



CLIENT ALERT

Information for Businesses on the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”)

The Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) was signed into law on Friday, March 27, 2020. The CARES Act contains numerous provisions intended to provide relief for businesses and individuals in the current economic climate. The highlights of the CARES Act are as follows:

Forgivable SBA Loans: The CARES Act created a new loan type to be administered by the United States Small Business Administration (“SBA”) that, unlike SBA disaster loans, are forgivable up to 100% of the principal amount borrowed. These loans are not tied to specific losses suffered during the national disaster and they do not require collateral or guarantees. Businesses and nonprofits with fewer than 500 employees are eligible (unless otherwise specified by the SBA rules on an industry-by-industry basis).

The amount of these loans is capped at the lesser of \$10 million or 2.5 times the average monthly payroll costs incurred in the one-year period before the date of the loan. Payroll costs include salary, wages, tips, sick leave, family leave, paid time off, severance payments, group health benefits, insurance premiums, retirement benefits, and state or local taxes assessed on employee compensation. Salary for any

individual employee, however, is capped at \$100,000.

Borrowers may receive one loan to use for the aforementioned payroll costs, salaries, commissions or similar compensation, interest on mortgages, rent, utilities, and interest on other pre-existing debt. Any amounts used for other purposes will not be forgiven and will instead be repayable over a term not to exceed 10 years and at an interest rate of no more than 4%.

The forgivable amount of the loan must have been used for the above expenses incurred or paid by the borrower during the 8-week period beginning on the loan origination date and any forgiveness is excluded from taxable income. Moreover, if the recipient of the loan laid off employees or reduced wages/salaries of its employees between February 15, 2020 and June 30, 2020, the amount of forgiveness is reduced proportionally by any reduction in employees retained compared to historical levels and the decrease in pay of any employee beyond 25% of their prior compensation. This excludes any temporary furloughs or salary cuts made between February 15, 2020 and April 26, 2020 if those actions are reversed by June 30, 2020.

Businesses that previously received aid in the form of an SBA disaster loan may apply

to have it converted into a forgivable loan.

SBA Grant Program: The CARES Act also authorizes new grants to provide fast relief to applicants awaiting aid in the form of SBA disaster loans by making up to \$10,000 rapidly available to cover payroll, mortgage, rent, and other specified expenses. This grant does not have to be repaid.

Tax Relief for Businesses: The CARES Act also aids businesses by modifying rules related to net operating losses (which may, under certain circumstances, be carried back to previous years for a tax refund), interest expense deductions (now generally capped at 50% of adjusted taxable income instead of 30%), alternative minimum tax credits, tenant improvement depreciation, and trade or business losses of non-corporate taxpayers. The changes allow business to improve cash flow and potentially amend past returns for refunds. Businesses are encouraged to speak with their accountants regarding the impact of these provisions.

Employee Retention Credits and Payroll Tax Deferral: Businesses with operations that were fully or partially suspended or suffered a decline in gross receipts meeting the criteria in the CARES Act and that did not receive a forgivable SBA loan may be eligible for a refundable tax credit for the employer's share of the 6.2% Social Security tax for 50% of the first \$10,000 in qualified wages (including health plan expenses) paid to each employee commencing on March 13, 2020. Businesses that did not receive a forgivable SBA loan may also be permitted to defer the payment of the employer's share of the 6.2% Social Security tax on wages paid beginning on March 27, 2020 and ending on December 31, 2020.

Unemployment Compensation Benefits: The CARES Act provides federal funding for unemployment benefits for workers by augmenting state unemployment benefits by \$600 per week for up to four months and by providing certain employees that are ineligible for state unemployment benefits with those state benefits. For example, if employees remain unemployed after their state unemployment benefits are exhausted, the federal government will fund up to 13 weeks of unemployment benefits.

Tax Rebates: The CARES Act provides rebates of up to \$1,200 for individuals with adjusted gross income ("AGI") up to \$75,000 (\$2,400 for joint filers with AGI up to \$150,000) plus an additional \$500 for each child under the age of 17 (subject to certain exceptions). Income over these levels results in a graduated phase out of the benefit and individuals with no children having an AGI of more than \$99,000 and married couples with no children filing jointly having an AGI of more than \$198,000 would be phased out completely and receive no recovery rebate.

Student Loans: All payments of principal and interest for certain federal student loans are suspended.

Federally Backed Mortgages: Borrowers of federally-backed mortgages may submit a forbearance request based on financial hardship due to the COVID-19 crisis. The request will be granted for up to 180 days (subject to another 180-day extension if requested). Foreclosure action is prohibited until May 17, 2020.

Retirement Plans: The CARES Act: (i) temporarily waives the required minimum distribution rules for 2020 with respect to

certain defined contribution plans and IRAs; (ii) allows individuals to take distributions from qualified retirement plans of up to \$100,000 without such distributions being subject to the 10% early distribution tax, the income tax owed on the distribution is payable over three years, and the distribution may be repaid within the three-year period; (iii) allows individuals to take loans of up to the lesser of (1) \$100,000 (increased from \$50,000) or (2) 100% (increased from 50%) of the participant's vested account balance and extends repayment terms; and (iv) relaxes rules regarding required minimum contributions for a single employer defined benefit plan.

Student Loan Repayment-Employee Education Assistance Program:

Employers may provide student loan repayment benefits to employees on a tax-free basis of up to \$5,250 annually after March 27, 2020, and before January 1, 2021.

Exchange Stabilization Fund: The Treasury Department's Exchange Stabilization Fund ("ESF") will provide loans, loan guarantees or other support for certain businesses, states and municipalities. Such loans are limited to 5 years in duration will bear interest at interest rates not less than the prevailing rates prior to the COVID-19 outbreak. Acceptance of an ESF loan comes with restriction on stock buybacks and executive compensation.

We will continue to monitor developments surrounding the COVID-19 outbreak and provide updated information as it becomes available. Additional information for business affected by the COVID-19 outbreak can be found at <http://www.raimondi-law.com/covid19> The attorneys of Raimondi Law, P.C. have nearly 40 years of combined experience in advising and litigating on behalf of business

with respect to business law matters, including insurance coverage disputes in particular.

This information update is provided as a service to our clients, colleagues, and acquaintances. It is designed to give general information on the particular matters presented. It is not intended to be a comprehensive summary of recent developments in the law, be an exhaustive treatment of the subjects covered, provide legal advice, or render a legal opinion.

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