



Coronavirus Aid, Relief, and Economic Security (CARES) Act Summary of Title II Sections Containing Tax-Related Provisions Updated March 26, 2020

Late Wednesday evening, March 25, 2020, the United States Senate unanimously passed the CARES Act. This \$2.2 trillion Coronavirus relief package is designed to alleviate some of the economic hardship caused by the pandemic. The House of Representatives is expected to pass the legislation (as passed by the Senate and without changes) as early as Friday, March 27 and President Trump is expected to immediately sign bill into law.

The sweeping aid package includes hundreds of provisions ranging from cash payments to low and middle income Americans, to the suspension of Student Loan payments, and assistance for airlines, manufacturers, small business, and hospitals, to name a few. Once the CARES Act is signed into law by President Trump, the Treasury Department and IRS will be responsible for implementing the tax-related provisions. It is expected that some of the provisions could take several weeks for Federal Agencies, such as the IRS, to create regulations and rules for the practical implementation and operation of the CARES Act.

To help NSA members anticipate the types of tax-related implications of the CARES Act, we have provided a summary of the CARES Act Title II which houses most of the tax provisions. Specifically:

- Subtitle A: Unemployment Insurance Provisions
- Subtitle B: Rebates and Other Provisions; and
- Subtitle C: Business Provisions.

Section Summary of Title II (Containing Many Tax-Related Provisions) in CARES Act as passed by the Senate and Expected To Be Approved by the House (Summary Source: US Senate Finance Committee Summary & HR 748).

TITLE II—ASSISTANCE FOR AMERICAN WORKERS, FAMILIES, AND BUSINESSES Subtitle A—Unemployment Insurance Provisions

Subtitle A – Unemployment Insurance Provisions

Section 2101. Short Title

This title is called the Relief for Workers Affected by Coronavirus Act

Section 2102. Pandemic Unemployment Assistance



This section creates a temporary Pandemic Unemployment Assistance program through December 31, 2020 to provide payment to those not traditionally eligible for unemployment benefits (self-employed, independent contractors, those with limited work history, and others) who are unable to work as a direct result of the coronavirus public health emergency.

Section 2103. Emergency Unemployment Relief for Governmental Entities and Nonprofit Organizations

This section provides payment to states to reimburse nonprofits, government agencies, and Indian tribes for half of the costs they incur through December 31, 2020 to pay unemployment benefits.

Section 2104. Emergency Increase in Unemployment Compensation Benefits

This section provides an additional \$600 per week payment to each recipient of unemployment insurance or Pandemic Unemployment Assistance for up to four months.

Section 2105. Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week

This section provides funding to pay the cost of the first week of unemployment benefits through December 31, 2020 for states that choose to pay recipients as soon as they become unemployed instead of waiting one week before the individual is eligible to receive benefits.

Section 2106. Emergency State Staffing Flexibility

This section provides states with temporary, limited flexibility to hire temporary staff, re-hire former staff, or take other steps to quickly process unemployment claims.

Section 2107. Pandemic Emergency Unemployment Compensation

This section provides an additional 13 weeks of unemployment benefits through December 31, 2020 to help those who remain unemployed after weeks of state unemployment benefits are no longer available.

Section 2108. Temporary Financing of Short-Time Compensation Payments in States with Programs in Law

This section provides funding to support “short-time compensation” programs, where employers reduce employee hours instead of laying off workers and the employees with reduced hours receive a pro-rated unemployment benefit. This provision would pay 100 percent of the costs they incur in providing this short-time compensation through December 31, 2020.

Section 2109. Temporary Financing of Short-Time Compensation Agreements



This section provides funding to support states which begin “short-time compensation” programs. This provision would pay 50 percent of the costs that a state incurs in providing short-time compensation through December 31, 2020.

Section 2110. Grants for Short-Time Compensation Programs

This section provides \$100 million in grants to states that enact “short-time compensation” programs to help them implement and administer these programs.

Section 2111. Assistance and Guidance in Implementing Programs

This section requires the Department of Labor to disseminate model legislative language for states, provide technical assistance, and establish reporting requirements related to “short-time compensation” programs.

Section 2112. Waiver of the 7-day Waiting Period for Benefits under the Railroad Unemployment Insurance Act

This section temporarily eliminates the 7-day waiting period for railroad unemployment insurance benefits through December 31, 2020 (to make this program consistent with the change made in unemployment benefits for states through the same period in an earlier section of this subtitle).

Section 2113. Enhanced Benefits under the Railroad Unemployment Insurance Act

This section provides an additional \$600 per week payment to each recipient of railroad unemployment insurance or Pandemic Unemployment Assistance for up to four months (to make this program consistent with the change made in unemployment benefits for states in an earlier section of this subtitle).

Section 2114. Extended Unemployment under the Railroad Unemployment Insurance Act

This section provides an additional 13 weeks of unemployment benefits through December 31, 2020 to help those who remain unemployed after weeks of regular unemployment benefits are no longer available (to make this program consistent with the change made in unemployment benefits for states in an earlier section of this subtitle).

Section 2115. Funding for the Department of Labor Office of Inspector General for Oversight of Unemployment Provisions

This section provides the Department of Labor’s Inspector General with \$25 million to carry out audits, investigations, and other oversight of the provisions of this subtitle.

Section 2116. Implementation

This section gives the Secretary of Labor the ability to issue operating instructions or other guidance as necessary in order to implement this subtitle, as well as allows the Department of



Labor to waive Paperwork Reduction Act requirements, speeding up their ability to gather necessary information from states.

Subtitle B – Rebates and Other Individual Provisions

Section 2201. 2020 recovery rebates for individuals

All U.S. residents with adjusted gross income up to \$75,000 (\$150,000 joint return), who are not a dependent of another taxpayer and have a work eligible social security number, are eligible for the full \$1,200 (\$2,400 joint return) rebate. In addition, they are eligible for an additional \$500 per child. This is true even for those who have no income, as well as those whose income comes entirely from non-taxable means-tested benefit programs, such as SSI benefits. For the vast majority of Americans, no action on their part will be required in order to receive a rebate check as IRS will use a taxpayer's 2019 tax return if filed, or in the alternative their 2018 return. This includes many low-income individuals who file a tax return in order to take advantage of the refundable Earned Income Tax Credit and Child Tax Credit. The rebate amount is reduced by \$5 for each \$100 that a taxpayer's income exceeds the phase-out threshold. The amount is completely phased-out for single filers with incomes exceeding \$99,000, \$146,500 for head of household filers with one child, and \$198,000 for joint filers with no children.

Section 2202. Special rules for use of retirement funds

Consistent with previous disaster-related relief, the provision waives the 10-percent early withdrawal penalty for distributions up to \$100,000 from qualified retirement accounts for coronavirus-related purposes made on or after January 1, 2020. In addition, income attributable to such distributions would be subject to tax over three years, and the taxpayer may recontribute the funds to an eligible retirement plan within three years without regard to that year's cap on contributions. Further, the provision provides flexibility for loans from certain retirement plans for coronavirus-related relief. A coronavirus-related distribution is one made to an individual: (1) who is diagnosed with COVID-19, (2) whose spouse or dependent is diagnosed with COVID-19, or (3) who experiences adverse financial consequences as a result of being quarantined, furloughed, laid off, having work hours reduced, being unable to work due to lack of child care due to COVID-19, closing or reducing hours of a business owned or operated by the individual due to COVID-19, or other factors as determined by the Treasury Secretary.

Section 2203. Temporary waiver of required minimum distribution rules for certain retirement plans and accounts

The provision waives the required minimum distribution rules for certain defined contribution plans and IRAs for calendar year 2020. This provision provides relief to individuals who would otherwise be required to withdraw funds from such retirement accounts during the economic slowdown due to COVID-19.



Section 2204. Allowance of partial above the line deduction for charitable contributions

The provision encourages Americans to contribute to churches and charitable organizations in 2020 by permitting them to deduct up to \$300 of cash contributions, whether they itemize their deductions or not.

Section 2205. Modification of limitations on charitable contributions during 2020

The provision increases the limitations on deductions for charitable contributions by individuals who itemize, as well as corporations. For individuals, the 50-percent of adjusted gross income limitation is suspended for 2020. For corporations, the 10-percent limitation is increased to 25 percent of taxable income. This provision also increases the limitation on deductions for contributions of food inventory from 15 percent to 25 percent.

Section 2206. Exclusion for certain employer payments of student loans

The provision enables employers to provide a student loan repayment benefit to employees on a tax-free basis. Under the provision, an employer may contribute up to \$5,250 annually toward an employee's student loans, and such payment would be excluded from the employee's income. The \$5,250 cap applies to both the new student loan repayment benefit as well as other educational assistance (e.g., tuition, fees, books) provided by the employer under current law. The provision applies to any student loan payments made by an employer on behalf of an employee after date of enactment and before January 1, 2021.

Subtitle C – Business Provisions

Section 2301. Employee retention credit for employers subject to closure due to CO VID-19

The provision provides a refundable payroll tax credit for 50 percent of wages paid by employers to employees during the COVID-19 crisis. The credit is available to employers whose (1) operations were fully or partially suspended, due to a COVID-19-related shutdown order, or (2) gross receipts declined by more than 50 percent when compared to the same quarter in the prior year.

The credit is based on qualified wages paid to the employee. For employers with greater than 100 full-time employees, qualified wages are wages paid to employees when they are not providing services due to the COVID-19-related circumstances described above. For eligible employers with 100 or fewer full-time employees, all employee wages qualify for the credit, whether the employer is open for business or subject to a shut-down order. The credit is provided for the first \$10,000 of compensation, including health benefits, paid to an eligible employee. The credit is provided for wages paid or incurred from March 13, 2020 through December 31, 2020.



Section 2302. Delay of payment of employer payroll taxes

The provision allows employers and self-employed individuals to defer payment of the employer share of the Social Security tax they otherwise are responsible for paying to the Federal Government with respect to their employees. Employers generally are responsible for paying a 6.2-percent Social Security tax on employee wages. The provision requires that 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. The Social Security Trust Funds will be held harmless under this provision.

Section 2303. Modifications for net operating losses

The provision relaxes the limitations on a company's use of losses. Net operating losses (NOL) are currently subject to a taxable-income limitation, and they cannot be carried back to reduce income in a prior tax year. The provision provides that an NOL arising in a tax year beginning in 2018, 2019, or 2020 can be carried back five years. The provision also temporarily removes the taxable income limitation to allow an NOL to fully offset income. These changes will allow companies to utilize losses and amend prior year returns, which will provide critical cash flow and liquidity during the COVID-19 emergency.

Section 2304. Modification of limitation on losses for taxpayers other than corporations

The provision modifies the loss limitation applicable to pass-through businesses and sole proprietors, so they can utilize excess business losses and access critical cash flow to maintain operations and payroll for their employees.

Section 2305. Modification of credit for prior year minimum tax liability of corporations

The corporate alternative minimum tax (AMT) was repealed as part of the Tax Cuts and Jobs Act, but corporate AMT credits were made available as refundable credits over several years, ending in 2021. The provision accelerates the ability of companies to recover those AMT credits, permitting companies to claim a refund now and obtain additional cash flow during the COVID-19 emergency.

Section 2306. Modification of limitation on business interest

The provision temporarily increases the amount of interest expense businesses are allowed to deduct on their tax returns, by increasing the 30-percent limitation to 50 percent of taxable income (with adjustments) for 2019 and 2020. As businesses look to weather the storm of the current crisis, this provision will allow them to increase liquidity with a reduced cost of capital, so that they are able to continue operations and keep employees on payroll.

Section 2307. Technical amendment regarding qualified improvement property

The provision enables businesses, especially in the hospitality industry, to write off immediately costs associated with improving facilities instead of having to depreciate those improvements over the 39-year life of the building. The provision, which corrects an error in the Tax Cuts and



Jobs Act, not only increases companies' access to cash flow by allowing them to amend a prior year return, but also incentivizes them to continue to invest in improvements as the country recovers from the COVID-19 emergency.

Section 2308. Temporary exception from excise tax for alcohol used to produce hand sanitizer
The provision waives the federal excise tax on any distilled spirits used for or contained in hand sanitizer that is produced and distributed in a manner consistent with guidance issued by the Food and Drug Administration and is effective for calendar year 2020.