

WTA Staff Summary of Telecom and Small Business-Related Provisions of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act)

SMALL BUSINESS ADMINISTRATION PROVISIONS

These programs are directed at small businesses (generally having fewer than 500 employees) to try to help them stay in existence and maintain their staff during the COVID emergency.

I. Paycheck Protection Program (Sections 1102, 1106 and 1107 of CARES Act)

A. Section 1107: \$349 billion appropriated for program guarantees

1. Additional amounts for SBA administration and reimbursement of Lenders

B. Section 1102: Paycheck Protection Program loan guarantees

1. Covered period: February 15, 2020 to June 30, 2020
2. Covered businesses
 - a. General: fewer than 500 employees
 - b. Typical small businesses (under SBA definitions)
 - c. Also: Tribal business concerns
 - d. Also: some sole proprietorships, independent contractors, self-employed
 - e. Businesses with more than one location: if <500 employees/location
3. Amount of PPP Loan (apply and receive from SBA-approved bank)
 - a. Maximum: \$10 million
 - b. Calculation: 2.5 times "Average monthly total payment" during prior year
 - i. Employee compensation plus benefits (leave, healthcare, retirement)
 - ii. Maximum per employee: \$100,000/year
 - c. Only one PPP loan per entity for covered period
 - d. SBA waives fees and personal guarantee requirements
 - e. No recourse against shareholders, members or partners unless funds used for unauthorized purposes
4. Permissible use of PPP Loan proceeds
 - a. Payroll
 - b. Health care benefits
 - c. Rent or mortgage interest (but not mortgage principal)
 - d. Utilities
5. Borrower certification: that uncertain current economic conditions make loan necessary to retain workers and maintain payroll, and to make rent, mortgage and utilities payments

C. Section 1106: PPP Loan Forgiveness Provisions

1. Borrower must file request and documentation with lender
2. Forgiven amounts excluded from gross income for federal tax purposes
3. 75% of the forgiven loan must have been spent on payroll
4. Non-forgiven balance: repayable over 2-year term at not more than 1% interest
5. Forgiveness % factor:
 - a. Numerator: Average number of full-time equivalent employees per month during covered period
 - b. Denominator: Average number of full-time equivalent employees per month

i. Either: during Feb. 15, 2019 to June 30, 2019 period

ii Or: during Jan. 1, 2020 to Feb. 29, 2020 period

6. Documentation:

a. To verify number of full-time employees and payroll costs:

i. Payroll tax filings with IRS

ii. State income, payroll and unemployment insurance filings

b. To verify rent, mortgage interest and utilities costs:

i. Cancelled checks, payment receipts, transcripts of accounts

II. Entrepreneurial Development Program (Section 1103)

A. \$240 million in grants to Small Business Development Centers and Women's Business Centers to provide education, training and advice to small businesses regarding:

1. Accessing SBA resources regarding capital and business resiliency

2. Potential effects of COVID on supply chains and distribution

3. Management of tele-work

4. Management of remote customer service

5. Risks and mitigation of cyber threats

6. Effects of reduced travel

b. Additional \$25 million for associations of resource partners to establish online platforms and training programs

III. Minority Business Development Agency (Section 1108)

A. \$10 million to Minority Business Development Agency of the Department of Commerce for grants to minority business centers and minority chambers of commerce

B. For substantially the same educational, training and advisory purposes as the Entrepreneurial Development Program.

IV. Emergency Economic Injury Disaster Loans (Section 1110)

A. Appropriation of \$10 billion

B. Covered period: Jan. 31, 2020 to Dec. 31, 2020

C. Expanded eligibility

1. Normal: entity with fewer than 500 employees

2. Added: cooperatives, ESOPs and Tribal small businesses

D. Relaxed procedures during covered period

1. Loan approval solely on credit score

2. Advance of \$10,000 – not required to be repaid if loan denied

E. Permitted uses:

1. Paid sick leave

2. Maintain payroll to retain employees

3. Meet increased costs to obtain materials due to supply chain interruptions

4. Make rent or mortgage payments

5. Repay loans (where having problem due to reduced revenues)

TAX PROVISIONS

These are primarily attempts to increase cash flow during the COVID emergency by reducing business tax liabilities or deferring their tax payments.

V. Employee Retention Credit (Section 2301) – against employer portion of federal payroll tax

A. Eligible employer

1. Carrying on trade or business during 2020
2. EITHER: business fully or partially suspended by government order due to COVID
3. OR: significantly reduced revenues – less than 50% of gross receipts than same quarter of prior year (END: more than 80% of gross receipts for same quarter of prior year)
4. Not eligible if took Paycheck Protection Program loan
- B. Credit: against applicable employer payroll tax on up to 50% of qualified wages
 1. Limit \$10,000 of wages for each employee for ALL calendar quarters
 2. Qualified wages include some healthcare expenses
 3. Differs with average number of full-time employees
 - a. Greater than 100: only employees not providing any services
 - b. 100 or less: all employees
- C. Applies only to wages paid after Mar. 12, 2020 and before Jan. 1, 2021

VI. Deferral of Payment of Employer Payroll Taxes (Section 2302)

- A. Not eligible if taking forgiveness of Paycheck Protection Program Loan
- B. Amount of deferral: Not clear
 1. Either: 50% of payroll tax due from employer
 2. OR: employer's entire 50% share of the payroll tax applicable to employees
- C. Payment dates for deferred employer payroll tax
 1. Dec. 31, 2021: 50% of deferred amount
 2. Dec. 31, 2022: remainder of deferred amount

VII. Modification of Net Operating Loss Limitations (NOLs) (Sections 2303 and 2304)

- A. Net operating loss limitations with respect to corporations and pass-through entities (S Corps, LLCs and partnerships) appear to be relaxed
 1. Corporate NOLs for 2018, 2019 and 2020 appear able to be carried back to the 5 previous years.
 2. The provisions are very complex with many obscure references to prior tax law.
 3. The point: if a corporation has a NOL, or if a taxpayer has a loss from a pass-thru entity, check with a tax professional to determine whether one can make use of the subject changes to reduce tax liability during the current or carryback/carry-forward years, and improve cash resources.

VIII. Relaxation of Limits on Excess Business Interest (Section 2306)

- A. Under certain circumstances, a business can deduct more interest expense (about 50% more) for tax years beginning in 2019 and 2020 than it was previously allowed.
- B. Under certain circumstances, a business may be able to use adjusted taxable income for tax year beginning in 2019 as base for calculating excess business interest for tax year beginning in 2020.
- C. Provision applies to corporations and partnerships

HEALTHCARE PROVISIONS

These are efforts to efforts to expand telehealth networks and services and to make it easier for them to serve Medicare patients.

IX. Telehealth Network and Telehealth Resource Center Grants

- A. Appropriation: \$1.32 billion (Section 3211)
- B. Nature and scope (Section 3212)

1. Expands existing program(s) from focus upon demonstrating how telehealth technologies can be used to institutions that actually use telehealth technologies and networks
 2. Not less than 50% of funds to be awarded for projects in rural areas
 3. Struck language from existing statute about cable and telephone lines, microwave towers, satellite dishes and digital switching equipment (this appears to relax a prior limitation and provide more flexibility for use of grant money)
- C. Changes to existing grant program (Section 3213)
1. Expands eligible recipients from “rural public or rural nonprofit private entity” to “entity with demonstrated experience serving, or the capacity to serve, rural underserved populations”
 2. Narrows focus from “local community or region” to the “rural underserved population” in such community or region
 3. Expands focus from “essential” to “basic” health care services
 4. Grants not for more than 5 years (\$79.5 million for each of FYs 2021-2025)

X. Telehealth Provisions

- A. Absence of deductible for telehealth services does not disqualify a pre-2022 health plan from being treated as a high-deductible plan (Section 3701)
- B. More Medicare flexibility for use of telehealth services during emergency period (Sections 3703, 3704, 3706 and 3707)
 1. Address eligibility and payments
 2. Include specific references to rural health clinics and the use of telecommunications

LABOR PROVISIONS

These provisions amend the paid family and paid sick leave sections of the Families First Coronavirus Response Act (FFCRA) and provide offsetting increased tax credits to businesses.

XI. Paid Sick Leave Limits

- A. Emergency Family and Medical Leave (Section 3601)
 1. Limits paid leave to \$200 per day (\$10,000 in aggregate) for employees who qualify for paid leave under FFCRA
- B. Emergency Paid Sick Leave (Section 3602)
 1. Limits paid sick leave provided by FFCRA:
 - a. \$511 per day (\$5,110 in aggregate) when the employee: 1) is subject to Federal, State, or local quarantine or isolation order related to COVID or; 2) has been advised by a health care provider to self-quarantine due to concerns related to COVID and seeking a medical diagnosis
 - b. \$200 per day (\$2,000 in aggregate) when the employee is: 1) caring for an individual who is subject to a quarantine order or who has been advised by a health care provider to self-quarantine; 2) caring for a son or daughter if the school or place of care of the son or daughter has been closed due to COVID precautions; or 3) experiencing any other substantially similar conditions specified by the Dept. of Health and Human Services.
- C. Advance Credits are available with respect to payroll tax for Emergency Family and Emergency Paid Sick Leave (Section 3606)
 1. Also: waiver of penalties where credit less than estimated

CORONAVIRUS RELIEF FUND (Section 5001)

- XII: Appropriation: \$150 billion to states, Tribal governments and local governments for fiscal year 2020.
- A. Local governments: jurisdictions with population above 500,000
 - B. Tribal Government allocation: \$8 billion
 - C. Purpose: Cover costs incurred between 3/1/20 and 12/30/20 due to COVID emergency and not included in most recent budget adopted prior to CARES Act.

EMERGENCY APPROPRIATIONS (Section 6002)

Specific agency provisions, some of which may entail some money for telecommunications services.

XIII: Rural Utilities Service

- A. Additional \$25 million for telemedicine and distance learning services in rural areas to respond to COVID emergency

XIV: FCC

- A. Additional \$200 million in wages and salaries to respond to COVID emergency, including support of healthcare providers by providing telecommunications and information services and devices necessary to enable the provision of tele-health services

XV: Bureau of Indian Affairs

- A. Additional \$453 million (available until 9/30/21) to respond to COVID emergency, including the purchase of information technology to improve teleworking capability
- B. Additional \$69 million for the “Operations of Indian Education Programs” (available until 9/30/21) to respond to COVID, including but not limited to funding for tribal colleges and universities, salaries, transportation and information technology

XVI: Indian Health Services

- A. Additional \$1.032 billion (available until 9/30/21) to respond to COVID, including telehealth and other information technology upgrades

DEPARTMENT OF EDUCATION

It is unclear how this will operate in conjunction with the E-Rate program. Technology and connectivity are just a few of the possible uses for the money.

XVII: Elementary and Secondary School Emergency Relief Fund (Section 18003)

- A. Appropriation: \$13.499 billion
- B. Permissible uses include purchase of educational technology (including hardware, software and connectivity) for students served by local educational agency.

XVIII: Higher Education Emergency Relief Fund (Section 18004)

- A. Appropriations: \$14.237 billion
- B. Permissible uses include (among several others) covering technology costs associated with a transition to distance learning.

VETERANS AFFAIRS PROVISIONS

These provisions are efforts to improve the information technology systems at the VA as well as provide telehealth care to isolated veterans during the crisis.

XVIII: Allocation of \$2.15 billion to the Veterans Health Administration for Information Technology Systems to respond to the COVID emergency

XIX: Short-term agreements with telecommunications companies – during COVID emergency
(Section 20004)

- A. Provide temporary, complimentary or subsidized fixed or mobile broadband service to provide expanded mental health services to isolated veterans via telehealth facilities or VA Video Connect
- B. May expand eligibility to include veterans not currently eligible for mental health services.
- C. Priorities: (1) veterans residing in unserved or underserved areas; (2) veterans residing in rural or highly rural areas; and (3) low-income veterans
- D. Permissible technologies: videoconferencing, Internet, streaming video, and terrestrial and wireless communications

XX: Nonspecific requirement of availability of telehealth capabilities for case managers and homeless veterans (Section 20011)