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# Hughes Hubbard & Reed

## CARES Act Developments, Deadlines and Newly Proposed Legislation as of April 17, 2020

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Hughes Hubbard & Reed LLP • A New York Limited Liability Partnership  
One Battery Park Plaza • New York, New York 10004-1482 • +1 (212) 837-6000

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**April 17, 2020** - This week the implementation of the extensive CARES Act continued, with payments made to individuals, health care providers, and small businesses, and guidance from federal agencies including the IRS, Department of Labor, the Small Business Administration, federal banking regulators, and more. Numerous pieces of additional legislation have also been proposed.

### **IRS Extends More Filing Deadlines to July 15**

On April 9, the IRS extended to July 15, 2020 the deadlines for 270 administrative acts under the tax law as well as the tax filing and payment deadlines for fiscal year businesses, tax-exempt organizations and certain estates and trusts.

### **HHS Begins Delivery of \$30 Billion Relief Funding**

On April 10, the Department of Health and Human Services began delivering \$30 billion in relief funding to health care providers as part of the distribution of the \$100 billion provider relief fund provided for by the CARES Act. The Act directs the agency to use the \$100 billion to compensate recipients for healthcare-related expenses or lost revenue attributable to the coronavirus and to pay for the testing and treatment of uninsured individuals. The initial \$30 billion distribution of the relief funds is going to U.S. hospitals and providers that are enrolled in Medicare.

### **IRS Issues Guidance on Net Operating Losses**

On April 10, the IRS issued guidance providing tax relief under the CARES Act for taxpayers with net operating losses. The IRS also recently provided tax relief for partnerships filing amended returns.

## **Economic Impact Payments to Individuals Begin**

Eligible taxpayers who filed tax returns for either 2019 or 2018 and chose direct deposit of their refund will automatically receive an Economic Impact Payment of up to \$1,200 for individuals or \$2,400 for married couples and \$500 for each qualifying child. Individuals who receive Social Security retirement, survivors or disability benefits, SSDI or who receive Railroad Retirement benefits but did not file a return for 2019 or 2018 will automatically receive a payment in the near future.

## **Labor Department Publishes Unemployment Insurance Guidance**

On April 10, the Labor Department published Unemployment Insurance Program Letter 17-20, which provides further guidance to states as they implement the CARES Act Pandemic Emergency Unemployment Compensation (PEUC) program. Under the program, states can provide up to 13 weeks of federally funded benefits to qualified unemployed individuals who do not qualify for other state or federal unemployment benefits.

## **Real Estate Appraisals Deferred**

On April 14, the federal banking agencies issued an interim final rule to temporarily defer real estate-related appraisals and evaluations under the agencies' interagency appraisal regulations. This temporary relief enables financial institutions to extend financing quickly in the wake of the COVID-19 crisis. The agencies are deferring certain appraisals and evaluations for up to 120 days after closing of residential or commercial real estate loan transactions. Transactions involving acquisition, development, and construction of real estate are excluded from this interim rule. These temporary provisions will expire on December 31, 2020. The agencies also issued a joint statement to address challenges relating to appraisals and evaluations for real estate-related financial transactions affected by COVID-19.

## **Small Business Administration**

### **SBA Updates Paycheck Protection Program FAQ**

The Small Business Administration has been updating its FAQ for the CARES Act Paycheck Protection Program on a daily basis. Most recently, the FAQ has clarified that a business or non-profit that meets the SBA's alternative size test can qualify for a PPP loan. It also explains the application of affiliation rules, the definition of "payroll costs", and lenders' obligations that must be met when reviewing loan applications.

### **SBA Clarifies Paycheck Protection Program Requirements**

On April 14, the Small Business Administration issued a second Interim Final Rule to clarify the provisions of the Paycheck Protection Program established by the CARES Act. The guidance addresses the maximum loan amount available, and the amount of forgiveness available, for self-employed individuals and sole proprietors. It also addresses eligibility issues for certain business concerns and requirements for certain pledges of PPP loans.

### **Paycheck Protection Program Funds Exhausted**

On April 15, the Small Business Administration announced that it had suspended acceptance of new applications for the PPP loans because the \$349 billion of appropriated funding had been exhausted.

## Upcoming Deadlines

April 26 - SBA must publish (a) guidance to SBA section 7A lenders on the borrower payment deferment process (Sec. 1102); and (b) guidance and regulations on CARES Act SBA loan forgiveness provisions (Sec. 1106)

September 23 - HHS must publish guidance on the sharing of patients' protected health information pursuant to 45 CFR section 160.103 during the coronavirus crisis (Sec. 3224)

## Legislative Proposals

### **The Coronavirus Assistance for States Act and the State Operations Stabilization (SOS) Act (H.R. 6468)**

On April 8, Reps. Joseph Morelle (D-NY) and Ed Perlmutter (D-CO) introduced a bill composed of two acts. The Coronavirus Assistance for States Act would provide additional funding to states and tribal governments in proportion to population to cover expenditures incurred during the COVID-19 crisis, replace revenue lost during the public health emergency, and contribute to an economic recovery. In addition, the State Operations Stabilization (SOS) Act would expand the Coronavirus Relief Fund, which was established by the CARES Act, to compensate localities for lost revenue resulting from the COVID-19 pandemic.

### **The Worker Health Coverage Protection Act (H.R. 6514)**

On April 14, House Democrats introduced a bill that would pay the full cost of COBRA premiums for up to 15 months to employees who lose their jobs or have their hours reduced due to the COVID-19 crisis. The bill also would also pay the full cost of health insurance premiums for employees who are furloughed because of the crisis, until they return to work. The bill was drafted by Debbie Dingell (D-MI), Steven Horsford (D-NV), and Bobby Scott (D-VA).

### **The Emergency Money for the People Act (H.R. 6496)**

On April 14, Reps. Tim Ryan (D-OH) and Ro Khanna (D-CA) introduced a bill that would provide cash payments of at least \$2,000 per month to qualifying individuals over the age of 16. The payments would continue until U.S. employment returns to pre-COVID-19 levels. The payments would be in addition to the one-time \$1,200 payment authorized by the CARES Act. Individuals would have to earn less than \$130,000 annually to qualify, or less than \$260,000 for married couples. Qualifying families with children would receive an additional \$500 per child, up to three children.

### **The Ensuring Homeowner and Occupant Monetary Encouragement and Stability (Ensuring HOMES) Act (H.R. 6492)**

On April 14, Rep. Bobby L. Rush (D-IL) introduced a bill that would require that all mortgage payments deferred due to the COVID-19 crisis would not be due to be paid back until the end of the loan rather than the end of the deferral period. The bill also would establish incentives for landlords to waive tenants' rent and extend leases until after the crisis. It would also provide for quarterly forgivable loans from the Department of Housing and Urban Development (HUD) conditioned on placing a moratorium on evictions.

### **The Business Interruption Insurance Coverage Act of 2020 (H.R. 6494)**

On April 14, Rep. Mike Thompson (D-CA) introduced a bill requiring the payment of business interruption insurance claims in the event that a small business is forced to close because of future major crises, such as power outages, mandatory evacuations, or pandemics.

### **The Paycheck Protection Program Extension Act (H.R. 6506)**

On April 14, Reps. Derek Kilmer (D-WA), Jaime Herrera Beutler (D-WA), and Madeleine Dean (D-PA), introduced a bill that would expand the Small Business Administration's Paycheck Protection Program (PPP), which was established by the CARES Act. The bill would increase the funding of the PPP by \$900 billion and provide for measures under the PPP to further alleviate financial pressures on small businesses.

### **Essential Workers Bill of Rights**

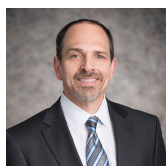
On April 15, Senator Elizabeth Warren (D-MA) and Representative Ro Khanna (D-CA) issued a policy statement styled the "Essential Workers Bill of Rights" and called on Congress to codify it in the next coronavirus relief package that it passes. The policy would establish protections for frontline workers including standards for health and safety precautions, compensation benefits, no-cost healthcare coverage, childcare funding, and protections for whistleblowers, among other things.

### **Funding for Child Care System**

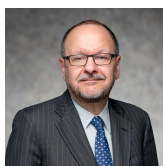
On April 15, Senator Elizabeth Warren (D-MA) and Senator Tina Smith (D-MN) called for a \$50 billion funding package to provide child care to essential workers, compensate child care providers for lost revenues to help them cover wage and other operating expenses during the COVID-19 crisis, and make long-term investments in child care infrastructure and higher wages for child care employees. The package would also increase the appropriation of the Small Business Administration Paycheck Protection Program established by the CARES Act.

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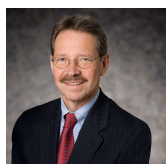
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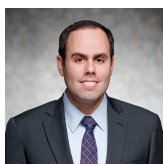
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