



Collins Hannafin has been actively monitoring the various governmental supported programs available to small businesses and individuals as a result of the COVID-19 pandemic. The following summarizes these programs. Please keep in mind that the landscape and availability constantly changing. Although this list will be updated periodically, you should consider acting as quickly as possible and be prepared for appropriation limitations as well as additional programs may be established and program requirements are fluid. Collins Hannafin business attorneys stand ready to assist you to help you navigate through these unprecedented times. Please feel free to contact our firm to set up an appointment with one of our attorneys. Pursuant to federal and state law, we have established temporary protocols to safeguard our personnel and clients. However, attorneys are in the office and available through video conference or by phone.

**The Coronavirus Aid, Relief, and Economic Security Act (the “CARES ACT”)
Paycheck Protection Program Loan (“PPP”)**

PPP provides cash-flow assistance through 100 percent federally guaranteed loans to employers who maintain their payroll during the COVID-19 pandemic. PPP permits employers who retain their employees and maintain their payroll to obtain loans from the SBA to pay the company’s payroll. If an employer obtains PPP financing, the payroll that employers and are financed by PPP loans will be forgiven. PPP provides incentive to employers to refrain from laying off their employees. PPP provides a vehicle for workers remain employed and will also assist small businesses (under 500 employees) and our economy snap-back faster once the COVID-19 pandemic ends.

PPP offers many attractive features for businesses including:

1. Forgiveness of up to 8 weeks of payroll based on employee retention and salary levels;
2. No SBA fees; and
3. At least six months of deferral with maximum deferrals of up to a year.

Small businesses and other eligible entities will be able to apply for PPP if they were harmed by COVID-19 between February 15, 2020 and June 30, 2020. PPP will be retroactive to February 15, 2020, in order to help bring workers who may have already been laid off back onto each employer's payrolls. Loans are available through June 30, 2020. Although the SBA final guidelines on April 2nd and it will take banks a little time to process them, we highly recommend that you contact your bank to start the application process **IMMEDIATELY** since applications will be submitted in the order that your bank receives completed applications from borrowers. Although it is not clear yet what the SBA will require, at a minimum, business PPP applicants should be prepared to provide: Their 4 most current Department of Labor 941 filings; their most recent 2 years of business tax returns; and their current payroll information.

Small Business Debt Relief Program

PPP will provide immediate relief to small businesses with non-disaster SBA loans, in particular 7(a), 504, and microloans. Under PPP, the SBA will cover all loan payments on these SBA loans, including principal, interest, and fees, for six months. This relief will also be available to new borrowers who take out loans within six months of the President signing the bill into law.

Employee Retention Credit for Employers Subject to Closure or Experiencing Economic Hardship

This provision would provide a refundable payroll tax credit for 50 percent of wages paid by eligible employers to certain employees during the COVID-19 crisis. The credit is available to employers, including non-profits, whose operations have been fully or partially suspended as a result of a government order limiting commerce, travel or group

meetings. The credit is also provided to employers who have experienced a greater than 50 percent reduction in quarterly receipts, measured on a year-over-year basis.

Wages of employees who are furloughed or face reduced hours as a result of their employer's closure or economic hardship are eligible for the credit. For employers with 100 or fewer fulltime employees, all employee wages are eligible, regardless of whether an employee is furloughed. The credit is provided for wages and compensation, including health benefits, and is provided for the first \$10,000 in wages and compensation paid by the employer to an eligible employee. Wages do not include those taken into account for purposes of the payroll credits for required paid sick leave or required paid family leave, nor for wages taken into account for the employer credit for paid family and medical leave (IRC sec. 45S). Alternatively, to avoid the employer from having to wait for funds, the excess credit can be accelerated through a request for advanced payment from IRS by submitting Form 7200.

Delay of Payment of Employer Payroll Taxes

This provision would allow taxpayers to defer paying the employer portion of certain payroll taxes through the end of 2020, with all 2020 deferred amounts due in two equal installments, one at the end of 2021, the other at the end of 2022. Payroll taxes that can be deferred include the employer portion of FICA taxes, the employer and employee representative portion of Railroad Retirement taxes (that are attributable to the employer FICA rate), and half of SECA tax liability. This program is not available to employers who participate in the PPP.

Net operating losses "NOLs") can now be subject to a 5-year carryback and are not limited by the 80% of taxable income rule. This applies to NOLs from 2018, 2019 or 2020. The CARES Act allows a taxpayer to elect to exclude from its NOL carryback any taxable year to which IRC §965 applies. For non-corporate taxpayers who under the TCJA were limited to using net business losses to the extent of \$250,000 (\$500,000 for married filing jointly), taxable incomes for 2018, 2019 and 2020 can be computed without this limitation. Taxpayers who have been taking AMT credits over the 4-year period can now take them over a two-year period.

Under the TCJA, net business interest is limited to 30% of adjusted taxable income. For 2019 and 2020 this has been increased to 50%. Bonus depreciation is now allowed on qualified improvement property and the corporate charitable deduction limit has been increased from 10% of taxable income to 25% of taxable income for 2020.

Disaster Recovery Loans

The SBA is making available working capital loans to businesses who operate in a federally designated disaster zone. The loans will be at a rate of 3.75% which can be repayable up to 30 years. Applicants must have a credit history acceptable to the SBA. Collateral will be required where available and the proceeds should be used for the repayment of fixed debts, payroll, account payable and other short-term liquidity commitments. The loans can be up to \$2,000,000. See <https://disasterloan.sba.gov/ela>

\$300B Emergency Coronavirus Relief

This bill is different than the SBA disaster recovery loan program. Businesses are not eligible for both programs. These loans are available to businesses with up to 500 employees. The borrowing limit increases 7(a) loans up to \$10MM through 12/31 and delegates more decision making to individual lenders as opposed to the SBA. Borrower and lender fees will be waived.

Post-Passage of the CARES ACT

The IRS has subsequently extended the date for filing and paying gift tax returns to 7/15 without penalty or interest. In addition, the IRS has created the IRS People First Initiative. Current payments due under an installment agreement are suspended between 4/1 and 7/15. Automatic liens and levies are suspended. Generally, no new audits will be started, however the IRS will continue to work on existing cases.

FAMILIES FIRST CORONAVIRUS RESPONSE ACT – TAX

The recently enacted Families First Coronavirus Response Act provides businesses with a number of tax and financial benefits that will provide most businesses with immediate benefits. First and foremost is the Treasury's 90-day extension for any income tax payments due on April 15th. Individuals who will owe up to \$1,000,000.00 in

income taxes can defer their amount due under this newly enacted law. This limitation for individuals is also applicable to pass through entities (LLCs or partnerships) and small businesses filing under subchapter S of the Internal Revenue Code (S Corporations). Corporations with income tax liabilities up to \$10,000,000.00 will qualify for this same 90-day extension. Any payments that are made under this 90-day extension will not be subject to additional interest or penalties. In addition, the IRS issued Notice 2020-18 which extends the filing date for income tax returns on 4/15. These extensions, however, do not apply to payroll taxes, excise taxes or estate tax returns. Furthermore, the second estimated tax payment due on June 15, 2020 is now extended to July 15. Section 965 installment payments have been deferred to July 15th as well as the dates to contribute to IRA's, Health Savings Accounts and Archer Medical Savings Accounts.

The Connecticut Department of Revenue Services has also granted automatic extensions of Connecticut filing deadlines for certain tax returns. Filing deadlines for certain annual returns due on or after March 15th and before June 1st are extended by at least 30 days and the associated payments are also extended to the corresponding due date in June. In particular, the 2019 Form 1065/CT 1120 Connecticut Pass thru Entity Tax Return filing dates have been extended to April 15th with the payment deadline extended to June 15th. The 2019 Form CT 990T Connecticut Unrelated Business Income Tax Return filing deadline has been extended to June 15th with the payment deadline now extended to June 15th. The 2019 Form CT 1120 and CT 1120CU Connecticut Corporation Business Tax return filing dated has been extended to June 14th with payment deadline extended to June 15th. Individual Connecticut State Income Tax Returns filing and payment requirements will be adjusted to align with the IRS-enacted extension provisions.

In addition to the relief being afforded the individual income taxpayer, the Federal Government is also providing 100% refundable tax credits to private sector employers. These credits are available to employers with fewer than 500 employees who are required to provide sick leave and family leave benefits. The credits are claimed against the employer's share of payroll tax liability with any excess refunded back to the

employer. Payments to employees will be taxable income to the employees and subject to the employee payroll taxes. But will not be subject to the employer portion of the payroll taxes. Employers must include the amount of the tax credit as taxable income in their respective tax returns. Employers can waive the right to the credit.



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