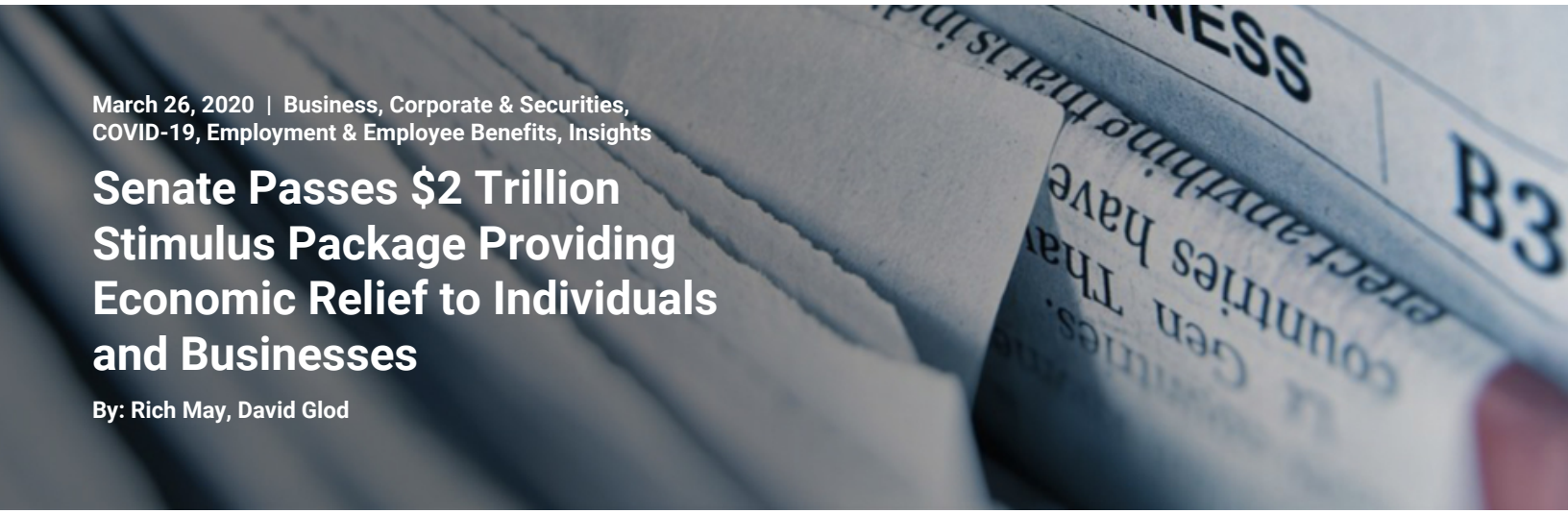


March 26, 2020 | Business, Corporate & Securities, COVID-19, Employment & Employee Benefits, Insights

Senate Passes $2 Trillion Stimulus Package Providing Economic Relief to Individuals and Businesses

By: Rich May, David Glod

Update 3/27/20: the CARES Act passed without any substantive changes affecting the below summary, only procedural changes relating to government oversight in its implementation. The final text of the Act can be found here.

Late the night of March 25, 2020, the U.S. Senate passed the CARES Act (the Coronavirus Aid, Relief, and Economic Security Act). The $2 trillion stimulus bill is the largest economic stimulus package in American history, dwarfing the $800 billion American Recovery and Reinvestment Act of 2009.

The 883-page bill still needs to be passed (and could be subject to further revision) by the House of Representatives, and then signed into law by the President. However in its present form, here are some of the highlights of what it contains.

Direct Payments

Americans with adjusted gross income (AGI) below certain thresholds will receive a one-time direct payment of $1,200. The thresholds, above which the payment will be phased out, are:

- For an individual, $75,000, with the payment phasing out entirely at $99,000 of AGI;
- For a head of household, $112,000, with the payment phasing out entirely at $136,500 of AGI;
- For a couple filing jointly, $150,000, with the payment phasing out entirely at $198,000 of AGI.

Additionally, taxpayers with children will receive a further $500 for each child. These payments will not be counted as taxable income. 2019 or 2018 tax returns will be used to calculate the amount of the payment, but taxpayers eligible for a larger rebate based on 2020 income



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will receive the balance in the 2020 tax season. If your 2020 income is higher, any overpayment of the CARES Act benefit will be forgiven.

Retirement Fund Distributions

The bill waives the 10% early withdrawal penalty on retirement account distributions up to $100,000 for coronavirus-related purposes, retroactive to January 1. Withdrawn amounts are taxable over three years, but taxpayers can recontribute the withdrawn funds into their retirement accounts for three years without affecting retirement account caps.

Unemployment Insurance

The bill would provide expanded unemployment insurance (UI) for workers, including a $600 per week benefit (on top of any payments from a state UI program) for up to four months. These federal UI benefits would be available to certain workers not ordinarily eligible for UI, such as the self-employed, independent contractors, and those with limited work history. The bill incentivizes states to repeal their waiting period provisions for unemployment benefits by fully funding the first week of UI for states that suspend such waiting periods (Massachusetts has already done so). Additionally, the federal government will fund an additional 13 weeks of unemployment benefits through December 31, 2020 after workers have exhausted their state unemployment benefits.

Small Business Loans and Grants

The bill allocates $377 billion to help small businesses (fewer than 500 employees) make payroll and cover other expenses. Small businesses are eligible for Paycheck Protection Loans up to $10 million, based on a formula tied to payroll costs. The loans will be forgivable to the extent the business uses the loan to cover up to 8 weeks of payroll, interest payments on mortgages, rent and utilities, and to the extent the business maintains its employee payroll for that period. The amount of the loan subject to forgiveness will be reduced proportionally to the employer's reduction in its number of employees, or employee compensation beyond a 25% reduction. Amounts forgiven would not be taxable as income.

The bill also includes funding for a provision to provide an advance of $10,000 to small businesses and nonprofits that apply for an SBA economic injury disaster loan (EIDL) within three days of applying for the loan. EIDLs are loans implemented by the Families First Coronavirus Response Act, of up to $2 million with interest rates up to 3.75 percent for companies and up to 2.75 percent for nonprofits, as well as principal and interest deferment for up to 4 years. The EIDL advance does not need to be repaid, even if the grantee is subsequently denied an EIDL. EIDL loans may be refinanced into Paycheck Protection Loans.

The bill would also provide grants for counseling, training and education on SBA resources

and business resiliency to small business owners affected by COVID-19, through Small Business Development Centers, Women's Business Centers and Minority Business Centers.

Loans for Larger Businesses, States and Municipalities

$500 billion will be allocated to provide loans, loan guarantees, and other investments, overseen by a Treasury Department inspector general and a Congressional committee. The terms of these loans will be determined by the Secretary of the Treasury, but they will not exceed five years and will not be forgivable. Businesses accepting these loans must not engage in stock buybacks for the duration of the loan plus one year, and must retain at least 90 percent of their employees through September 30, 2020.

Payroll Tax Credits

We have previously written about the emergency paid sick leave and family medical leave implemented by the Families First Coronavirus Response Act last week, which payments are meant to be funded by payroll tax credits. The CARES Act provides that employers need not wait until payroll taxes are due to take advantage of these credits. Rather, these credits will be refundable to employers in advance using forms to be provided by the IRS.

Under the CARES Act, some employers would also be eligible for an employee retention credit against payroll taxes in the amount of up to 50% of qualified wages paid, up to $10,000 per employee. Eligible businesses would be those whose operations were fully or partially suspended due to COVID-19, or whose gross receipts in any quarter of 2020 were less than 50% what they were in the same quarter of 2019. For employers with more than 100 employees, wages eligible for the credit are those paid to employees who are retained but are not providing services due to the suspension or loss of revenue of the business. For employers with 100 or fewer employees, all wages paid qualify for the credit.

The bill also delays payment of 50% of 2020 employer payroll taxes and self-employment taxes until December 31, 2021, and the remaining 50% to December 31, 2022.

Health Care

The deal provides over $140 billion in appropriations to support hospitals and provide personal protective equipment, testing supplies, training, accelerated Medicare payments, and support for the CDC, among other health investments. All testing and potential vaccines for COVID-19 will be covered at no cost to patients.

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Conclusion

This
is not intended to be a comprehensive summary of every provision in the CARES Act, nor will all of these provisions necessarily be signed into law in their present form. Rich May will continue to monitor this and other legislative developments and provide further updates that may be relevant to our clients and community.

Disclaimer: This summary is provided for educational and informational purposes only and is not legal advice. Any specific questions about these topics should be directed to attorney David Glod.

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