Coronavirus Aid, Relief, and Economic Security (CARES) Act

Guide for ACE Members

April 1, 2020

CARES Act Injects $2 Trillion into U.S. Economy

In response to the catastrophic economic fallout from the spread of the coronavirus across the U.S., Congress enacted the Coronavirus Aid, Relief, and Economic Security (CARES) Act, a stimulus package designed to inject an unprecedented $2 trillion into the economy through loans, direct payments, expansion of unemployment benefits and tax relief. The President signed it into law on March 27.

The CARES Act does not contain ethanol-specific provisions (nor does it include direct aid for any energy sector), but there are certain programs which could benefit ACE members. Two centerpiece provisions are the Paycheck Protection Program and Small Business Administration Economic Injury Disaster Loans described below.

Keeps Workers Employed under the "Paycheck Protection Program"

The CARES Act authorizes lenders to make up to $350 billion in loans available to help small businesses keep workers employed during the COVID-19 crisis via a Paycheck Protection Program (PPP). Small businesses with fewer than 500 employees, sole proprietors, and independent contractors are among those eligible for a maximum loan amount of $10 million (with interest not to exceed 4%) covering a period beginning February 15, 2020 and ending June 30, 2020.

Borrowers should apply for a PPP loan directly through a lender rather than the Small Business Administration. No collateral or personal guarantee is required, but lenders will ask applicants to make a good faith certification the COVID-19 emergency makes the loan necessary to help support ongoing operations and that the borrower will use the loan to retain employees, meet payroll, or make lease and utility payments. Applicants can borrow up to 2.5 times the borrower's average monthly payroll costs, not to exceed $10 million. Specified uses include employee salaries, paid sick or medical leave, insurance premiums, and mortgage, rent, and utility payments.

PPP loans are forgivable equal to the amount borrowers spend on payroll, interest on mortgages, rent, and utility payments during an 8-week period beginning on the date of the origination of the loan. According to the U.S. Department of Treasury, almost all FDIC banks will be authorized to make PPP loans. The loans are guaranteed by the federal government. Borrowers should contact their lender to learn more about obtaining a PPP loan.

Visit the SBA website by clicking here to learn more about the program and how to apply.

Eligibility

- Businesses with less than 500 employees
- Must have been in business on February 15, 2020 and had employees for whom it paid salaries and payroll taxes or paid independent contractor

Disclaimer: Contact your lender, accountant, or other financial expert on determining how to utilize PPP loans.

<u>Expands Eligibility for Economic Injury Disaster Loans and Grants</u>

The CARES Act also expands eligibility and access to SBA Economic Injury Disaster Loans (EIDLs) to include sole proprietors, independent contractors, cooperatives, private non-profits, and employee stock ownership plans with fewer than 500 employees. <u>EIDLs are working capital loans of up to $2 million to help overcome the temporary loss of revenue.</u>

The CARES Act also establishes an emergency grant to allow an eligible entity who has applied for an EIDL loan due to COVID-19 to request an advance on the loan. The advance may be used to maintain payroll, provide paid sick leave, and repay obligations that cannot be met due to revenue losses. Terminates authority to carry out emergency EIDL grants on December 30, 2020.

Disclaimer: For more information, eligibility requirements, and program limitations, contact the [Small Business Administration](), accountant, or another financial expert.

<u>Directs Assistance to Farmers</u>

The CARES Act directs $14 billion to the Commodity Credit Corporation (CCC) to increase USDA's authority to make direct payments (like the trade-related Market Facilitation Payments), to agricultural producers impacted by the COVID-19 pandemic. It is believed that USDA had about $8 billion remaining in the CCC account prior to this step, so its total CCC spending authority now exceeds $20 billion. USDA had requested Congress provide for a total of $50 billion in CCC spending.

In addition, the legislation also earmarks $9.5 billion for USDA to make payments to producers of livestock and specialty crops.

<u>Tax Relief under the CARES Act</u>

The legislation also contains several tax measures, many of these subject to the COVID-19 emergency and temporary in nature.

- <u>Temporarily Waives Excise Tax for Alcohol used to Produce Hand Sanitizer</u>
  The CARES Act 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.

- <u>New "Employee Retention" Tax Credit for Employers Subject to Closure due to COVID-19</u>
  The CARES act provides a refundable payroll tax credit for 50% 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 shut-down order, or (2) gross receipts declined by more than 50% when compared to the same quarter in the prior year.

  The payroll credit is based on qualified wages paid to the employee. 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 wages paid or incurred from March 13, 2020 through December 31, 2020.

- Delays Payment of Employer Payroll Taxes
  Employers generally are responsible for paying a 6.2% Social Security tax on employee wages. The CARES Act allows employers and self-employed individuals to defer payment of the employer share of the Social Security tax 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.

- Relaxes Limits on Net Operating Losses (NOLs)
  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 CARES Act provides that an NOL arising in a tax year beginning in 2018, 2019, or 2020 can be carried back five years. It also temporarily removes the taxable income limitation to allow an NOL to fully offset income.

- Modifies Limitation on Losses for Pass-Through Businesses and Sole Proprietors
  The CARES Act 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.

- Temporarily Modifies Limitation on Business Interest Deductions
  The CARES Act temporarily increases the amount of interest expense businesses can deduct on their tax returns, by increasing the 30% limitation to 50% of taxable income (with adjustments) for 2019 and 2020. This provision will allow businesses to increase liquidity with a reduced cost of capital, so that they are able to continue operations and keep employees on payroll.