease in the check as income rises, with those earning above \$99,000 (\$198,000 for married couples) getting nothing. Lower-income people would receive less, as taxpayers with little or no income tax liability but at least \$2,500 of qualifying income would be eligible for a minimum rebate check of \$600 (\$1,200 married). There is also a \$500 per child credit.

Update: This version removes the minimum rebate check of \$600 for those with no tax liability, meaning that low income households would see significantly less benefit from this bill.

Small Business Loans: The bill allocates up to \$300 billion to provide additional loans for small businesses (defined as 500 employees or under) for up to \$10 million per business. Items that can be covered by the loan include: payroll support (including paid sick, medical, or family leave, and costs related to the continuation of group health care benefits during those periods of leave) employee salaries, mortgage payments, rent, utilities and any other debt obligations that were incurred before the covered period. Eligibility for a loan will only be based on whether the borrower was in operation on March 1, 2020 and had employees for whom the borrower paid salaries and payroll taxes. Fees related to the loans will be "removed or reduced to the extent possible" and prepayment penalties removed.

Update: The bill now directs the SBA to provide Economic Injury Disaster Loans (EIDL) to small businesses, covering the same categories above. (SBA has signed emergency declarations for all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands, so the EIDL program is all localities.) Also included is \$10 billion in direct grants for businesses that do not qualify for the EIDL program, and \$17 billion to have SBA step in and make six months of principle and interest payments for all SBA backed business loans. Loan forgiveness is available for employers that demonstrate the loans were used to cover employee pay/rent/mortgage/utility and have retained employees through the life of the loan. The agreement also includes \$350 billion that would establish lending programs for small businesses, but only for those who keep their payrolls steady through the crisis. Small businesses that pledge to keep their workers would also receive cash-flow assistance structured as federally guaranteed loans. If the employer continued to pay its workers for the duration of the crisis, those loans would be forgiven.

Taxes:

- Filing deadline extended to July 15, 2020.
 - *Update: The Administration has formalized this decision already.*
- Corporations and individuals can postpone estimated tax payments until October 15, 2020.
 - *Updated: Removed*
- Employers and self-employed individuals can defer payment of the employer share of the Social Security tax. The deferred employment tax can be paid over 2 years, with half due by December 31, 2021 and the other half by December 31, 2022.
- Net operating losses from 18/19/20 can be carried back 5 years and would temporarily remove the taxable income limitation to allow an NOL to fully offset income. This would also modify the loss limitation applicable to pass-through businesses and sole proprietors, so they can benefit from the NOL carryback rule.
- Temporarily increases the amount of interest expense businesses are allowed to deduct on their tax returns, by increasing from 30% limitation to 50% of the taxable income for 2019 and 2020.

Update: Businesses would get a tax credit for keeping idled workers on their payrolls during the coronavirus pandemic, so long as the businesses meet certain criteria. They would get a refund for half of what they spend on wages, up to \$5,000 per worker. To qualify, businesses have to prove they took a 50 percent loss compared to the same quarter in years past. And to keep companies from double-dipping on aid under the bill, employers won't be able to get special SBA loans if they opt for the tax credit.

FMLA/Sick Leave: This bill would amend HR 2601 by changing the amount an employer would be required to pay under FMLA leave (leave granted if an employee is not able to work due to a child being home due to closures of school/daycare from COVID-19). Under HR 2601 the cap is \$2000, under The CARES Act the cap is \$10,000.

Update: FMLA/Pail Leave will be the same as in HR 2601

New **Miscellaneous but of interest**

- Extends REAL ID Deadline for States to September 30, 2021.

New **Not in the bill**

- Funds to help oil/gas industry
- Funds for cruise ships
- USPS Funding

What's After The CARES Act?

Multiple members in both parties and houses have already flagged the need for another big package sometime in the next month or so. It is expected to include additional unemployment insurance, additional support of affected industries, additional SNAP support, a bailout of USPS, state and municipal funding and possibly additional checks to Americans.

NPMA continues to review this proposal and will provide updates as this bill moves through the legislative process.