Brownstein Hyatt Farber Schreck

Opportunities For Small Business in the CARES Act of 2020

The *Coronavirus Aid, Relief, and Economic Security (CARES) Act* provides assistance to small businesses impacted by COVID-19. Congress did not, however, provide a one-size-fits-all solution. Instead, small businesses must determine their eligibility for various assistance programs. This guide outlines the provisions in the Act to help small businesses determine whether to proceed with an application for a loan, how to claim an elective tax incentive, and how to comply with certain changes in the tax code.

In addition to the *CARES Act*, President Trump signed into law the *Families First Coronavirus Response Act (FFCRA) of 2020*, which imposes a mandate on many small businesses to provide paid sick leave and paid expanded Family and Medical Leave Act benefits. Qualified wages under these programs are eligible for a 100% refundable payroll tax credit to help small businesses cover most of the costs. This document also provides information on the mandates and tax credits in the FFCRA.

For more information on any of these provisions, contact the Brownstein COVID-19 Small Business Team.

Contents

I. Liquidity: What Programs are Available to Help Small Businesses Struggling with Liquidity Issues?....2
   A. Paycheck Protection Program....2
   B. Economic Injury Disaster Loans (EIDL) and Emergency Economic Injury Grants....4
   C. Small Business Debt Relief / Subsidy for Certain Loan Payments....4
   D. Deferred Employer Payroll Taxes....5
   E. Main Street Fund for Larger Businesses....5

II. Employee Retention: What Other Assistance is Available to Help Retain Employees?....6
   A. Employee Retention Tax Credit....6
   B. Short-Time Compensation (STC) Arrangements....7
   C. Unemployment Benefits (UI)....8

III. Employee Benefits: What New Benefits are Created by the Law?....9
   A. Paid Sick Leave....9
   B. Paid Family and Medical Leave (FMLA) Act....10
   C. Access to Defined Contribution Retirement Funds....11
   D. Exclusion of Employer Payments of Student Loans....11

IV. Acceleration of Tax Cuts: How Do I Accelerate and Take Advantage of New Tax Benefits?.....12
A. Carryback of Net Operating Losses.....12
B. Increased Deduction for Interest Expense.....12
C. Accelerated Depreciation of Qualified Improvement Property.....12

V. Individual Relief: What Other Relief is Available to Individuals?.....12
A. Rebates 12

I. Liquidity: What Programs are Available to Help Small Businesses Struggling with Liquidity Issues?

A. Paycheck Protection Program

1. **Who is eligible?**

If your business is already considered a small business under the Small Business Act, then you are eligible for a loan. Under the Small Business Act, the size of your business determines whether or not you are considered a small business. Small business size standards are determined by the Small Business Administration (SBA) under the North American Industry Classification System (NAICS) and differ by industry has been designated a NAICS code.

Eligibility for a loan is also extended to (1) section 501(c)(3) nonprofits; (2) veterans organizations; (3) tribal small business concerns; and (4) companies with 500 or fewer employees (or greater than 500 for certain industries).

Sole proprietors, independent contractors and other self-employed individuals may also participate in the program.

2. **What if a business is affiliated with a larger company or has more than one location?**

The SBA also determines eligibility through the application of an affiliation test outlined in 13 CFR §121.301. The affiliation test determines if a small business is affiliated with a larger business by weighing a number of factors related to ownership and control of the small business. If the small business is determined to be an affiliate, then it is not considered a small business for SBA lending purposes.

The SBA's affiliation test is waived during the covered period for hospitality and restaurant industries (NAICS Code 72), franchises that are listed on the SBA's Franchise Directory and small businesses that receive financing through the Small Business Investment Company (SBIC) program.

Businesses with a NAICS Code of 72 with more than one physical location and 500 employees or less at each location are also eligible to apply for each location.

3. **What is the amount of the loan?**

The bill authorizes $350 billion in small business interruption loans administered by the SBA.

Loan amounts are 250% (2.5 times) of the average total monthly payroll costs (including health care and some other costs) incurred during the one-year period before the date of the loan, plus any outstanding balance of an Economic Injury Disaster Loan made after Jan. 31, 2020.

If you were not in business from Feb. 15 2019 through June 30, 2019, then a loan amount is 250% (2.5 times) the average payroll costs incurred from Jan. 1, 2020, through Feb. 29, 2020, plus any outstanding balance of an Economic Injury Disaster Loan made after Jan. 31, 2020.

Loans are capped at $10 million. Payroll costs are the total of compensation such as employee salaries, wages, commissions or similar compensation as well as tips or equivalent compensation; vacation, parental, family, medical or sick leave; severance pay; health care benefits, including insurance premiums; retirement benefits; and state and local taxes paid on employee compensation.

Compensation and benefits in excess of $100,000 per employee is not taken into account in computing total payroll cost (determined on a pro-rata basis for the covered period).

Lenders must allow interest payments on loans to be deferred for at least 6 months and up to 1 year. The program waives fees, the credit elsewhere test, and collateral and personal guarantee requirements. The interest rate on the loans may not exceed 4%.

4. **What can these loans be used for?**

The program would provide loans to small businesses for the covered period of Feb. 15, 2020 through June 30, 2020 to cover payroll costs, mortgage payments, rent, utilities, and interest on any other debt obligations that were incurred before the covered period.

5. **Is there loan forgiveness?**

Partial loan forgiveness is available for loan proceeds used to cover eight weeks of payroll costs, mortgage interest, rent, and utility payments after the date of origination for U.S. employees. However, employers who lay off employees or reduce employee compensation may have their forgiveness amounts reduced.

6. **Where can I apply for a loan?**

Participating SBA-approved lenders have the authority to make and approve the loans. The loans do not need to be approved by the SBA. It is anticipated that the SBA and Department of the Treasury will extend authority to make these loans to a much larger group of banks.

7. **What are the borrower requirements and costs?**

The borrower must certify (i) that the loan request is necessary to support ongoing operations because of the uncertainty of current economic conditions and (ii) the funds will be used for the allowable purposes listed above in “What can these loans be used for?”

To fully enjoy the benefits of the Paycheck Protection Program, the borrower must retain the average monthly number of full-time equivalent employees from Feb. 15, 2020, through June 30, 2020, that is not less than the average monthly number of full-time equivalent employees during the period used to determine the maximum loan amount.

Guarantee fees and yearly fees that normally apply to SBA loans are waived.

There is no requirement that the borrower is unable to obtain credit elsewhere and no collateral or personal guarantee is required.

8. **What are the documentation requirements?**

The SBA is currently implementing the program and documentation requirements are subject to change once SBA issues regulations. The SBA, in an effort to implement the program and quickly issue loans, will likely release a new application form.

At the very least, prospective applicants should start to gather (1) payroll records dating as far back as Jan. 1, 2019; (2) the last three months of mortgage statements; (3) the last three months in rent payments/invoices if you don't own the property; and (4) the last three months in utility bills.

9. **What Is the Maturity/Interest Rate/Deferral/Guarantee on the Loan?**

The maximum maturity with respect to a loan that has a balance after a loan forgiveness reduction is 10 years from the date the borrower applies for forgiveness.

The interest rate on the loan will not exceed 4% per annum. A borrower may defer payment on a loan for at least six months and not more than one year. Loans are 100% federally guaranteed.

B. **Economic Injury Disaster Loans (EIDL) and Emergency Economic Injury Grants**

1. **What is the amount of the loan?**

The bill also provides $10 billion in funds for EIDL grants. The EIDL grant allows small businesses to receive immediate cash payments of $10,000 in three days and waive certain requirements on loans of less than $200,000. Applicants may later convert to the larger SBA 7(a) loan program.

2. **Who is eligible?**

Eligible entities are businesses, cooperatives, employee stock ownership plans (ESOPs), and tribal small business concerns with fewer than 500 employees; or any individual operating as a sole proprietor or an independent contractor; or small business concerns, private nonprofit organizations, and small agricultural cooperatives.

3. **Can I get an EIDL Grant and a Paycheck Protection Loan?**

Yes, under the CARES Act, a business that received an EIDL grant may later apply for an SBA 7(a) Paycheck Protection Program loan. The Paycheck Protection Program allows the outstanding EIDL balance to be covered by the loan.

C. **Small Business Debt Relief / Subsidy for Certain Loan Payments**

1. **Who is eligible for the program?**

This program will provide immediate relief to small businesses with non-disaster SBA loans, in particular 7(a) loans not made under the Paycheck Protection Program (PPP), 504 loans, and microloans.

2. **How does debt relief under this program work with a Paycheck Protection Program loan?**

Borrowers may separately apply for and take out a PPP loan, but debt relief under this program will not apply to a PPP loan.

3. **What benefit is provided under this program?**

   The SBA will cover all loan payments on these SBA loans, including principal, interest, and fees, for six months. This relief will also be available to new borrowers who take out eligible loans within six months of March 27, 2020.

D. **Deferred Employer Payroll Taxes**

1. **Who is eligible to defer payroll taxes?**

   Generally, all employers are allowed to defer paying the employer portion of certain payroll taxes.

2. **Under what circumstances is a taxpayer ineligible for payroll tax deferral?**

   A deferral is not available to employers who have debt forgiven through the PPP, described below. A deferral is also not available for taxpayers who have debt forgiven related to the financing of certain short-term compensation agreements. It is not clear how deferrals made prior to debt forgiveness under these programs will be treated.

3. **How does this provision work?**

   Employers may delay payment of 100% of the 6.2% employer-share of the old-age, survivors, and disability insurance (OASDI) portion of Federal Insurance Contribution Act (FICA) taxes due on wages paid after the date of enactment through the end of 2020. Similarly, self-employed individuals may delay the payment of 50% of the OASDI portion of SECA taxes on self-employment income earned after the date of enactment through the end of 2020.

4. **When are the deferred amounts required to be paid back?**

   The deferred amounts are required to be paid in two installments: 50% on Dec. 31, 2021, and 50% on Dec. 31, 2022. No interest is owed on account of the deferral.

5. **What tax payments are not delayed through this provision?**

   This provision does not delay the payment and deposit of (i) the employer's share of the hospital insurance (HI) portion of FICA, (ii) the employees' portion of any FICA taxes (OASDI and HI portions) that are required to be withheld from employee wages, or (iii) any of the HI portion of SECA imposed on self-employment income.

6. **What is the benefit of this provision?**

   This provision frees up cash for all businesses and self-employed individuals to fund operations and support retaining employees. A deferral over the next two years also avoids lump sum payments, which could create cash flow difficulties for employers who take advantage of the payment deferral.

E. **Main Street Fund for Larger Businesses**

1. **What other liquidity measures does the CARES Act contain?**

   The CARES Act gives $454 billion to the Treasury Department to be used to capitalize one or more loan facilities, established by the Federal Reserve ("Fed"), to make direct secured business loans to companies. The Act gives broad discretion to the Fed and Treasury to create the specific rules for

the program.

2. **Who is eligible for this fund?**

   The Act recommends that Treasury encourage the Fed to establish a "Main Street" fund to provide loans to businesses with between 500 and 10,000 employees. However, that fund is merely counseled, not required.

   Any lending facility created by the Fed and supported by Treasury money must make loans that have the following covenants: (i) no stock buybacks while the loan is outstanding plus an additional 12 months; (ii) all loans will be fully secured by the assets of the borrower; (iii) no dividends while the loan is outstanding plus an additional 12 months; and (iv) executive compensation must be limited; except that the Treasury Secretary can waive any of these requirements. Additional "strings" may be attached to government-backed loans. Treasury has broad discretion to make those determinations.

3. **Will businesses with less than 500 employees be eligible for this fund?**

   It is possible, but unlikely that small businesses will be eligible through this fund—small businesses will likely have to go through the SBA loan programs and initiatives.

4. **Who will administer the loan program?**

   The Fed loan program will be administered by the Federal Reserve Bank of New York. Loan agreements will be entered into and funds disbursed by commercial banks, who will present the loans to the Fed facility, which will buy the loans to ensure continued liquidity. When the loan program opens, eligible borrowers should inquire about eligibility and loan terms through their existing banking relationships.

II. Employee Retention: What Other Assistance is Available to Help Retain Employees?

A. Employee Retention Credit for Employers Subject to Closure or Experiencing Economic Hardship

1. **What is the amount of the credit?**

   The Act provides a refundable payroll tax credit, capped at $5,000 per employee, for 50% of wages up to $10,000 paid by employers to employees from March 13 through Dec. 31, 2020. The credit is allowed against the employer's OASDI taxes (reduced first for any benefits of the new Paid FMLA or Paid Sick Leave Tax Credits) and is refundable to the extent the credit exceeds that amount.

2. **Who is Eligible?**

   Any employer carrying on a trade or business during calendar year 2020 and with respect to any calendar quarter qualifies if:

   - they are subject to a full or partial shut-down order due to the COVID-19 crisis; or
   - they see gross receipts decline by more than 50% when compared to the same quarter in the prior year. In the event the qualifying event is a decline in gross receipts, the employer remains eligible for the credit during 2020 until it reaches 80% of gross revenues in a quarter compared to the prior year.

In addition, organizations exempt from tax under section 501(c) are eligible.

3. **What are Qualified Wages?**

Generally amounts paid to an employee during a period that the business is shutdown or during calendar quarter where gross receipt declines are more than 50%.

Qualified wages also include pro rata amounts paid to provide and maintain a group health plan. It does not include wages paid that are eligible for the new paid FMLA leave and paid sick leave wage credits.

Rules vary as follows depending on the number of employees:

- For employers with more than 100 full-time employees, qualified wages do not include amounts paid for employees still performing services.
- For employers with 100 full-time employees or less, all wages paid either during a period where the business is fully or partially suspended or during the calendar quarter (or quarters) where gross receipts are less than 50% of the same period in 2019 are qualified wages.

4. **Who is an employer?**

Generally, any business treated as a common employer for tax purposes. This does not apply to government entities.

5. **How does this interact with the SBA Paycheck Protection Program?**

An eligible employer that receives a loan under the PPP is <u>not</u> eligible for the retention credit because those loans may be fully forgiven under circumstances related to COVID-19.

This provision is designed to incentivize employers to retain employees during the crisis. Due to the $10,000 per employee cap on this credit, employers who may qualify for a loan under the SBA PPP will want to evaluate whether taking this credit or applying for an SBA loan makes the most sense.

B. **<u>Short-Time Compensation (STC) Arrangements</u>**

1. **What is a short-time compensation program?**

Short-time compensation (STC) programs, also known as work sharing or shared-work programs, are an alternative to layoffs for employers experiencing a reduction in available work. STC preserves employees' jobs and employers' trained workforces during times of lowered economic activity. STC allows employers to reduce hours of work for employees rather than laying-off some employees while others continue to work full time. Those employees experiencing a reduction in hours are allowed to collect a percentage of their unemployment compensation (UC) benefits to replace a portion of their lost wages.

2. **Do these programs currently exist?**

Yes. Currently, 26 states have operational STC programs including: Arizona, Arkansas, California, Colorado, Connecticut, Florida, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan,

Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Texas, Vermont, Washington, and Wisconsin. Program rules may vary state-by- state.

3. **Who is eligible?** Generally, all employers, regardless of size, who have applied to their state's STC program and have had their arrangement approved.

   For employees, eligible individuals generally include those who are unemployed, partially unemployed, or unable or unavailable to work because the individual has to quit his or her job as a direct result of COVID-19. This includes closures of the individual's place of work or situations where an employee may not be able to physically report to work and cannot telework.

   In order to qualify, employees must have had their hours reduced by at least 10%, but not more than 60%.

4. **How does it work?**

   Under the CARES Act, the federal government would temporarily provide full funding for states with existing STC programs. Typically states fund these programs. Employees are permitted to collect a percentage of their unemployment compensation (UC) benefits to replace a portion of their lost wages. Employers must still pay a portion of the employee's wages to the employee and employers must also reimburse the state for half of the amount of UC that the state pays. The federal government will provide funding to the states for the other half. Utilizing this program is a way to retain employees while avoiding layoffs due to reductions in business activity.

C. **<u>Unemployment Benefits (UI)</u>**

1. **What benefits are available to workers under the Pandemic Unemployment Assistance (PUA)?**

   This program is intended to provide coverage for those individuals not otherwise covered by traditional unemployment benefits. This includes business owners, self-employed individuals, independent contractors, gig workers and those with a limited work history and history of wages earned.

   To obtain pandemic unemployment insurance coverage an individual will apply with the state agency and self-certify that they are otherwise able to work and available for work within the meaning of applicable state law except that the individual is unemployed, partially unemployed, or unable or unavailable to work as a direct result of COVID-19.

   Individuals who are able to telework with pay or who are receiving sick leave or other paid leave benefits are not eligible.

2. **How long are benefits available under PUA?**

   For both individuals covered by pre-pandemic UI and those added under PUA, state unemployment benefits will be extended for a total of potential unemployment coverage of 39 weeks.

3. **What is the amount of the monetary benefit?**

   Generally, unemployed individuals are entitled to the state benefit amount for unemployment compensation (generally, a minimum of 50% of wages). However, pursuant to the *CARES Act*, all unemployed workers will be entitled to an additional $600 per week for up to a total of four

months (through July 31, 2020) of unemployment related to COVID-19.

4. **What other benefits does the bill provide?**

   To help encourage the remaining minority of states that have not yet waived the waiting week requirement to receive unemployment, the Act funds state coverage of the initial week of unemployment. Normally, there is a one-week waiting period to access benefits.

III. Employee Benefits: What New Benefits are Created by the Law?

A. Paid Sick Leave

1. **To whom does the new paid sick leave law apply?**

   Employees who work for employers having fewer than 500 workers. There are certain exemptions for employers with less than 50 employees.

2. **How many hours of sick leave must be provided?**

   Employers must provide at least 80 hours of paid sick leave to all full-time employees (10 days or 2 work weeks. For part-time employees, the number of paid hours provided will depend on the average number of hours worked, over a two-week period.) This paid sick leave applies to all employees regardless of how long they have worked for the employer.

3. **What is the rate of pay?**

   The minimum rate of pay is the lesser of full pay or $511/day, not to exceed $5,110 for each employee. This rate applies to employees who: (1) are subject to state, federal or local quarantine; (2) have been advised by a provider to self-quarantine; or (3) are experiencing coronavirus and are seeking a medical diagnosis.

   For employees who are unable to work because (1) they are caring for an individual who is quarantined, or self-quarantined, (2) they are caring for a child (under the age of 18) due to a school or day care center closure, or (3) the employee is experiencing a substantially similar condition specified by the Department of Health and Human Services (HHS) in consultation with Treasury and Labor because of COVID-19 precautions, the minimum rate of pay is the lesser of 2/3 of the normal rate of pay or $200/day, not to exceed $2,000 for each employee.

4. **What if my business is very small?**

   The Secretary of Labor can exempt small businesses with fewer than 50 employees if the application of paid sick would jeopardize the viability of their business as a going concern for paying sick leave to employees who are caring for child if school or daycare is closed. However, sick leave must still be provided for employees who are absent due to a diagnosis of or symptoms of COVID-19 or are caring for someone due to their diagnosis of or symptoms of COVID-19.

5. **Am I eligible for a credit for qualified paid sick leave wages?**

   Payroll tax credits for the paid sick leave referenced in #3 above are 100% refundable. Amounts cannot exceed wages of $200/day for 10 days for employees who are unable to work for the same reasons are those listed in #3 above. These include caring for an individual who is quarantined or

self-quarantined, caring for a child (under the age of 18) due to a school or daycare center closure, or because an employee is experiencing a substantially similar condition specified by HHS in consultation with Treasury and Labor as a result of COVID-19 precautions.

Amounts cannot exceed $511/day for 10 days for the same reasons listed above in #3. This includes employees who: (1) are subject to state, federal or local quarantine; (2) have been advised by a provider to self-quarantine; or (3) are experiencing coronavirus and are seeking a medical diagnosis. The credit may not exceed federal payroll taxes paid on wages (6.2%), but may be increased by qualified health plan expenses that are allocable to the qualified sick pay wages. Amounts above the total payroll tax liability are refundable through checks issued by the IRS.

6. **What is the effective date for this provision and does it end?**

The paid sick leave program begins on April 1, 2020 and sunsets on Dec. 31, 2020.

B. **Paid Family and Medical Leave**

1. **To whom does the new paid Family and Medical Leave Act (FMLA) provision apply?**

Employees who work for employers having fewer than 500 workers.

2. **How many weeks of paid FMLA leave must be provided?**

Paid FMLA leave up to 12 weeks must be provided. However, the first two weeks run concurrently with the paid sick leave noted in the paid sick leave section. The first two weeks of FMLA leave are unpaid. The paid FMLA leave applies to all employees who have been employed by the employer for at least 30 calendar days.

3. **What is the rate of pay?**

The rate of pay is the lesser of 2/3 of the normal rate of pay or $200/day, $10,000 in the aggregate. Paid FMLA leave applies to employees who are unable to work because they are caring for a child (under the age of 18) due to a school or day care closure because of COVID-19 precautions.

4. **What if my business is very small?**

The Secretary of Labor can exempt small businesses with fewer than 50 employees if the application of paid FMLA leave would jeopardize the viability of their business as a going concern.

5. **What if my business laid off employees?**

If an employee was laid off by the employer on March 1, 2020 or later, and was subsequently rehired, that employee may access the paid FMLA leave if they have worked for the employer at least 30 of the previous 60 calendar days.

6. **Am I eligible for a payroll tax credit for qualified paid FMLA wages?**

Payroll tax credits for paid FMLA for reasons referenced in #3 above are 100% refundable. Amounts cannot exceed wages of $200/day or $10,000 annually for employees who are unable to work because they are caring for a child (under the age of 18) due to a school or day care center closure because of COVID-19 precautions. The credit may not exceed federal payroll taxes paid on wages (6.2%), but may be increased by qualified health plan expenses that are allocable to the

qualified paid family leave wages. Amounts above the total payroll tax liability are refundable through checks issued by the IRS.

7. **What is the effective date of this provision?**

   The paid FMLA leave program begins on April 1, 2020 and ends on Dec. 31, 2020.

C. **Access to Defined Contribution Retirement Funds**

1. **What changes does the CARES Act make to defined contribution retirement plans?**

   The *CARES Act* waives the 10% early distribution penalty for coronavirus-related distributions up to an aggregate $100,000 from all eligible retirement plans in the plan sponsor's controlled group. Distribution amounts may be included in individual's taxable income ratably over three years, subject to taxpayer election. The taxpayer may avoid taxation of the redistribution by recontributing the funds to an eligible retirement plan in one or more payments within three years of distribution date and without regard to that year's cap on contributions. The provision applies to coronavirus-related distributions from Jan. 1 through Dec. 31, 2020.

2. **What if I have a loan from my retirement plan, but cannot afford my monthly payment?**

   The legislation delays adverse tax consequences if unable to repay an outstanding loan due to layoff or termination. The legislation modifies requirements for participant loans from qualified plans as follows: for six months, the law increases the maximum plan loan amount available to participants to the lesser of (i) $100,000; or (ii) the participant's vested account balance. The legislation delays by one year the due date of any outstanding loans otherwise due through Dec. 31, 2020; but repayments are to be adjusted to reflect the delayed due date and any interest accruing during the delay.

D. **Exclusion of Employer Payments of Student Loans**

1. **How does this student loan benefit program work?**

   Under the *CARES Act*, employer payments during 2020 made to or on behalf of an employee with respect to the principal or interest on any qualified education loan held by the employee will be treated as educational assistance within the meaning of I.R.C. sec. 127 and will be excludible from the employee's gross income. All conditions under sec. 127 must be met, including:

   - Total educational assistance program benefits during a calendar year remain limited to $5250 per employee.
   - Benefits need to be provided pursuant to a separate written plan of the employer.

IV. Acceleration of Tax Cuts: How Do I Accelerate and Take Advantage of New Tax Benefits?

A. Carryback of Net Operating Losses

1. **What is the benefit of this provision?**

The provision allows 100% of losses for tax years 2018, 2019, and 2020 (rather than 80%). The provision allows a five-year carryback for losses in tax years 2018, 2019 and 2020. This will allow businesses to carry back 100% of losses as far as 2013 to offset taxable income and access cash to support business operations in 2020 and future years.

The provision suspends the $250,000 ($500,000) limitation on individual losses for 2020. The limitation applies to NOLs from pass-through businesses, but also applies to other individual losses. In conjunction with the general NOL provision this will allow individuals a larger loss deduction for 2020 for all losses, and the ability to carry back NOLs from 2018, 2019, and 2020 for five years (from each year, so as far back as 2013).

B. Increased Deduction for Interest Expense

1. **What is the benefit of this provision?**

For 2019 and 2020, this provision increases the amount of interest expense that businesses (both corporations and partners in partnerships) are allowed to deduct, by increasing the limitation from 30% of adjusted taxable income to 50%. This provision allows businesses to increase liquidity with a reduced cost of capital.

Taxpayer may use 2019 adjusted taxable income, but 2020 interest expense for purposes of their 2020 return.

C. Accelerated Depreciation of Qualified Improvement Property

1. **What is the benefit of this provision?**

The *Tax Cuts and Jobs Act of 2017* had a technical error which required the costs of qualified improvement property (improvements to the interiors of non-residential buildings) to be depreciated over the 39-year life of the building. This provision classifies qualified improvement property as 15-year life, which also allows such property to be eligible for bonus depreciation.

V. Individual Relief: What Other Relief is Available to Individuals?

A. Rebates

1. **Who is eligible for this provision?**

U.S. residents with adjusted gross income up to $75,000 (individuals) and $150,000 (for joint filers) are eligible for a full $1,200 rebate ($2,400 for joint filers). An additional $500 is available per child.

The rebate is reduced by $5 for each $100 that a taxpayer's income exceeds a phase-out

threshold. The rebate is completely phased out for individuals with adjusted gross income of $99,000 ($198,000 for joint filers) with no children.

2. **When will the payments be made?**

   The goal for making the first payments to taxpayers is the week of April 6. In 2008, when the government implemented a similar program, the payments went out in batches and it took about eight weeks everyone to receive checks.

3. **Are the checks taxable?**

   No, these payments are not subject to tax.

4. **Do I have to file any forms to get the rebate?** Yes, as long as the taxpayer has filed a 2018 or 2019 tax return (Forms 1040 or 1099 series), the taxpayer should receive the rebate.

   Eligibility Is generally determined based on 2019 returns. If a 2019 return has not been filed, then eligibility will be based on 2018 tax returns.

5. **What about people on Social Security?** People on Social Security are eligible to receive the coronavirus relief payment as long as their total income does not exceed the limit. Qualifying individuals on Social Security do not need to file a tax return, as long as they received an SSA-1099.