

## CARES Act

### BUSINESS TAX RELIEF SUMMARY AS OF 04/03/2020

Ronald Blue Trust is pleased to provide a brief synopsis of the business tax relief strategies and opportunities to consider as it relates to the recently passed “Coronavirus Aid, Relief, and Economic Security Act” or the “CARES Act.”

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#### I. PAYCHECK PROTECTION PROGRAM (PPP) LOANS & FORGIVENESS

- **Who is Eligible?** Any business, non-profit, veterans organization or Tribal business with less than 500 employees. Self-employed and independent contractors are eligible. Special eligibility for restaurants with not more than 500 employees **per physical location**.
- **What is the Covered Period?** February 15, 2020 to June 30, 2020.
- **What costs are eligible to determine the amount of the loan?** Payroll costs which include the following: Salary, wages, commissions (up to \$100k per employee), tips, paid leave (vacation, parental, family, medical, or sick), healthcare payments (group health care, including premiums), retirement benefit payments, payment of state or local tax assess on compensation, and some independent contractor payments. Qualified sick leave and qualified family leave wages for which a credit is allowed under H.R. 6201, Families First Coronavirus Response Act are not considered payroll costs.
- **What is the maximum loan amount (Loan Cap)?** Generally, the average monthly Payroll Costs incurred during the one-year period before the date the loan is made multiplied by two and one-half (2.5). The Loan Cap cannot exceed \$10 million. In other words, the maximum loan amount is \$10 million.
- **What are authorized uses of the PPP loan?** Authorized uses of the loan proceeds include: Payroll costs, payment of interest on any mortgage obligation, rent, utilities, interest on any debt obligations incurred before February 15, 2020.

- **What are some key features of a PPP loan?** Part or all of the loan may be forgiven.
  - There is no requirement that the business be unable to obtain credit elsewhere. In other words, this is not a “last resort” loan.
  - Loans are nonrecourse, unless used for an unauthorized purpose.
  - No personal guarantee is required.
  - No collateral is required.
  - **CAUTION:** Because the debt is nonrecourse, generally, this will not provide a partner/shareholder of a pass-through entity additional basis which potentially results in the inability to deduct losses. PLEASE consult your tax advisor.
- **What is required to obtain a PPP loan?** Good faith certification is required. This considers the following:
  - The loan is necessary because of the current uncertainty to support ongoing business operations.
  - The loan proceeds will be used to retain workers and be used only for an authorized purpose.
  - Cannot be combined with other loans for the same expenses (i.e., no duplicate amounts).
- **What are the terms of the PPP loan?** Any amount of the loan remaining after the forgiveness will be subject to the following terms:
  - Interest Rate: The loan shall bear an interest rate of one percent (1%).
  - Deferred Payment: The loan allows for a six-month deferment which includes principal, interest and fees.
  - Maturity: The term of the loan is two years.
  - Origination Fees: Lender is reimbursed by the SBA.
  - Guarantee: The loan is guaranteed by the SBA.
- **What amount of the PPP loan can be forgiven?** Loan principal is forgiven in an amount equal to the following costs during the eight weeks after the loan is originated:
  - Payroll costs, mortgage interest, rent, and utilities
  - If all employees are retained and wages are not decreased, it is likely that the entire loan would be forgiven. However, if some employees are laid off and/or wages decreased, the loan amount forgiveness will be reduced.
  - Seventy-five percent (75%) of the amount forgiven must be used for payroll costs.
- **Can the amount of the PPP loan forgiven be reduced?** Yes, the following may limit the amount of the loan forgiveness:
  - Loan forgiveness reduction for full-time equivalent (FTE) employee headcount.
  - Loan forgiveness reduction if salaries and wages reduced.
  - The loan forgiveness reductions can be adjusted for those employees re-hired within 30 days of enactment (or April 29, 2020). This applies to both the headcount test and salary reduction test. Contact your Advisor for more information.
- **See Exhibit A on page 6 for comparison of the payroll cost, authorized uses, and forgiveness.**

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## II. ECONOMIC INJURY DISASTER LOANS (EIDL)

- **Who is Eligible?** Any business, non-profit, veterans organization or Tribal business with less than 500 employees.
- **What are the loan requirements?** The SBA’s Economic Injury Disaster Loan program provides small businesses with working capital loans that can provide vital economic support to small businesses to help overcome the temporary loss of revenue they are experiencing. This loan is available nationwide because of COVID-19. This loan is also available for other disasters as well.

- **Is there a special advance available under an EIDL?** A borrower can request a loan advance of \$10,000 (i.e., grant) to be provided within three days of applying. The advance does not need to be repaid even if the loan is denied however, this will reduce any loan forgiveness under the PPP loan.
  - **What costs can the advance be used for?** The advance can be used for the following expenses:
    - Providing paid sick leave
    - Maintaining payroll to retain employees
    - Meeting increased material costs
    - Making rent or mortgage payments, and
    - Repaying obligations which cannot be met due to revenue losses
  - **What is the maximum loan amount?** Generally, the maximum loan amount under the Emergency EIDL loan is \$2,000,000.
  - **What are the terms of the Emergency EIDL?** An Emergency EIDL is a loan obtained under Section 7(b)(2) of the Small Business Act. The terms will be determined based upon the Small Business Act. Generally, the interest rate is 3.75% for small businesses and 2.75% for nonprofits.
  - **See Exhibit B on page 7 for comparison of the EIDL and the PPP loan.**
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### III. NET OPERATING LOSS MODIFICATIONS

- **Existing Law**
  - **2016-2017 Tax Years**
    - 3-year carry back
    - 20-year carry forward
    - 80% of taxable income cap
  - **2018-2021+**
    - No carry back of current losses
    - Indefinite carry forward of current losses
    - 80% of taxable income cap for currently claimed losses
- **CARES Act**
  - **2016-2017 Tax Years**
    - 3-year carry back
    - Indefinite year carry forward
    - No 80% of taxable income cap
  - **2018-2019**
    - 5-year carry back for current losses
    - Indefinite carry forward of current losses
    - No 80% of taxable income cap
  - **2020-2021+**
    - 20-year carry forward for NOLs before January 1, 2018
    - PLUS the lesser of (1) all NOLs after December 31, 2017 or (2) 80% of taxable income
- **How does the NOL modifications impact our clients?**
  - If a client has 2016 or 2017 NOLs, they can file Form 1045 (Application for Tentative Refund) to obtain a quick refund since the 80% taxable income cap has been removed.
  - If a client has 2018 or 2019 NOLs, they can file Form 1045 (Application for Tentative Refund) to carry back those losses and take advantage of the new 5-year carry back and the removal of the 80% taxable income cap.

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#### IV. DEFERRED EMPLOYER-SIDE PAYROLL TAXES

- **Who is Eligible?** Generally, any business required to withhold payroll taxes. This also includes self-employed payroll taxes (SECA).
- **What is the Time Period Covered?** Any employer-side payroll taxes incurred between enactment of the CARES Act and December 31, 2020.
- **When do the employer-side payroll taxes need to be paid?** The employer-side Social Security taxes (6.2%), including 50% of SECA taxes for a self-employed person, can be delayed and paid no later than the following:
  - 50% is due by December 31, 2021
  - The remaining amount is due December 31, 2022
  - **There is an exception to this deferral if a taxpayer had indebtedness forgiven by the Paycheck Protection Program.**

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#### V. EMPLOYEE RETENTION CREDIT

- **Who is Eligible?** There is an employee retention credit for eligible employers:
  - Whose operations were suspended by the government, or
  - Who had a significant decline in gross receipts
- **What is the Time Period Covered?** This applies to any wages paid after March 12, 2020 until December 31, 2020.
- **What is the amount of the credit?**
  - The employee retention credit is equal to fifty percent (50%) of qualified wages up to \$10,000 per employee. Such credit is a credit against employer portion of Social Security taxes (6.2%) and is refundable.
  - For employers with more than 100 full-time employees “qualified wages” only covers wages paid to those employees who are not providing services due to a COVID-19 related impact.
  - For employers with less than 100 full-time employees “qualified wages” covers wages paid to all employees.
  - The credit is reduced by any credit claimed under the qualified sick leave and qualified family leave under H.R. 6201, Families First Coronavirus Response Act.
- **SEE Exhibit C on page 8 for the comparison of tax credits.**

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#### VI. LIMITATION ON EXCESS BUSINESS LOSSES

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| <ul style="list-style-type: none"><li>• <b>Existing Law</b><ul style="list-style-type: none"><li>○ Excess business losses denied - basically pass-through business losses in excess of \$500,000</li><li>○ Applies for 2018-2025</li><li>○ Excess business losses treated as NOL in the following taxable year</li></ul></li></ul> | <ul style="list-style-type: none"><li>• <b>CARES Act</b><ul style="list-style-type: none"><li>○ Defers application of denial of excess business losses to 2021-2025</li><li>○ Removes the application of denial for excess farm losses entirely</li><li>○ Excludes losses from the sale or exchange of capital assets</li></ul></li></ul> |
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- **How does the excess business losses modification impact our clients?**
    - If a partner or shareholder of a pass-through had excess business losses in 2018 or 2019, they may amend their returns and obtain a refund.
    - This modification to the denial of excess business losses also applies to 2020 so there will be no \$250,000 loss limitation (or \$500,000 if a joint return is filed).
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## **VII. MODIFICATION TO CHARITABLE DEDUCTION LIMIT FOR C-CORPS**

- **Who is Eligible?** Any corporation that makes a cash contribution to a public charity and makes an election under this section.
  - **How much can the corporation deduct?** A corporation which makes a cash contribution to a public charity can deduct up to 25% of taxable income.
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## **VIII. OTHER IRS NOTICES & CORONAVIRUS RELATED LEGISLATION**

- **IRS Notice 2020-17 - Extension of Income Tax Payment until July 15, 2020**
    - Extended income tax payment deadline to July 15, 2020
    - No interest or penalty on the deferral of payment to July 15, 2020
    - Applies to both 2019 income tax due and 1st quarter 2020 estimated payments
    - All individual filers (including trusts) can defer up to \$1 million in tax due
    - C-Corps can defer up to \$10 million in tax due
    - This Notice is superseded by Notice 2020-18
  - **IRS Notice 2020-18 – Extension of Income Tax Payment & Filing Deadline to July 15, 2020**
    - **This IRS Notice 2020-18 essentially amended and expanded IRS Notice 2020-17. In addition, IR-2020-58 (FAQs) clarified some ambiguity.**
    - Affirmed extension of income tax payment deadline to July 15, 2020
      - Only applies to income tax payments due April 15, 2020
      - Applies to both 2019 income tax due and first quarter 2020 estimated payments
      - No interest or penalty on the deferral of payment to July 15, 2020
    - No extension for second quarter 2020 estimated payment, which is still due June 15, 2020
    - Removed limit on amount of income tax that can be deferred without interest and penalty
    - Extended income tax filing deadline to July 15, 2020
    - Includes all individuals, trust, estates, and corporations for returns due April 15, 2020 (not returns due any other date)
    - Do not have to file Forms 4868 or 7004 to get extension
    - Extension to file tax return to July 15, 2020 does not apply to gift tax returns (Form 709), estate tax returns (Form 706) or charitable trust returns (Form 5227)
    - To extend a return to October 15, 2020, the extension must be filed, and payment made by July 15, 2020 for returns under automatic extension
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## **IX. EMPLOYER-SIDE FICA TAX CREDIT FOR SICK LEAVE**

- **Provides for a refundable employer-side tax credit.**
- **Limit if the employee is sick:**
  - The lesser of wages plus healthcare costs or \$511 per day
  - Maximum of 10 days

- **Includes:** employees subject to a government quarantine or isolation order, an employee advised by healthcare professional to self-quarantine, or an employee is experiencing symptoms and seeking diagnosis
- **Limit for family leave:**
  - The credit is equal to \$200 per day
  - The maximum credit is \$10,000
  - **Includes:** an employee who is taking care of a family member ordered or advised to quarantine, or an employee taking care of a child following a school closing.
- Employers are eligible for the payroll tax credits in connection with providing paid leave from April 1, 2020 to December 31, 2020.
- Sick leave pay is not subject to the employees' portion of the 6.2% FICA tax for Social Security.
- The refundable employer FICA tax credit cannot claim the credit if the employer is also claiming a credit under IRC § 45S for paid family and medical leave.

## X. RESOURCES AND EXHIBITS

- **Family First Coronavirus Response Act**
  - [DOL Initial Guidance](#)
  - [Fact Sheet for Employers](#)
  - [Fact Sheet for Employees](#)
  - [Questions and Answers](#)
  - [Poster](#)
- **Coronavirus, Aid, Relief, and Economic Security (CARES) Act**
  - [Small Business Administration](#)
  - [Coronavirus \(COVID-19\): Small Business Guidance & Loan Resources](#)
  - [Chamber of Commerce](#)
  - [Coronavirus Emergency Loans: Guide and Checklist for Small Businesses](#)
  - [US Senate Committee on Small Business and Entrepreneurship](#)
  - [The Small Business Owner's Guide to the CARES Act PDF](#)
  - [Small Business Administration PPP Interim Guidance](#)

### Exhibit A

PPP LOAN DEFINITION OF COSTS			
	PAYROLL COSTS	AUTHORIZED USES	FORGIVENESS
Definition of Purpose	Used to determine the maximum loan amount.	Costs that can be paid from the loan proceeds to keep the tax and non-tax favored features.	Costs that are used to determine the amount of the loan forgivable.
Eligible Expenses	Salaries, wages, commissions Tips Paid leave (vacation, medical, etc.) Healthcare payments Retirement benefit payments  State or local tax Some independent contractor payments	Payroll Costs Mortgage interest Rent Utilities Interest on debt incurred before 2/15/20	Payroll Costs Mortgage interest Rent Utilities

Exhibit B

**COMPARISON OF EMERGENCY EIDL VS PPP LOAN**

	<b>EMERGENCY ECONOMIC INJURY DISASTER (EIDL)</b>	<b>PAYCHECK PROTECTION PROGRAM (PPP)</b>
Who is Eligible	Any business, non-profit, veterans organization or Tribal business with less than 500 employees.	Any business, non-profit, veterans organization or Tribal business with less than 500 employees.
Loan Amount	<p>The maximum loan size is \$2 million. Applicants who apply for this loan may request an advance of up to \$10,000 from the SBA. The advance will be distributed within three days.</p> <p>Applicants are not required to repay this advance if they are subsequently denied the loan.</p>	<p>Generally, the average monthly Payroll Costs incurred during the one-year period before the date the loan is made multiplied by two and one-half (2.5).</p> <p>The Loan Cap cannot exceed \$10 million. In other words, the maximum loan amount is \$10 million.</p>
Authorized Uses of Loan	Financial obligations and operating expenses that could have been met had the disaster not occurred.	Authorized uses of the loan proceeds include payroll costs, payment of interest on any mortgage obligation, rent, utilities, interest on any debt obligation incurred before February 15, 2020.
Loan Forgiveness	None.	Loan principal is forgiven in an amount equal to the payroll costs, mortgage interest, rent and utilities during the eight weeks after the loan is originated. Seventy-five percent (75%) of loan forgiveness must be used for payroll costs. Loan forgiveness is limited by a full-time equivalent (FTE) employee headcount test and a salary and wage reduction test.
Terms	The interest rate is 3.75% for small businesses and 2.75% for nonprofits. The term can be up to 30 years. The first payment can be deferred one year after the loan origination date.	Interest rate is one percent (1%), payment can be deferred six months after the loan origination date, and loan term is two (2) years from origination date.
Loan Guarantee	For EIDL loans made before December 31, 2020 due to COVID-19, the SBA will waive the requirement for a personal guarantee on advances and EIDL below \$200,000.	Loans would be backed by a 100% federal guarantee through December 31, 2020, at which time the guarantee percentage would revert to the standard SBA Section 7(a) loan guarantee.
Collateral	The SBA will place a UCC lien against the assets of the business.	No collateral is required from either the business or its owners.

## COMPARISON OF TAX CREDITS

	EMPLOYER-SIDE PAYROLL TAX CREDIT FOR EMPLOYEE SICK LEAVE	EMPLOYER-SIDE PAYROLL TAX CREDIT FOR FAMILY LEAVE	EMPLOYEE RETENTION CREDIT FOR EMPLOYERS SUBJECT TO CLOSURE DUE TO COVID-19
Tax Law Section	H.R. 6201, Section 7001	H.R. 6201, Section 7003	H.R. 748, Section 2301
Who is Eligible?	Employer required to pay sick and family leave under the Families First Coronavirus Response Act.	Employer required to pay sick and family leave under the Families First Coronavirus Response Act.	Eligible to employers (1) whose operations are suspended by the government or (2) who had a significant decline in gross receipts.
What is the credit?	Lesser of (1) wages plus healthcare costs or (2) \$511 per day. Maximum of ten (10) days. The credit is against employer Social Security taxes (6.2%) and is refundable.	Equal to \$200 per day with a maximum credit of \$10,000 per employee. The credit is against employer Social Security taxes (7.65%) and is refundable.	Equal to fifty percent (50%) of qualified wages up to \$10,000 per employee. The credit is against employer Social Security taxes (6.2%) and is refundable.
Definitions	Employee must be subject to government quarantine or isolation order, advised by healthcare professional to self-quarantine or experiencing symptoms and seeking diagnosis.	Employee who is taking care of a family member ordered or advised to quarantine or who is taking care of a child following a school closing.	For employers with more than 100 full-time employees “qualified wages” only covers wages paid to those employees who are not providing services due to a COVID-19 related impact.  For employers with less than 100 full-time employees “qualified wages” covers wages paid to all employees.
Limitations			Reduced by any credit claimed under H.R. 6201 Families First Coronavirus Response Act (i.e., sick leave or family leave). Credit not allowed if employer take PPP loan.
Time period covered	Paid sick leave from April 1, 2020 to December 31, 2020	Paid family leave from April 1, 2020 to December 31, 2020	Wages paid after March 12, 2020 until December 31, 2020

**Please visit [ronblue.com](http://ronblue.com) for information about Ronald Blue Trust or contact your Ronald Blue Trust advisor if you would like to discuss the provisions of the CARES Act.**

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