


Disclaimer

- ▶ The views expressed by the presenters are not necessarily those of Ernst & Young LLP or other members of the global EY organization.
- ▶ These slides are for educational purposes only and are not intended to be relied upon as accounting, tax or other professional advice. Please refer to your advisors for specific advice.

A wide-angle photograph of the U.S. Capitol building in Washington, D.C. The image shows the iconic neoclassical architecture with its large portico of columns and the massive dome topped with a golden acorn. An American flag flies from a tall pole in front of the dome. In the foreground, a person is riding a bicycle across the paved plaza. The sky is blue with scattered white clouds.

CARES Act: clarifying the federal Coronavirus business assistance for production and post-production companies

April 2020

Discussion topics

- 
- A woman with long brown hair is focused on working on a circuit board. She is wearing a blue denim shirt. In the background, there are rows of server racks with blue fans, suggesting a data center or server room environment.
- ▶ CARES Act overview
 - ▶ Loan considerations under Title I and Title IV
 - ▶ Credits and employment tax considerations
 - ▶ Q&A and wrap-up

Today's panelists



John Harrison
Principal
EY Global Sector Leader
Media & Entertainment
Ernst & Young LLP



Casey J. Kernan
Principal
Global Treasury
Services
Ernst & Young LLP



Debbie Kim
Partner
Global Compliance &
Reporting - Tax
Ernst & Young LLP

A man with a shaved head and a mustache, wearing a light blue button-down shirt and a white apron, is sitting at a wooden workbench in a workshop. He is holding a pen and writing in a spiral-bound notebook. To his left is an open laptop. On the workbench in front of him are several sheets of paper, one of which has a blue line graph. The background is filled with wooden shelves holding various tools, a colorful geometric tapestry, and other workshop items. The lighting is warm and focused on the man.

CARES Act overview

CARES Act

The Coronavirus Aid, Relief, and Economic Security Act (the CARES Act) is meant to broadly address economic impacts of, and otherwise responds to, the COVID-19 outbreak.

The CARES Act was signed into law on 27 March 2020.
The ~\$2t legislative package is organized into two primary parts:

Keeping Workers Paid and Employed, Health Care System Enhancements, and Economic Stabilization (Division A)

- ▶ **Title I** - Keeping American Workers Paid and Employed Act
- ▶ **Title II** - Assistance for American Workers, Families, and Businesses
- ▶ **Title III** - Supporting America's Health Care System in the Fight Against the Coronavirus
- ▶ **Title IV** - Economic Stabilization and Assistance to Severely Distressed Sectors of the United States Economy
- ▶ **Titles V and VI** - Aid to states and miscellaneous provisions

Emergency Appropriations for Coronavirus Health Response and Agency Operations (Division B)

Highlights of the CARES Act

Direct aid

\$260b

Unemployment insurance

\$150b

Aid to states

\$32b

Grants to air carrier workers, contractors

\$350b

Supplemental appropriations
Includes \$150b in health care funding

Loans to business

\$500b

Economic stabilization
(loans and relief for industries)

\$25b

Passenger airlines

\$4b

Air cargo carriers

\$17b

National security businesses

\$377b

Small business loan forgiveness grants, other grants

Key features

- ▶ Specific allotments for airlines, air cargo, national security businesses
- ▶ Restrictions on recipients
- ▶ Includes midsize businesses, nonprofits, state and local governments
- ▶ Oversight and transparency requirements
- ▶ US business eligibility requirements (undefined)

Tax provisions

\$292b

Recovery rebate payments to individuals

\$10b

Retirement & charitable

\$27b

Business tax provisions

Specific provisions

- ▶ Modification of limitation on losses: **\$170b**
- ▶ Employer retention credit: **\$55b**
- ▶ NOL provisions: **\$26b**
- ▶ Business interest deduction relief: **\$13b**
- ▶ Delay of employer payroll taxes: **\$12b**

A woman with long brown hair and glasses, wearing a brown sweater over a blue shirt, is looking down at a smartphone held by another person. The background is a blurred indoor setting with a wooden table and some plants.

Loan considerations under Title I and Title IV

Paycheck Protection Program (PPP)

The US CARES Act will provide relief from COVID-19 financial impacts on American small businesses and consumers. A significant portion of small business relief will come in the form of the PPP to be distributed by all Small Business Administration (SBA) certified lenders, depository institutions, federally insured credit unions and Farm Credit System institutions.

The anticipated large volume of applications and limited available funds (\$349 billion) introduce the potential benefit of businesses applying as early as possible after the loan application period begins.

Loan details	Beneficiaries and timing	Eligibility and documents	Forgiveness details
<p>Loans will cover certain costs during the eight-week period after the loan is made.</p> <ul style="list-style-type: none">▶ Maximum loan amount of 2.5x average payroll over the past year, up to \$10 million▶ Payroll costs capped at an annualized amount of \$100,000 per employee▶ No more than 25% of the forgiven amount may be for non-payroll costs▶ Loan with a two-year term at 0.5% interest; no prepayment penalties if paid earlier than two years▶ Payments deferred for six months, though interest will accrue during this time period▶ No interest charged on amounts forgiven at the end of the period	<p>Loans will be available to the following types of organizations if they employ 500 or fewer employees or otherwise meet size standards established by the SBA for specific industries:</p> <ul style="list-style-type: none">▶ This is available to any business concern (e.g., corporation, partnership), nonprofit, veterans organization, tribal business concern, sole proprietorship, independent contractor or eligible self-employed individual.▶ Starting April 3, 2020, small businesses and sole proprietorships can apply.▶ Starting April 10, 2020, independent contractors and self-employed individuals can apply.	<p>Eligibility criteria and conditions include:</p> <ul style="list-style-type: none">▶ Must have been in business prior to February 15, 2020▶ Will need to complete the PPP loan application prior to June 30, 2020 (due to limited funds, it is recommended to apply as early as possible)▶ Must provide certification for purpose and reason for loan▶ Payroll documentation required▶ Personal guarantees, collateral, receipt of tax returns and some fees to be waived▶ No need to provide proof that the borrower is unable to receive credit elsewhere▶ Will need to provide good faith certification of application accuracy	<p>Criteria for forgiveness will depend on uses of the proceeds, as well as certain dollar amounts:</p> <ul style="list-style-type: none">▶ Loan proceeds must be used to cover payroll costs, mortgage interest, rent and utilities.▶ The date of the following must be prior to February 15, 2020, to be eligible for forgiveness: incurred interest on mortgage obligations, rent-in-force date and utility service start date.▶ Employee levels are maintained, and compensation levels are maintained within 25% of 2019 salary levels. Forgiveness levels will be reduced if these requirements are not met.▶ For staffing or salary-level changes made between February 15, 2020 and April 26, 2020, organizations have until June 30, 2020, to restore full employment levels.

Borrower checklist for loan application supporting documentation

The following are documents that borrowers should consider having ready when applying.

Expected documentation requirements

1	2	3	4	5	6
Payroll documentation	Mortgage or rent documentation	Utilities documentation	Tax documentation	Other loan documentation	Seasonal/new employers
<ul style="list-style-type: none">▶ Payroll and benefit detail by employee for 2019 and 2020▶ Employee levels and evidence of those earning over \$100,000 in annual salary	<ul style="list-style-type: none">▶ Evidence of mortgage interest incurred prior to February 15, 2020▶ Rent-in-force date required to be prior to February 15, 2020	<ul style="list-style-type: none">▶ Evidence of utility expenses▶ Utility start date required to be prior to February 15, 2020	<ul style="list-style-type: none">▶ Supporting tax documentation for the prior year to support the employee and payroll levels	<ul style="list-style-type: none">▶ If other loan(s) outstanding related to COVID-19, all documentation on the loan(s)	<ul style="list-style-type: none">▶ For seasonal employers, payroll details for the time period suggested (February 15, 2019 to June 30, 2019)



PPP key considerations

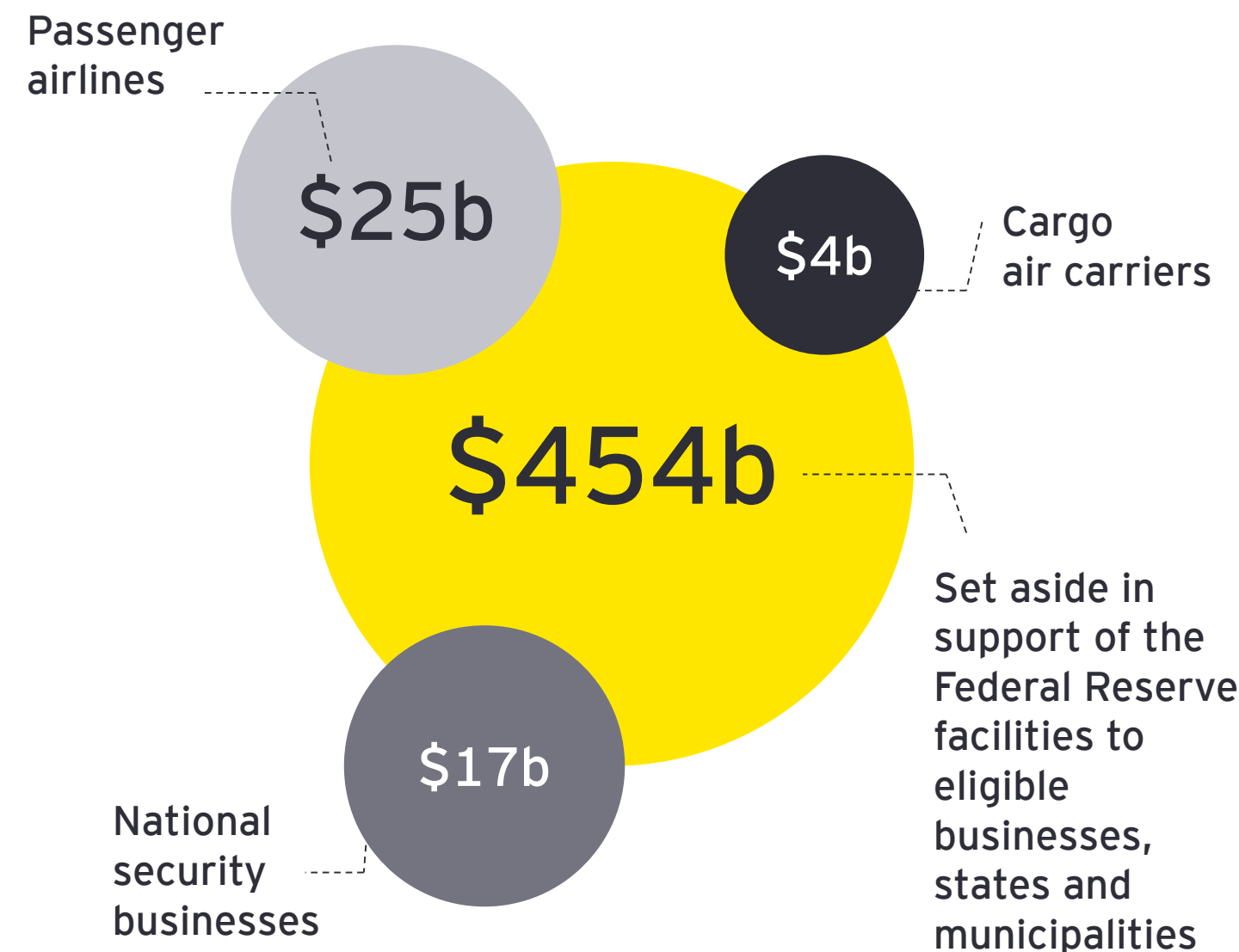
- ▶ There are no restrictions on the types of companies that can utilize the employee retention credit or the payroll tax deferral.
 - ▶ Companies of all sizes can utilize both programs.
- ▶ Companies utilizing SBA loans under Title I of the CARES Act, which addresses the PPP, will be precluded from the employee retention credit under Title II, and vice versa.
- ▶ The payroll tax deferral is not available to a company if it obtains a PPP loan and has part of the loan forgiven.
- ▶ Affiliate rules are being revisited.

Please note: [SBA guidelines](#) for the PPP continue to evolve. We recommend you review those guidelines before submitting your loan applications.

Title IV – ESF overview

Title IV of the CARES Act established the Economic Stabilization Fund (ESF) to make \$500b in support available to businesses.

The \$500b is apportioned as follows:



Direct lending

- ▶ Loans must be repaid; applicable interest rate to be **market rate** loans **directly with the Treasury** for a maximum of **five years**, specifically for (i) passenger airlines (\$25b), (ii) cargo air carriers (\$4b) and (iii) businesses essential to national security (\$17b).
- ▶ **Restrictive covenants** include:
 - ▶ Credit not reasonably available from other sources
 - ▶ No common share dividends, capital distributions or buybacks until 12 months after repayment
 - ▶ Must maintain 90% of March 24, 2020, headcount through September 30, 2020, at full salary and benefits
 - ▶ Must have incurred or expect to incur losses from COVID-19
 - ▶ US-based company, including significant operations and employees
 - ▶ Highly paid staff (\$425k+ salaries) compensation and termination restrictions until 12 months after loan repayment and caps on termination benefits

Federal Reserve lending

- ▶ Loans must be repaid; maximum interest rate of 2% per annum on loans facilitated by the Federal Reserve and must be repaid by December 31, 2025 (at the latest), specifically for midsize businesses (500-10,000 employees), states and municipalities. Loan repayment grace period is for first six months and up to as much as one year.
- ▶ Restrictive covenants, in addition to the direct lending restrictions, include:
 - ▶ No offshoring of jobs until two years after loan repayment
 - ▶ No interference in collective bargaining agreement/union matters
 - ▶ Not currently a debtor in a bankruptcy proceeding
 - ▶ Must maintain 90% of the February 1, 2020, headcount through September 30, 2020
- ▶ Application process is not open yet.

A hand holding a pen points to a line graph on a laptop screen. The screen displays various financial data, including a line graph with a yellow trend line and several green and blue data points. The text "Credits and employment tax considerations" is overlaid on the image.

Credits and employment tax considerations

Summary of workforce tax provisions of the CARES Act and the Families First Coronavirus Response Act

Provision	Summary
Retention tax credit	Provides tax credit for employers continuing to pay employees who are not providing services due to COVID-19 circumstances; refundable payroll tax credit capped at 50% of \$10,000 of wages and certain health plan expenses for the remainder of 2020
Paid leave tax credit	Applies to employers with less than 500 employees; payroll tax credit to offset cost of mandated extended leave; refundable payroll tax credit equal to 100% of required extended leave payments
Payroll tax deferral	Delays the timing of required federal tax deposits for certain employer payroll taxes incurred between March 27, 2020 and December 31, 2020; deferred taxes paid in 2021 and 2022 (50% in each year)
Unemployment insurance	<p>Expands unemployment coverage to include:</p> <ul style="list-style-type: none"> ▶ Self-employed individuals and independent contractors ▶ Pandemic unemployment assistance of an additional \$600/week through July 2020 ▶ An additional 13 weeks of benefits beyond current state provisions

- ▶ Companies utilizing SBA loans under Title I of the CARES Act, which addresses the PPP, will be precluded from the employee retention credit under Title II, and vice versa.
- ▶ The payroll tax deferral is not available to a company if it obtains a PPP loan and has part of the loan forgiven.

Employee retention tax credit-eligible employer and credit computation

Eligible employer

- ▶ Employers that carried on a trade or business during 2020 and either:
 - ▶ Suspended operations fully or partially as a result of a COVID-19-related governmental order
- or**
- ▶ Experienced at least a 50% year-over-year decline in calendar quarter gross receipts (as defined in section 448(c))

Credit amount and recovery process

- ▶ Refundable credit equal to 50% of qualified wages paid or incurred, including certain health plan expenses
- ▶ Maximum credit of \$5,000/employee (50% of maximum \$10,000 qualified wages)
- ▶ Draft Form 7200 issued for claiming advance payment of the credit if deposit reduction is insufficient

Employee retention tax credit qualified wages and exclusions

Qualified wages

- ▶ For eligible employers that had an average number of full-time employees in 2019 greater than 100
 - ▶ Wages paid to employees with respect to which an employee is not providing services
- ▶ For eligible employers that had an average number of full-time employees in 2019 of 100 or fewer
 - ▶ Wages paid to employees regardless of whether employee provides services
- ▶ Wages paid from March 13 through December 31, 2020

Exclusions/limitations

- ▶ An employer receiving a covered loan under the Act from the Small Business Administration is not eligible for the credit.
- ▶ Qualified employee wages paid by an employer of more than 100 employees may not exceed the amount the employee would have been paid for working an equivalent duration during the previous 30-day period.
- ▶ The credit is not allowed for any employee for any period in which the Work Opportunity Tax Credit is claimed on that employee.
- ▶ Wages used for the credit may not be used for the section 45S credit or the COVID-19 paid leave credits.

Refundable tax credits (for emergency paid sick leave or child care)

	Emergency Paid Sick Leave Act	Emergency Family and Medical Leave Expansion Act	Family and Medical Leave Act of 1993
Employer	Fewer than 500 employees		50 or more employees
Employee	All employees	Employed for 30 days	Employed full-time for last 12 months
Protected COVID-19 leave			
Symptomatic employee seeking a medical diagnosis, or ordered to isolate or quarantine	10 days of paid leave at 100% of regular rate up to \$511/day or aggregate \$5,110	No protections	
Caring for someone seeking diagnosis, or ordered to isolate or quarantine	10 days of paid leave at two thirds of regular rate up to \$200/day or aggregate \$2,000		
Child care due to closures	12 weeks at two thirds of regular rate up to \$200/day or aggregate \$10,000		Unpaid job protection (if a serious health condition)
Employee's own illness	No protection		
Family member's illness			
Maximum tax credit	\$5,110	\$10,000	

Q&A and wrap-up

About EY
EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. Information about how EY collects and uses personal data and a description of the rights individuals have under data protection legislation are available via ey.com/privacy. For more information about our organization, please visit ey.com.

Ernst & Young LLP is a client-serving member firm of Ernst & Young Global Limited operating in the US.

© 2020 Ernst & Young LLP.
All Rights Reserved.

2003-3459841
ED None
EYG no. XXXXX

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax or other professional advice. Please refer to your advisors for specific advice.

ey.com



MEDIA & ENTERTAINMENT RELIEF PROGRAMS

WarnerMedia \$100M COVID Relief Fund
Details Pending

ViacomCBS \$100M COVID Relief Fund
Details Pending

Netflix \$100M COVID Relief Fund
Details Pending

Sony \$100M COVID Relief Fund
Details Pending

EIF
<https://www.eifoundation.org>

MPTF
<https://mptf.com/covid-19-relief-funds/>

MEDIA & ENTERTAINMENT RELIEF PROGRAMS

SAG-AFTRA

<https://sagaftra.foundation/assistance/disasterrelief/>

Will Rogers Motion Picture Pioneers Foundation

<https://wrpioneers.org/covid19/>

DGA

https://www.dga.org/News/PressReleases/2020/200402_DGF_Launches_COVID19_Emergency_Relief_Fund.aspx

Actors Fund

<https://actorsfund.jotform.com/200766730518860>

IATSE

<https://www.iatsenbf.org>

The Film and TV Charity

<https://filmtvcharity.org.uk/covid-19-help-advice/covid-19-relief-fund/>

MEDIA & ENTERTAINMENT RELIEF PROGRAMS

SBA PPP Program Webpage:

<https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program-ppp#section-header-5>

FAQ on PPP program:

https://www.sba.gov/sites/default/files/2020-04/Final%20PPP%20FAQs%20for%20Lenders%20and%20Borrowers%204-8-20_0.pdf