



BIRLING
CAPITAL ADVISORS, LLC

Client Alert: The CARES Act

March 27, 2020

Client Alert: Both Senate and House Pass The Cares Act (HB748)

The Coronavirus Aid, Relief and Economic Security Act, also known as the CARES Act (HB 748) provides emergency assistance and healthcare response for individuals, families and businesses affected by the COVID-19 pandemic. The CARES Act was finally passed with a unanimous vote in the U.S. Senate late in the night on March 25, 2020. The CARES Act was approved Friday March 27, 2020 by the US House of Representatives after lawmakers debated the measure for three hours on Friday before a vote on the House floor.

This is a historic \$2.2tn stimulus package designed to prop up a US economy crippled by the spread of coronavirus.

As it applies to Puerto Rico, the CARES Act expands the scope of loans available to small businesses under the Small Business Act and allows loan forgiveness if the employer complies with certain requirements. The current bill also grants recovery rebates to individuals, allows for the deferment of the employer's social security tax portion and estimated federal income tax payments and provides a credit for the retention of employees during the emergency. The labor provisions reiterate already existing limitations applicable to payments made to employees taking the Emergency FMLA Leave or the Emergency Paid Sick Leave provided in the Families First Coronavirus Response Act (FFCRA) and increase unemployment benefits.

The CARES Act also contains significant funding for public health and social services, as well as other related provisions, which will be summarized in a separate Client Alert.

Financial Services Provisions

Small Business Interruption Loans

- Companies with fewer than 500 employees are eligible for a loan made under Section 7(a) of the Small Business Act (the "7A Loan") for up to \$10 million.
- Accommodation and food services businesses that employ no more than 500 employees per physical location will be eligible.
- Self-employed individuals are eligible.
- Expands the use of the 7A Loan to allow for the following expenses: payroll support (sick, parental, vacation or medical leave), employee salaries, health care and retirement benefits, payment of state or local taxes on compensation, mortgage payments, rent, utilities and any other debt incurred from February 15, 2020 through June 30, 2020 (the "Covered Period")

Relaxed Eligibility Requirements for SBA 7A Loans

- For eligibility purposes, the business will only be required to have been operational on February 15, 2020, substantially impacted by COVID-19 and continued paying salaries and payroll taxes to its employees.
- Waives the "credit elsewhere", collateral and personal guarantee requirements.
- Maximum maturity of 10 years and interest rate not to exceed 4%.
- Waives borrower and lender fees for 7A Loans.
- Allows for complete deferment of 7A Loan payments for not more than one year.
- Increases Government guarantee of 7A Loans to 100% through December 31, 2020.

SBA 7A Loan Forgiveness

- Borrowers will also be able to achieve loan forgiveness for the value of the cost of payroll, mortgage, rent and costs related to debt obligations for the 8-week period after the loan origination date. The loan forgiveness amount will be allowed to be excluded from the borrower's gross income for income tax purposes.
- The amount of loan forgiveness will decrease by the number of employees laid off and/or any reduction in compensation. (payroll costs shall not include compensation that exceeds certain amounts and qualified Emergency Paid Sick Leave and/or Emergency FMLA Leave wages for which a credit was allowed under the FFCRA.
- To seek forgiveness, documentation verifying the number of employee and pay rates, and cancelled checks showing mortgage, rent, or utility payments must be submitted.

Relief for Individuals, Families and Business

Individuals and Families

Recovery Rebates

- Granting of direct payment of up to \$1,200 (\$2,400 married filing jointly) to eligible individuals.
- Amount to be increased by \$500 for every child under the age of 17
- Eligible individuals include individuals with an adjusted gross income of up to \$75,000 (\$112,500 for head of households and \$150,000 for married filing jointly).
- The rebate will be reduced by \$5 for every \$100 a taxpayer's income exceeds the phaseout threshold.
- The rebate is completely phased out for single taxpayers with income exceeding \$99,000 (\$198,000 for married filing jointly).

Business

Postponement of Deadlines

- Allows corporations to postpone estimated federal tax payments due after the date of the enactment of the CARES Act until December 31, 2020.
- Allow employers and self-employed individuals to defer the payment of the employer's share of the Social security (6.2%) they are otherwise responsible for paying to the federal government with respect to their employees applicable from the date of the enactment of the CARES Act until December 31, 2020. The deferred employment tax must be paid over the following 2 years. Half must be paid by December 31, 2021 and the other half by December 31, 2022.

Employee Retention Credit

- Provides a credit against the employer's share 6.2% social security payroll taxes of any business that is forced to suspend or close its operations due to the COVID-19 emergency but that continues to pay its employees during the shutdown.
- A business is eligible to receive this credit if: (1) the operation of the business was fully or partially closed during any quarter of the year 2020 because of an order of the applicable authority resulting from the COVID-19 emergency or (2) the business remained open but during any quarter of the year 2020, the gross receipts of the business were less than 50% of what they were for the same quarter in the year 2019.
- For each eligible quarter, a business will be entitled to a credit against its 6.2% social security employer's share equal to 50% of the qualified wages, as defined by the CARES Act, paid to each employee during the eligible quarters until December 31, 2020.
- No credit will be available if an employer takes out a payroll protection loan under Section 7(a) mentioned before.

Labor and Employment Provisions

- Division E of the Families First Coronavirus Response Act (FFCRA) is amended. Under the CARES Act, an employer shall not be required to pay more than either \$511 per day and \$5,110 in the aggregate for sick leave or more than \$200 per day and \$2,000 in the aggregate. The amount is dependent on the reason why the employee is taking the leave.
- Exempted Employers with Fewer than 50 Employees. Expands the authority for the Secretary of Labor to regulate to exempt small businesses with fewer than 50 employees from paid leave provisions in the section.
- Payroll Loans. The Act provides employers with fewer than 500 employees loans that can be used to pay their employees' wages for eight (8) weeks. Any portion of the loan used to pay wages for up to 8 weeks will be forgiven. Refer to Financial Services Section for details.

- Unemployment Benefits. Provides new unemployment benefits that will be paid by the federal government for up to \$600 weekly for up to 4 months, plus the amounts that are currently paid by the local governments and which start at \$200. The Act also provides that applications for unemployment compensation and assistance with the application process will be available in person, by phone, or online.
- Rehired Employees. Allows an employee who was laid off by an employer March 1, 2020, or later to have access to Emergency FMLA Leave in certain instances if they are rehired by the employer. Employee would have had to work for the employer at least 30 days prior to being laid off.

Assistance to Distressed Sections of the U.S. Economy

- The Department of the Treasury is authorized to extend economic stabilization loans sufficiently collateralized to severely stressed businesses impacted by the coronavirus.
- To aid financial markets, the Department of the Treasury regains the ability to guarantee money market mutual funds.

For more information regarding the CARES Act HB 748, please feel free to contact the following team members as we are currently working remotely.

Name	Email	Phone
Francisco Rodriguez-Castro, President & CEO	frc@birlingcapital.com	787-645-8430
CPA Cesar Hernandez-Monagas, Principal	chernandez@birlingcapital.com	787-642-2847
Wanda Melendez, Executive Assistant	wm@birlingcapital.com	787-207-3685

Birling's Client Update © is a publication prepared by Birling Capital LLC and is a summary of recent geopolitical, economic, market, and other developments that may be of interest to clients of Birling Capital LLC. This report is intended for general information purposes only, is not a complete summary of the matters referred to, and does not represent an investment, legal, regulatory, or tax advice. Recipients of this report are cautioned to seek appropriate professional counsel regarding any of the matters discussed in this report considering the recipients' situation. Birling Capital does not undertake to keep the recipients of this report advised of future developments or changes in any of the matters discussed in this report. Birling Capital. The man and log symbol and Birling Capital are among the registered trademarks of Birling Capital. All rights reserved.