



HR 748, became law on Friday March 27, 2020. The Act provided relief for all businesses due to the financial shocks caused by the COVID-19 pandemic. Generally, they focus on the period from February 15, 2020 through June 30, 2020.

Disclaimer: The details herein are subject to change. This summary is provided solely for the purposes of enhancing knowledge on tax and legislative matters; it does not take into account any specific taxpayer's facts and circumstances. It is not intended, and should not be relied upon, as tax, accounting, or legal advice.

COVERED LOANS

First, the Act provided for relief loans. These loans will be issued under the "Paycheck Protection Program" through authorized lenders under the SBA program, which will include financial institutions and business development centers. The Act indicates that they wish the system to be operational within thirty days of enactment.

These loans are astoundingly nonrecourse loans and much will be forgivable!

Eligibility

In general – During the covered period (February 15, 2020 to June 30, 2020), in addition to small business concerns, any business concern, nonprofit organization, veterans organization, Tribal business concern, independent contractors, and self-employed individuals shall be eligible to receive a covered loan if the concern employs not more than the greater of;

- ◆ 500 employees (with some exceptions); or
- ◆ If applicable, the size standard in number of employees established by the Administration for the industry in which the business concern, nonprofit organization, veterans organization, or Tribal business concern operates.

Certification

An eligible recipient applying for a covered loan shall make a good faith certification

- ◆ That the uncertainty of current economic conditions makes necessary the loan request to support the ongoing operations of the eligible recipient.
- ◆ Acknowledging that funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments and utility payments.
- ◆ That the eligible recipient does not have an application pending for a loan under this subsection for the same purpose and duplicative of amounts applied for or received under a covered loan; and
- ◆ During the period beginning on February 15, 2020 and ending on December 31, 2020, that the eligible recipient has not received amounts under this subsection for the same purpose and duplicative of amounts applied for or received under a covered loan.

Maximum Loan Amount

During the covered period, with respect to a covered loan, the maximum amount shall be the lesser of

- ◆ The sum of
 - The product obtained by multiplying
 - The average total monthly payments by applicant for payroll costs incurred during the 1-year period before the date on which the loan is made (Seasonal Provisions) by
 - 2.5 and
- ◆ Or \$10 million

Payroll Costs Defined

The sum of payments of any compensation with respect to employees that is a:

- ◆ Salary, wage, commission, or similar compensation
- ◆ Payment of cash tip or equivalent
- ◆ Payment for vacation, parental, family medical, or sick leave
- ◆ Allowance for dismissal or separation
- ◆ Payments required for the provisions of group health care benefits including insurance premiums
- ◆ Payment of any retirement benefit
- ◆ Payment of state or local tax assessed on the compensation on employees
- ◆ The sum of payments of any compensation to or income of a sole proprietor or independent contractor that is a wage, commission, income, and net earnings from self-employment, or similar compensation and that is an amount that is not more than \$100,000 in 1 year, as prorated for the coverage period.
- ◆ Shall not include:
 - The compensation of an individual employee in excess of an annual salary of \$100,000, as prorated for the covered period;
 - Taxes imposed or withheld under chapters 21, 22, or 24 of the Internal Revenue Code of the 1986 during the covered period;
 - Any compensation of an employee whose principal place of residence is outside the United States;
 - Qualified sick leave wages for which a credit is allowed under Section 7001 of the Families First Coronavirus Response Act; or
 - Qualified family leave wages for which a credit is allowed under Section 7003 of the Families First Coronavirus Response Act

Allowable Uses of Covered Loan

In general – During the covered period, an eligible recipient may, in addition to the allowable uses of a loan made under this subsection, use the proceeds of the covered loan for –

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

Nonrecourse – Notwithstanding the waiver of the personal guarantee requirement or collateral under subparagraph (J), the Administrator shall have no recourse against any individual shareholder, member, or partner of an eligible recipient of a covered loan for nonpayment of any covered loan, except to the extent that such shareholder, member, or partner uses the covered loan proceeds for a purpose not authorized under clause (i).

Loan Forgiveness

Forgiveness can apply to both new loans and existing SBA loans.

An eligible recipient shall be eligible for forgiveness of indebtedness on a covered loan in an amount equal to the sum of the following costs incurred and payments made during the covered period:

- ◆ Payroll Costs
- ◆ Any payments of interest on any cover mortgage obligations
- ◆ Any payment on any covered rent obligations
- ◆ Any covered utility payment

Limit on amount of Forgiveness

- ◆ Amount may not exceed principal
- ◆ Reduction based on reduction in number of employees:
 - The amount of the loan forgiveness shall be reduced, but not increased, by multiplying loan forgiveness amount (payroll costs, mortgage interest, rent and utilities) by the quotient obtained by dividing
 - The average number of full-time equivalent employees per month employed during the 8-week period after loan origination by
 - At the election of the borrower
 - The average number of full-time equivalent employees per month employed during the period beginning February 15, 2019 and ending June 30, 2019; or
 - The average number of full-time equivalent employees per month employed during the period beginning on January 1, 2020 and ending on February 29, 2020.
 - Average number of full-time equivalent employees shall be determined by calculating the average number of full-time equivalent employees for each pay period falling within a month.
- ◆ The amount of loan forgiveness under this section shall be reduced by the amount of any reduction in total salary or wages of any employee (does not include employees with annual salary in excess of \$100,000) during the covered period that is in excess of 25 percent of the total salary or wages of the employee during the most recent full quarter during which the employee was employed before the covered period.
- ◆ Rehires prior to June 30, 2020 excluded from reduction.

Taxability – For purposes of the Internal Revenue Code of 1986, any amount which would be includable in gross income of the eligible recipient by reason of forgiveness described in subsection (b) shall be excluded from gross income.

Deferral of payment of 50% of Payroll Taxes not available if any portion of loan is forgiven.

Regulation – Not later than 30 days after the date of enactment of this Act, the Administrator shall issue guidance on procedures for obtaining forgiveness.

Maturity for Loans with Remaining Balance After Application of Forgiveness

- ◆ Continued to be guaranteed by the Administration
- ◆ Maximum maturity of 10 years
- ◆ Interest rate not to exceed 4%
- ◆ Initial deferment of payments can be granted for not less than six months or more than one year

INDIVIDUAL CONSIDERATIONS

Recovery Rebates for Individuals

Eligible individual shall be allowed a credit against tax imposed in 2020

- ◆ \$1,200 (\$2,400 married filing jointly)
- ◆ \$500 for each qualifying child

Reduced by 5% of so much of the Taxpayer's AGI exceeds

- ◆ \$150,000 married filing jointly
- ◆ \$112,500 Head of Household
- ◆ \$75,000 not married filing jointly or head of household

Eligible individual

- ◆ Any individual other than
 - Any nonresident alien individual
 - Any individual claimed as a dependent
 - An estate or trust

Special Rules of Use of Retirement Funds

- ◆ Eligible distributions are allowed up to \$100,000.
- ◆ Repaid in 1 or more contributions during a 3-year period beginning on the day after the date on which such distribution was received.
- ◆ Eligible distribution means and distribution from an eligible retirement plan made;
 - On or after January 1, 2020 and before December 31, 2020
 - To an individual
 - Who is diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019 (COVID-19) by a test approved by Centers for Disease Control and Prevention.
 - Whose spouse or dependent is diagnosed with such virus or disease by such a test, or
 - Who experiences adverse financial consequences as a result of being quarantined, being furloughed or laid off or having work hours reduced due to such virus or disease, being unable to work due to lack of child care due to such virus or disease, closing or reducing hours of a business owned or operated by the individual due to such virus or disease, or other factors as determined by the Secretary of Treasury.
- ◆ If not repaid – income inclusion over 3-taxable year period.
- ◆ Increases loan eligibility from \$50,000 to \$100,000
 - For a period of 180 days after enactment of the Act
- ◆ Delay on current loans to 2021
- ◆ Qualified individuals the same as above

Temporary 2020 Waiver of Required Minimum Distribution Rules for Certain Retirement Plans and Accounts

Charitable Contributions

- ◆ For 2020 – Can deduct up to \$300 of charitable contributions above the line if you do not itemize
- ◆ Modifications of Limitations
 - No AGI limitation for individual cash contributions
 - Increases corporate limitation from 10% of taxable income to 25%

Enhanced Unemployment Benefits Will Be Paid

Unemployment benefits are increased and the first week is covered under the Act. These benefits will be adjusted through state and federal agency coordinated adjustments.

- ◆ Weekly amount determined by State law will be increased by an additional \$600.

BUSINESS PROVISIONS

Employee Retention Credit for Employers Subject to Closure Due to COVID-19

Eligible employers will receive a 50% credit on qualified wages against their employment taxes for each quarter.

- ◆ The amount of qualified wages with respect to any employee which may be taken into account by the eligible employer for all calendar quarters shall not exceed \$10,000.
- ◆ Eligible employer is any employer with operations suspended by over issued in response to COVID-19 or has suffered a significant decline (more than 50% decrease year over year) in gross receipts during the quarters that begin with the quarter in which gross receipts declined by more than 50% and ending with the quarter in which gross receipts have recovered by more than 80%.

Payroll Taxes

- ◆ Deferral of 50% of Social Security Taxes payable from the enactment date of the Act ending before January 1, 2021.
- ◆ Payable 50% on December 31, 2021 and 50% on December 31, 2022.
- ◆ Does not apply to any taxpayer if such taxpayer has had any indebtedness forgiven under Section 1106 of this Act with respect to a loan under paragraph (36) of Section 7(a) of the Small Business Act as added by Section 1102 of this Act, or indebtedness forgiven under Section 1109 of the Act.

Net Operating Losses – Businesses

- ◆ Net operating Losses generated in taxable years beginning after December 31, 2017 and before January 1, 2021 can be carried back to each of the 5 taxable years preceding the taxable year of loss.
- ◆ 80% of taxable income limitation waived.
- ◆ Adjustments to individual modifications to NOL carryovers have been enacted (review carefully).

Limitation on losses for taxpayers other than corporations

- ◆ Removal of excess loss limitations for years before 2021.
- ◆ Will allow carry over losses into subsequent tax years.

AMT Credit Refund

- ◆ Taxpayer with AMT credits will be able to claim a refund for the entire amount.
 - Instead of recovering the credits over a period of years.

Limitation of Business Interest – Section 163(j)

- ◆ For tax years beginning in 2019 or 2020 limitation is increased to 50%.
- ◆ Does not apply to partnerships for 2019 – partners can use 50% of disallowed 2019 amount in 2020.
- ◆ Can elect out.
- ◆ May use 2019 taxable income in calculating 2020 taxable income.

Technical Amendment Regarding Qualified Improvement Property

- ◆ Qualified Improvement Property is now 15-year property.
- ◆ Bonus depreciation allowed retroactively.
- ◆ Effective for 2018.