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H.R. 748 (CARES Act) Bill Provisions

The U.S. Government just passed historical legislation providing stimulus to the country for the purpose of providing emergency assistance and health care response for individuals, families, and businesses affected by the 2020 coronavirus pandemic.

We break down these details by section in the following pages. You can move ahead to the particular section you're interested in directly below if you'd like to read the specifics of those first. We do encourage you to look through all of the sections that could potentially impact you since this is a very generous bill aimed at keeping our country's economy strong during and after this pandemic.

Like any benefit that becomes available to you it is critical to see if it makes sense to use the provisions allowed. While a benefit might make your temporary financial situation better, it might not be beneficial in the long-term. However, those individuals these provisions were created for are likely in immediate need to use the benefits until employment returns to normal.

Individuals:

Business Owners:

You can find the full text of H.R. 748 (CARES Act) here.

Coronavirus Aid, Relief, and Economic Security (CARES) Act
Section 2201: Recovery Rebates

Date Updated: March 27, 2020

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Background: The biggest goal of the CARES Act is to put money in the pockets of the American people quickly.

Timing: The government anticipates people receiving rebates in the next three weeks. (Mid-April 2020)

Details: The most urgent item you should be aware of is a recovery rebate you may be entitled to. These will be mailed or directly deposited into your bank account that was used on your last tax return filing. If your Adjusted Gross Income (AGI) is above the following thresholds you will notice your rebate will be reduced or completely eliminated. It will be reduced by $5 per $100 your AGI exceeds the applicable amount for your filing status.

The income used will be your most recently filed tax return. If you have not yet filed your 2019 tax return, the 2018 return will be the basis for your income (AGI). If you have already filed your 2019 return, that will be used. It is unknown what date will be used for choosing what return will be used. So if you have just filed your 2019 return or are hoping to quickly as it would be more beneficial, it is unclear what that date is you need to do it by or if it has already passed.

Filing Status	AGI Threshold
Married Filing Jointly	$150,000
Head of Household	$112,500
All Other Filers	$75,000

Once you know that you qualify based on your AGI, you can calculate how much you could expect to receive for your household.

- $1,200 per tax filer (For example, Married Filing Jointly = $2,400)

- $500 for each child a taxpayer has under the age of 17 (For example, two children under age 17 = $1,000)

IMPORTANT NOTES:

1. If you are concerned that your income was higher in 2018 and 2019, but here in 2020 it is drastically lower because of these uncertain times, you can recapture your rebate when you file your 2020 tax return (in 2021). Unfortunately, you won't receive it now when you likely need it most, but you will receive it if your annual income stays below the above thresholds by the end of 2020.

2. Once you receive your rebate it will not be taken away from you. So if you receive your rebate due to lower income in 2018 or 2019 and then have higher income in 2020 you will not have to repay that rebate back when you file your 2020 tax return. Consider yourself lucky if you're in this position!

3. If you have moved and changed your home address since your last tax filing you should quickly complete and mail Form 8822 to the IRS. If you had your last tax refund deposited or tax owed taken from your bank account it is highly likely that is where you will receive your refund, as a direct deposit. But to be safe, it is always good to have your address up to date with the IRS.

4. If you have a child who will be starting to file their own tax return but has not yet, and is not counted on your tax return anymore, they will recapture their own rebate when they complete their 2020 tax return as well, similar to those who have seen their income drop in 2020 and will recapture it at a later date.

5. Be watching your bank account and paying attention to your mail so you can notify the IRS if you do not receive yours. A phone number for the IRS will be provided for you to call if you believe you haven't received yours.

You can find the full text of this section of H.R. 748 (CARES Act) here.

- **You can take up to $100,000 out of your employer retirement plan (401k, 457, etc) or IRAs <u>without</u> incurring the normal 10% withdrawal penalty.**

<u>Background:</u> Normally, when you take money out of your 401k or IRA before Age 59-½, you'd have to pay a 10% penalty in addition to income taxes on the amount taken out. The CARES Act does away with the 10% penalty for any distributions up to $100,000.

<u>Amount & Timing:</u> You can take out up to $100,000 from your retirement accounts between January 1, 2020 and December 31, 2020.

<u>Benefits:</u>
- Access money in an emergency up to $100,000 without incurring a 10% withdrawal penalty, assuming you're under the age of 59-½.
- No federal tax withholding on distributions from employer plans will be taken out of the distribution.

<u>How do I qualify for a distribution?</u>
You must "self certify" the need to take a distribution, which means you just have to tell them that you have a need to take a distribution for a virus-related reason. The reasons to take a distribution include:

- You, your spouse, or a dependent are diagnosed with COVID-19
- You've experienced adverse financial consequences due to being quarantined, laid off, or having work hours reduced as a result of COVID-19
- You're unable to work due to lack of childcare resulting from school closures, etc
- You own a business that has been negatively impacted financially due to the virus

Your employer cannot hold distributions back and/or verify whether your reason is good enough or not. But please be aware that the IRS can always come back at a later date and ask to verify that you had a real reason to take the distribution.

<u>Can I put the money back if I don't need it?</u>
YES. You have up to 3 years from the date of the distribution to return the money to your account.

<u>Do I still have to pay income tax on the distribution?</u>
YES, but there's flexibility. If you take a distribution and don't intend on putting the money back into the account, you'd still owe income tax. However, you have two options to pay this tax:

1. Pay the tax on the entire distribution in Tax Year 2020 -OR-
2. Pay the tax on the entire distribution spread out over 3 years, Tax Years 2020, 2021, and 2022

You can find the full text of this section of H.R. 748 (CARES Act) here.

Background: Previously, if you ever needed to request a loan from your 401(k) or 403(b) plan, you'd be restricted to the lesser of 50,000 or 50% of your vested account balance. Meaning if your vested balance was 90,000, you'd be limited to 45,000 (90k * 50%) as that is less than 50,000. The CARES act effectively doubles both of these prior limits. Now it's 100,000 or 100%, but keep in mind it's still the lesser of. As an added bonus, you can also elect to defer payments on your 401(k) loan for one year.

Timing: This is only a temporary adjustment for 180 days. So if you want to take a loan, it must be initiated and completed before 09/19/2020.

Details:
Employer Retirement plan loans have always been tricky. If you have other means to come up with cash and you don't have to, we don't recommend you take a plan loan. One of the biggest pitfalls is that if you terminate from your employer, you would need to pay it back in full. If you can't, you would have to recognize the remaining balance of the loan as a distribution and potentially be subject to a 10% penalty on top of any income tax. There's just too much uncertainty and a high cost associated if something goes wrong.

All that to say, if other options are not available to you and you need the funds, this could be an option if you have been affected by the Coronoavirus.

Here is a summary of what has changed with the CARES act:

	Before	CARES Act Change
Max Loan Amount	$50,000	$100,000
% Amount Available	50%	100%
Delay of Payments	N/A	One Year

To recap, the limits on how much you can take have effectively doubled, but that does not mean this is your best option. It's important to review all of the options available to you and make an informed and intentional decision that best fits your circumstances.

You can find the full text of this section of H.R. 748 (CARES Act) here.

❖ **Required Minimum Distributions (RMDs) for 2020 are WAIVED; you do not have to take an RMD as you normally would.**

Background: Normally, if you're over Age 70-½ (or Age 72 starting in 2020) you have to take a Required Minimum Distribution (RMD) from your pre-tax retirement accounts, such as 401ks and IRAs. Under the CARES Act, you do NOT have to take an RMD in 2020.

Timing: The RMD waiver under the CARES Act only applies to Tax Year 2020.

Benefits:

- By not having to take an RMD, you won't have to pay federal, state, and local income taxes on the money you would've received from your RMD.
- If you don't need the money you're normally required to take out of your retirement accounts, you have an extra year to leave the money in there to grow tax-free (depending on market conditions).

What if I turned 70-½ in 2019 and still haven't taken my RMD for that tax year?
Normally, you'd have to take your first RMD by April 15th of the year following the year that you turned 70-½. Under the CARES Act, if you turned 70-½ in 2019 and hadn't yet taken your RMD for that year, you have until 2021 to do so instead of April 15, 2020.

What if I already took my 2020 RMD?
If you've already taken your 2020 RMD and don't need the money that was taken out, you have a couple of options to "roll" that money back into your retirement account:

- If you took your RMD in the last 60 days, you can "roll" that money back into the IRA assuming you haven't done another rollover in the previous 12 months
- If you've been negatively affected by COVID-19, then you might be able to recharacterize your distribution as a Coronavirus-related distribution. [See section "Coronavirus-related Retirement Distributions"]

Please note: The rules around reversing a 2020 RMD that you've already taken are still a bit murky. If you've taken your 2020 RMD already and want to put the money back into your account, please consult with us or your tax accountant prior to doing so, so that we can ensure you don't run afoul of the IRS.

You can find the full text of this section of H.R. 748 (CARES Act) here.

Section 2204: Qualified Charitable Contributions- NEW Above the line deduction

Date Updated: March 27, 2020

Background: This new deduction is for taxpayers that are claiming the Standard Deduction and made charitable donations. In the past, you weren't able to deduct these donations and therefore didn't experience any benefit.

Amount & Timing: Starting with the filing of the 2020 Tax Return, a $300 deduction will be available.

Benefits: Taxpayers will be able to benefit from both the Standard Deduction plus a $300 deduction regardless of meeting the Itemized Deduction threshold or not.

How do I qualify? "Qualified Charitable Contributions" must be made to 501(c)(3) organizations in the form of cash (ex. dollar bills, checks & credit cards). Donations in the form of non-cash (ex. clothing & household items) to organizations like the Salvation Army or Goodwill are not eligible just as contributions to a donor-advised fund also do not qualify!

You can find the full text of this section of H.R. 748 (CARES Act) here.

Background: Of all the Tax Returns filed today, only about 10% of taxpayers are now itemizing meaning their deductions add up to more than the increased Standard Deduction which started in 2018. While the reason for this is more than just one variable, it often is because they are charitably-inclined.

Amount & Timing: The “CARES Act” will temporarily increase the charitable contribution limit starting with the filing of the 2020 Tax Return. Therefore, taxpayers can technically make enough charitable contributions starting January 1st of 2020 to eliminate any tax liability. If they should give more than 100% of their AGI, this excess is treated as a carryover to future years.

Benefits: The deduction of charitable contributions is temporarily not limited by a percentage of Adjusted Gross Income.

Donations, also known as charitable contributions, are deductible up to a percentage of your Adjusted Gross Income (AGI). Historically, the deduction was limited to 50% of AGI but with the passing of the “Tax Cuts & Jobs Act” in 2017, this increased the limit to 60%. And now the “CARES Act” of 2020 has increased it again but now to 100%.

How do I qualify? “Qualified Charitable Contributions” meaning cash donations need to be made to 501(c)(3) organizations. Contribution to donor advised funds or non-cash donations do not qualify.

You can find the full text of this section of H.R. 748 (CARES Act) here.

Background: Along with the goal of the CARES Act putting money into the pockets of Americans, there is also help for them to *keep* more money in their pockets.

Timing: You can reach out to your student loan lender immediately to learn what you need to do in order to defer your payments.

Benefits:
There are several benefits specific to student borrowers and student loan holders, some of which you have to take action toward if you want to receive them. Here is a list of all the individual benefits you could qualify for.

- You can suspend your student loan payments until September 30, 2020. In order to suspend your payments you need to reach out to your lender. They will not automatically suspend these for you. You may suspend your payments and still choose to pay some amount toward your loans during the time of payment suspension.
- No interest will accrue on your student loans through September 30, 2020. Even if you do not suspend your payments the interest should not accrue during this time.
- For programs of loan forgiveness (such as the Public Service Loan Forgiveness program) this time will be counted toward the time accrued for your forgiveness. If you are using a loan forgiveness program you should pause your payments since your loans will ultimately be forgiven and there's no reason to make payments during this benefit period.
- Additionally, any tax payer having their tax refund decreased or wages garnished because of involuntary collections of student loan payments overdue, will have these measures waived during this time. For those having tax refunds reduced due to debt repayment, you should file your tax return during this time period so you receive your full refund during this period.
- Some employers pay employees up to the $5,250 (2020) annual limit, in addition to compensation, to be used specifically for paying down student loans. From the time of the enactment of the CARES Act (March 27, 2020) through the end of 2020, this amount will not be included as compensation for employees, therefore nontaxable to the employee.
- Sections of the CARES Act allow for students who have to leave school mid-semester due to a qualifying emergency to have the portion of PELL Grants or Subsidized Student Loans, or direct loans forgiven or canceled.

What constitutes a qualified emergency for relief of PELL grants or loans taken?

A) A public health emergency related to the coronavirus declared by the Secretary of Health and Human Services pursuant to section 319 of the Public Health Service Act (42 U.S.C. 247d). For example: COVID-19

B) An event related to the coronavirus for which the President declared a major disaster or an emergency under section 401 or 501, respectively, of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170 and 5191)

You can find the full text of this section of H.R. 748 (CARES Act) here.

<u>Background:</u> As a result of the Patient Protection and Affordable Care Act (PPACA) from 2011, most 'over the counter' drugs and medicines technically required a prescription to be considered a qualified expense. Meaning it could be paid from the different Health focused savings accounts like a Flexible Savings Accounts (FSA), Health Savings Account (HSA), or Medical Savings Account (MSA).

But with the CARES act, <u>all over the counter medications including female care products are now considered qualified medical expenses</u> and can be paid for or reimbursed by the various health accounts.

<u>Timing:</u> This change is in effect now.

<u>Details:</u> While this may not seem like a significant change, this can go a long way in helping families with their medications and care. Essentially, being able to use an account that makes the purchases of these products free of income tax gives folks a very nice discount!

There are quite a few other little nuggets of benefit from the CARES act including:

- **Free Vaccine (When available) (Section 3203)**- When the vaccine is available for COVID-19, this will be free to you if you're on Medicare. As most large insurers also cover other vaccines as 'preventative', it's likely, *though not confirmed*, that they'll follow suit and offer them limited to no copay or deductible.

- **90 Day Supply of Medication (Section 3714)** - A big concern for many individuals during this time is having to leave home unnecessarily. During this time, folks with Medicare Part D are eligible for a 90-day supply of medications. Previously, this could have been reduced to just a one-month (30 days) supply.

- **Telehealth (Section 3701)** - In a time when social distancing is of primary focus for many, meeting with a mental health counselor may be even more difficult than usual. To alleviate this, the CARES act allows for an HSA Eligible HDHP to cover services before meeting your deductible. Further, during this time, some of the restrictions have been relaxed allowing for greater access to these professionals.

You can find the full text of this section of H.R. 748 (CARES Act) here.

Section 2102: Unemployment Benefits

Date Updated: March 27, 2020

Background: Unemployment is a resource available to those when they lose their employment. It is meant to provide a percentage of the previously earned income while you look for other employment. During this Coronavirus pandemic there have been Millions unemployed temporarily and/or permanently. Because the length of this pandemic is uncertain and the typical unemployment time may be longer than normal, benefits have been extended.

Timing: Typically, it can take a week before unemployment benefits begin. The CARES Act provides that the Government will pay for the first week of unemployment, decreasing the wait time for people who need to receive payments. An extension of time to a potential 39 weeks has been allowed versus the typical 26 weeks or less, depending on your state.

Details:

If you find yourself unemployed, even if you're furloughed temporarily, this should be the first benefit that you apply for to start receiving some income right away.

1. The government will cover the first week of unemployment, speeding up the time for you to receive benefits.

2. With passage of the CARES Act, even those who are typically not eligible for unemployment benefits, because they don't pay into their State Unemployment system (for example, self-employed consultants), are eligible to receive these benefits.

3. Those receiving benefits may receive *an additional* $600 per week, for up to four months. This increase is being funded by the Federal Government, paying the additional amount to the States so they can pay those who qualify for these benefits.

4. If you reach the end of your normal unemployment benefits, typically 26 weeks or less, the CARES Act allows for those benefits to continue for another quarter, or 13 weeks.

An additional benefit created in the CARES Act will allow for States to create a program for future benefits, not benefits payable today. This program specifically refers to *short-time* benefits. Short-time refers to those who have seen hours drop or wages lowered but are still employed. Not all states provide for benefits for short-time compensation. The Act provided for the Federal Government to pay up to 50% of the costs to put a program into place through the end of 2020. You can see how this type of a program likely affects many workers even during a normal economic environment.

You can find the full text of this section of H.R. 748 (CARES Act) here.

Background: Another provision of the CARES Act, for keeping more funds in your pocket, allows for individuals with a mortgage to defer their mortgage payments for 90 days, and as long as 180 days.

Timing: This is an immediate benefit you can receive.

Benefits:
If you have a federally backed mortgage loan and are experiencing a financial hardship due, directly or indirectly, to the COVID-19 emergency you may request forbearance, regardless of delinquency status. Many lenders are automatically offering a forbearance request for 90 days. The CARES Act provides you to request forbearance (deferral of mortgage payments) for an extended period of 180 days.

- During the period of forbearance, no fees, penalties, or interest beyond the amounts scheduled or calculated in your loan agreement can be accrued.
- This request for forbearance will not affect your credit score.
- The 90 day deferral period is available for most mortgage holders by their lender.

How do I know if my mortgage qualifies for the longer 180 day forbearance?
You can visit the following website to see if your mortgage is a federally backed mortgage, first. Search under Fannie Mae and Freddie Mac. If either of these two own your mortgage, even if it is serviced by a bank or mortgage lender then you qualify for the extended period of forbearance (180 days).

Find out who owns my mortgage

IMPORTANT NOTES
It is important to remember that while you are allowed to defer your mortgage payment, if you have real estate taxes and insurance paid into escrow from your monthly payment, that may also be deferred. Therefore, if you aren't paying those monthly amounts your escrow account could be short when it comes time to pay for your real estate taxes or home insurance. You would be responsible to pay the amount that your escrow account is short.

Every lender is different so be sure you ask the following questions when you call about requesting a forbearance:

1. How long are my payments deferred until?

Some lenders are allowing borrowers to add the deferred payments onto the end of the mortgage loan as a balloon payment. While other lenders require the deferred payments to be made at the end of the deferral period (either 90 or 180 days), when you likely aren't in a much better financial position. Be sure you know what applies to you before deferring your mortgage payments.

2. This deferral will not affect my credit report, correct?

3. All late fees or interest on late fees are waived during this forbearance period, correct?

4. How much will I be short in my escrow account if I defer my payments?

You can find the full text of this section of H.R. 748 (CARES Act) here.

- **To help protect small businesses and their employees, the CARES Act provides a new type of loan through the Small Business Administration, a portion of which would be forgivable if used for certain types of expenses.**

Background: The CARES Act, through the Small Business Administration ("SBA"), has allocated a significant amount of money to be put towards making new SBA loans to small businesses on very attractive terms. Even more, loan monies used for certain types of normal operating expenses (payroll, rent, transportation) would be FORGIVEN by the SBA. This is as close to "free money" as free money gets!

Eligible Organizations:

- Businesses with less than 500 total employees, unless such business is a multi-location restaurant (such as a franchise), in which case the limit is less than 500 employees per location
- Sole proprietors
- Independent contractors
- Self-employed individuals (i.e. "gig" workers)
- 501(c)3 nonprofit organizations
- Veterans organization

Timing: Small businesses must apply for these special SBA loans by June 30, 2020.

Maximum Loan Amount: The lesser of $10,000,000 -OR- 2.5 times average monthly payroll in 2019.

- If your business was not in operation during all of 2019, then you'd use the average of January and February 2020 payrolls times 2.5.
- There are other formulas for seasonal businesses.
- For highly compensated employees, compensation greater than $100,000 is excluded

Loan Terms:
- Maximum 10 year loan term
- Maximum 4.0% interest rate
- No personal loan guarantee required
- No collateral required

Loan Forgiveness: SBA loans under the Paycheck Protection Program would be forgivable if the funds are used in the first 8 weeks after loan disbursement for the following types of expenses:

- Payroll expenses, including salaries and commissions
- Group health insurance premiums
- Rental costs or Mortgage interest, assuming these amounts were not prepaid and were active as of February 15, 2020
- Utilities expenses, such as gas, water, electricity, transportation, telephone and internet access costs as long as these services were active as of February 15, 2020

You can find the full text of this section H.R. 748 (CARES Act) here.

Background: If you do not receive a loan from SBA as a result of the other portions of this law, you may be able to claim a very favorable tax credit. This is a refundable credit that goes against the businesses' share of Social Security taxes, typically 6.2%.
First hurdle: Compare Quarterly Revenue for 2020 to that same quarter in 2019. If 2020 is less than 50% of 2019, you pass.

	2019 Q1 Revenue	2020 Q1 Revenue	Calculation	Result
Scenario 1	58,000	38,000	38k/58k = 65%	FAIL (>50%)
Scenario 2	65,000	30,000	30k/65k = 46%	PASS (<50%)

If your business has had this experience and you qualify, then what's next? Well your business will continue to qualify for this credit until the **earlier** of the following events:

- End of the Year
- Revenue reaches 80% of gross revenue from the same quarter in 2019.

In other words, the credit is only available for 2020. But if your business recovers significantly before the end of the year and revenues are back at 80% or more as compared to 2019, you'll no longer qualify.

Okay, great, but how do you calculate the credit? Thankfully, for small businesses, the credit is fairly easy to calculate. It's simply 50% of eligible wages up to $10,000/quarter. In essence, a maximum of $5,000 per quarter per employee.

A few examples with various employee quarterly compensation below:

	Quarterly Compensation	Calculation	Quarterly Credit Amount
Employee A: Sally	$25,000	Only first 10k is covered at 50%	5,000
Employee B: John	$19,000	Only first 10k is covered at 50%	5,000
Employee C: Michael	$4,000	50% of 4,000 = 2,000	2,000
Employee D: Rebecca	Q2: $6,000 Q3: $12,000	Q2: 50% of 6,000k = 3,000 Q3: Only first 10k is covered at 50%	Q2: 3,000 Q3: 5,000

So if you had both John and Rebecca on your payroll, you'd receive a credit of $8,000 for Q2 and $10,000 for Q3 for the rest of the year so long as your business met the initial criteria of 50% drop in revenue, hasn't recovered to 80% of revenue compared to same quarter 2019, AND isn't taking a covered loan from SBA as outlined.

You can find the full text of this section of H.R. 748 (CARES Act) here.

Background: The “CARES Act” which was recently signed into law allows employers as well as those self-employed the ability to defer payroll tax or self-employment tax payments.

Amount & Timing The payroll tax payments which are eligible for deferral begin on the date the “CARES Act” was signed into law which was March 27, 2020 and includes any payment incurred through December 31, 2020.

Benefits: The amount of payroll taxes deferred, become due on the following repayment schedule:

- The first half (50%) is due by 12/31/2021
- The second half (remaining 50%) is due by 12/31/2022

How do I qualify? The ability to defer payment will exist for all employers with the exception of those you have already benefited from the Small Business Administration debt forgiveness program. Otherwise, the election to defer can be made, as needed. While the schedules highlighted above determine the latest that repayments can be delayed, if desired, these balances can be paid back sooner.

You can find the full text of this section of H.R. 748 (CARES Act) here.

Section 2303: Net Operating Losses Loosened

Date Updated: March 27, 2020

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Background: Net Operating Losses (NOLs) are the result of deductions exceeding taxable income. In the past, these losses were allowed to be carried back up to two years and forward up to twenty. The "Tax Cut & Jobs Act" changed those rules to allow losses to only be treated as an indefinite carry forward. The recently signed into law "CARES Act" changes the rules again now allowing corporations to use losses to offset income and prior year's tax liabilities.

Timing & Benefits: NOLs from 2018, 2019 or 2020 can now be carried back up to five years and can be used to offset up to 100% (an increase from 80%) of taxable income.

How do I qualify?Corporations would need to have Net Operating Losses (NOLs) and have taxable income in the past five years in which these losses can be applied against.

You can find the full text of this section of H.R. 748 (CARES Act) here.