

WEDNESDAY 5/27/2020
11 AM - 12 PM

The CARES Act

Mr. Gotko will be discussing the CARES Act that was signed in to law as part of the government's response to the COVID-19 pandemic. Topics will include the portions of the law that impact business, individuals and will provide information on the Payroll Protection Program loan program.

A FREE webinar for Birmingham Bloomfield Chamber members!

Guest Speaker: Vincent Gotko, CPA/Partner
With more than 30 years of public accounting experience, Vincent Gotko has accumulated a broad range of practical experience in dealing with entrepreneurial, closely held companies and their owners.

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Coronavirus Aid, Relief and Economic Security (CARES) Act

Individual Provisions

- Recovery rebates for individuals.
- Special rules for use of retirement funds.
- Temporary waiver of required minimum distribution rules.
- Changes to charitable contribution deduction rules.

Business Provisions

- Employment tax credits for employers.
- Delayed payment of employer payroll taxes.
- Modifications for net operating losses.

Paycheck Protection Program Loan

- Loan Application Process
- Loan Forgiveness Process

Q&A

Parting Thoughts

INDIVIDUAL PROVISIONS

Recovery Rebates for Individuals

- The most publicized individual provision of the act was the \$1,200 rebates that were issued (or are being issued).
 - Provides for \$1,200 rebate for eligible taxpayers and \$500 for each eligible child.
 - Eligible taxpayer – Not a dependent of another taxpayer
 - Eligible child – generally must be the taxpayer's dependent / Under age 17 at the end of the year
 - These payments are not income and they are not taxable.
 - There is a phase out limitation based on a taxpayers' Adjusted Gross Income – 5% of taxpayers AGI in the following ranges:
 - Joint filers - \$150,000 to \$198,000
 - Head of household - \$112,500 to \$198,000
 - Others \$75,000 to \$99,000
 - Ineligible taxpayers that may have received a refund, should return them.
 - Deceased taxpayers
 - The payment is an advanced credit based on a taxpayer's 2020 tax return.
 - The payment will reduce the 2020 eligible credit, but not below zero. There is no required repayment.
 - IRS "Get my payment" tool.
 - <https://www.irs.gov/coronavirus/get-my-payment>

Special Rules for Use of Retirement Funds

- Allows taxpayers access to up to \$100,000 of their retirement funds with a waiver to the 10% additional tax on early distributions for COVID related distributions.
 - Eligible retirement plans include IRAs, qualified employer-sponsored retirement plans, 403(a) annuity plans and 403(b) tax sheltered annuity plans and 457(b) plans.
 - A distribution after the enactment of the Act and prior to December 31, 2020.
 - Distributions can be included into taxable income over a three-year span and have three years to repay the amounts.
 - Must be made to an individual –
 - Diagnosed with COVID or SARS by a CDC approved test
 - Spouse or dependent is diagnosed
 - Experiences adverse financial consequences – quarantined, furloughed, laid off, reduced work hours, unable to work due to lack of childcare, closing or reducing hours of a business owned by the individual or other factors determined by the Secretary of the Treasury.

2020 Waiver of Required Minimum Distribution Rules

- The required minimum distribution requirements applicable to defined benefit retirement plans, including IRAs, are waived for 2020.

Changes to Charitable Contribution Deduction Rules

- Beginning in 2019, allows for a \$300 deduction in computing adjusted gross income.
- Suspends the percentage limitation (generally 50% of adjusted gross income) on the charitable deduction contribution base for individuals for 2020.

BUSINESS PROVISIONS

Employee Tax Credits for Employers

Employee Retention Credit

- Provides for a refundable credit to eligible employers of up to 50% of qualified wages paid to employees who are not working due to the employer's full or partial shutdown under orders from a governmental authority or a significant decline in gross receipts.
 - Applies to wages (including health benefits) paid after March 12, 2020 and before January 1, 2021.
 - Employers can be immediately reimbursed for the credit by reducing their required payment of withheld payroll taxes for the amount of the credit – Claimed when filing the quarterly Form 941.
 - The maximum wages/benefits and therefore the credit is limited to \$10,000 in aggregate per employee for all quarters.
 - Significant decline in gross receipts begins with the first calendar quarter in 2020 for which gross receipts are less than 50% of the same quarter in 2019 and ends the first calendar quarter in 2020 for which gross receipts are greater than 80% of gross receipts for the same quarter in 2019.
 - Employer is not eligible if it receives a covered loan under the PPP or had more than 100 employees during 2019.

Credit for Required Paid Sick Leave (Not part of CARES Act)

- Employers with fewer than 500 employees are allowed a credit against the employer's portion of the Social Security tax for each quarter.
 - 100% of the qualified sick leave wages paid for the calendar quarter under the Families First Coronavirus Response Act.
 - Per-day / per employee qualified wages depend on the reason for the paid leave or sick pay and can range from \$200 per day \$2,000 in the aggregate or up to \$511 per day or \$5,110 in the aggregate. (Ten Days)
 - Cannot double dip these wages for PPP purposes.

Credit for Required Paid Family Leave (Not part of CARES Act)

- Employers with fewer than 500 employees are allowed a credit against the employer's portion of the Social Security tax for each quarter.
 - 100% of qualified family leave wages paid for the calendar quarter under the Families First Coronavirus Response Act.
 - Per-day / per employee qualified wages of \$200 up to \$10,000 aggregate for up to 10 weeks of qualifying leave.
 - Cannot double dip these wages for PPP purposes.

Delayed Payment of Employer Payroll Taxes

- The Act defers the payment of payroll taxes, including self-employment taxes.
 - Payroll taxes due from March 27, 2020 and ending on December 31, 2020 are deferred.
 - Applies to the employer portion of the Social Security Tax as well as 50 percent of the equivalent self-employment tax.
 - ½ of the deferred taxes are due on March 31, 2021 and ½ are due on December 31, 2022.
 - Not available if you have a PPP Loan forgiveness.

Modifications for Net Operating Losses

- Any net operating loss (NOL) arising in a tax year beginning after December 31, 2017 and before January 1, 2021 may be carried back five years unless the carry back period is waived.
 - Rules that limit a NOL deduction in a tax year beginning after December 31, 2017 to 80% of taxable income in a carryback or carryforward year is suspended in a tax year beginning after December 31, 2017, and before December 31, 2021.
 - The 80% limitation will now begin to apply to NOLs arising in tax years beginning after 2017 in the 2021 tax year.

COVID LEGISLATION SUMMARY

Gov't Program	Description of the Benefits	Terms	Qualification Requirements
Federal - Paid Sick Leave	<p>10 business days of paid sick leave.</p> <p>\$511 per day, or \$5,110 in total</p> <p>Employees can also get \$200 per day, or a total of \$2,000, to care for a quarantined family member or for childcare.</p> <p>Pro-rated for P/T EEs.</p> <p>ERs < 50 EEs can get waiver</p>	<p>Refundable payroll tax credit for 100% of sick leave wages against payroll taxes.</p> <p>Credit is income to Employer to avoid double tax benefit (deduction and credit).</p> <p>If wages > payroll taxes, ER gets a refund</p>	<p>Employee qualifies for paid sick time if the employee is unable to work (or unable to telework) because the employee:</p> <ol style="list-style-type: none"> 1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19; 2. has been advised by a health care provider to self-quarantine related to COVID-19; 3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis; 4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2); 5. is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19; or 6. is experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.
Federal - FMLA Pay	<p>12 weeks of leave (first 2 weeks unpaid). Employees can take the two weeks of emergency paid sick leave.</p> <p>Employers are required to pay 2/3 of normal pay up to \$200 per day, or a total of \$10,000.</p>	<p>Same as for Sick Pay Leave</p>	<p>Employee is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19.</p>
MI - MEDC Loan	<p>Loans \$50,000 - \$200,000.</p>	<p>Term - Interest only for 60 months followed fully amortizing 60-month term</p> <p>Interest Rate - .25% per annum</p>	<p>Industries outlined in Executive Order 2020-9 or biz demonstrates it's affected by COVID-19 or is a company that provides goods and services to companies to the aforementioned.</p>

Gov't Program	Description of the Benefits	Terms	Qualification Requirements
			Fewer than 100 employees. Company unable to access credit through other sources
MI - MEDC Grant	Up to \$10,000; decisions made locally based on potential impact per region.	Free Money.	Similar to MEDC Loan
MI - Workshare	Additional \$600/week. This amount is NOT pro-rated for partial unemployment. Possible windfall for any employees put on this program		This is essentially partial unemployment.
Federal - SBA Disaster Relief Loan	Loans up to \$2 million Advance up to \$10,000, which the SBA must distribute within 3 days. No repayment obligation even if the loan application is rejected. Free \$\$ No personal guarantee	Term - up to 30 years, but determined on a case-by-case basis Interest rate - 3.75%	Must be in a federally declared disaster zone
Paycheck Protection Program	Covers payroll costs up to \$100,000 per person, inclusive of HI and other EE benefits; mortgage payments; rent; utilities; and interest on any other debt obligations incurred before Feb 15. The maximum loan amount = lesser of \$10 million and 2.5 times the average monthly payroll costs for the 1-year period before the loan is made. Loan is forgiven only on amounts spent in the 8 weeks after the loan for (i) Payroll, (ii) Interest payment on any mortgage incurred before the coverage period; (iii) Rent on any lease in force before the coverage period; (iv) utility costs incurred during the coverage period If you had to fire and then re-hire someone, you will not be penalized	The program would waive fees, the credit elsewhere test, as well as collateral and personal guarantee requirements. Interest rate – Max 4%. Loan forgiven unless EE compensation is reduced, or you lay off workers. Any loan not forgiven is amortized over 10 years. Loan forgiveness not included in gross income.	This benefit depends on whether you have more or fewer than 100 employees Must be for expenses paid Feb 15 – June 30
SBA Express Loan	Increase cap from \$350,000 to \$1,000,000		

Gov't Program	Description of the Benefits	Terms	Qualification Requirements
SBA Subsidy of 7(a) payment obligations	If you have an SBA 7(a) loan, the government will make your next 6 loan payments		
Unemployment Insurance Comp	Additional \$600/week. Currently, this would bring F/T MI employees \$962/week. Adds 13 weeks of extended benefits	Applies to F/T and P/T employees who are laid off	1-week standard waiting period is waived. Employer can apply on behalf of EE, or EE can apply individually for benefits
Employee Payroll Tax Credit	Refundable payroll tax credit, capped at \$10,000 per employee, for 50% of wages paid by employers to employees from March 13 through Dec. 31, 2020.		Employers must be (1) subject to a full or partial shut-down order due to the COVID-19 crisis or (2) see gross receipts decline by more than 50% when compared to the same quarter in the prior year. If based on decline in gross receipts, the eligibility ends when company reaches 80% of gross revenues in a quarter compared to the prior year. Benefit depends on whether you have greater or fewer than 100 EEs.
Deferral of Payment of Payroll Taxes	Defer payment of employer share of payroll taxes to the end of 2020. Deferred amounts are paid in two installments: 50% on Dec. 31, 2021, and 50% on Dec. 31, 2022.		N/A if you had loan deferral under Paycheck Protection Act

PAYCHECK PROTECTION PROGRAM LOAN

- The CARES Act and the PPP passed on March 27, 2020
- Should it have been called a loan?
- What was the PPPs intended purpose?
- How much could be “borrowed” and who could apply?
- How do you apply?
- Should you have taken the money?
- What can I use the funds for?
- How much can be forgiven?
- How long do I have to spend it and what is the ‘covered period’?
- What are the basics of the loan forgiveness calculation?
- What is a Full-Time Equivalent employee?
- Are there special FTE circumstances or safe harbors?
- What if my payroll period does not align with my covered period?
- What if my ‘other costs’ do not align with my covered period?
- When must I apply for forgiveness?

PPP LOAN FORGIVENESS CHECKLIST

- Choose your payroll period:
 - If weekly or bi-weekly pay, you can choose the 8 week period that first begins after the loan date (“Alternative Payroll Covered Period”)
 - Otherwise, the first pay and the last pay in the Covered Period will be prorated based on the number of days within the Covered Period
- During the chosen payroll period, be sure to pay:
 - Two months of health insurance premiums (health, vision, dental)
 - Employer retirement plan contributions related to the chosen payroll period
 - State unemployment tax can be paid on the normal due date
 - Corporate shareholders should continue to take their normal pay. If normal pay is greater than \$100K, be sure to take at least \$15,385 total during the chosen Covered Period
 - Self-employed individuals and partners should use loan proceeds to take draws in amounts at least equal to the lesser of \$15,385 and 8/52 of their 2019 income from self-employment
- During the Covered Period be sure to pay two months’ rent of real estate and equipment, interest on real estate mortgages and on equipment loans, and utilities (gas, electric, water, phone and internet access)
- Eliminate the loan forgiveness reduction due to FTEs:
 - Determine if average FTEs for the period 2/15/2020 to 4/26/2020 were less than during the pay period that included 2/15/2020. If yes, you can eliminate the reduction due to FTEs if you restore your FTEs as of 6/30/2020 to your level of FTEs at 2/15/2020.
 - You have not reduced the number of employees or the average paid hours of your employees between January 1, 2020 and the end of the Covered Period (see checkbox on PPP Schedule A, under “FTE Reduction Calculation”). This is a comparison of your last payroll during the Covered Period with your first pay in January
- If the Reduction elimination does not apply:
 - Pick your Full-time Equivalent employee (FTE) reference period (choose the one with the smallest FTEs):
 - February 15, 2019 to June 30, 2019
 - January 1, 2020 to February 29, 2020
 - If seasonal employer (not defined in the Act or in the Loan Forgiveness Application) any 12 week period between May 1, 2019 to September 15, 2019
 - Choose your method of computing FTEs:
 - For each employee, divide the average weekly hours worked by 40 hours. Round the result to the nearest tenth. Cannot be more than 1 for any employee
 - Simplified method: assign 1 to employees who work more than 40 hours per week and 0.5 to employees that work less than 40 hours per week. Use this simplified method if your part-time employees worked fewer hours during the chosen Covered Period than they worked during the chosen reference period
 - Determine, during the selected Covered Period, the number of FTEs of any positions that:
 - You made a good-faith, written offer to rehire an employee which was rejected by the employee
 - Were fired for cause

- Voluntarily resigned
 - Voluntarily requested and received a reduction in hours
- List any employees who was not paid more than \$1,923 for any week during 2019 and whose payrate was less during the chosen payroll covered period as compared to the period January 1, 2020 to March 31, 2020 (see checkbox on PPP Schedule A, line 3)

Note: PPP Schedule A allows you to check these boxes:

- No employee received a payrate reduction
- You have not reduced the number of employees or the average paid hours of your employees between January 1, 2020 and the end of the Covered Period

Documentation that must be maintained but do not have to be submitted with the forgiveness application:

- The Schedule A Worksheet
- Job offers, refusals, firings for cause, etc.
- FTE Reduction Safe Harbor

Should you transfer loan proceeds from a savings account to your operating account to show that you are using the loan proceeds for eligible expenses?

Accumulate the following documents that will be needed when you apply for loan forgiveness

- Mortgage notes
- Equipment notes
- Leases – real estate and equipment
- Make sure related party notes and leases are written and signed
- Payroll reports during the Covered Period
- Invoices and proof of payment:
 - Health insurance premiums
 - Retirement plan contributions
 - Rent
 - Interest
 - Utilities