

# COVID-19 & THE DEATHCARE PROFESSION

## The CARES Act

### What it Means for Deathcare Businesses

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*The following is based on information available as of March 27, 2020.*

Below is our initial summary of HR 748, the Coronavirus Aid, Relief and Economic Stability (CARES) Act. We have highlighted the issues most relevant to ICCFA members and their businesses, but are continuing to review the document for additional information. It is important to note that programs enacted as part of the legislation apply to businesses based upon individual impact as a result of the public health crisis from COVID-19.

The bill passed the Senate by a unanimous vote of 96-0 early in the morning on March 26. The House passed the bill on March 27 by a voice vote. The President will sign the bill into law at some point also on the 27th, which starts the clock for how quickly federal dollars will flow.

Below is a summary of the major provisions:

#### **General Business/Tax Relief**

The legislation allows for employers to delay the payment of their 2020 payroll taxes until 2021 and 2022 (more detail below). The bill temporarily removes the taxable income limitation allowing a net operating loss (NOL) to fully offset income. It allows businesses to carry back losses from 2018, 2019, and 2020 to the previous 5 years. The

bill also fixes cost recovery for investments in Qualified Improvement Properties by treating them as 15-year property and making them eligible for 100 percent bonus depreciation. This will allow businesses that made these investments in 2018 and 2019 to claim the benefit. It also includes enhanced interest deductibility by increasing from 30 to 50 percent the limitation on the percentage of adjusted taxable income eligible for the business interest expense deduction on top of business interest that can be deducted. This applies for tax years 2019 and 2020. Regarding Alternative Minimum Tax (AMT) credits, the bill generally allows corporations to accelerate any remaining AMT credits they have not yet utilized into 2019.

#### **Payroll Taxes**

As described above, the package allows employers and self-employers to defer payment of the employer share (6.2 percent share) of the Social Security payroll tax otherwise are responsible for paying to the federal government on behalf of their employees. If deferred, the provision requires the tax to be paid over the next two years, with half due by the end of 2021, and the other by the end of 2022. The legislation further allows for a refundable payroll tax credit at 50 percent of wages paid by employers to employees during the COVID-109 crisis, where the tax credit, computed on a calendar-quarter

basis, (based on qualified wages) is available to employers where business was partially suspended, or where the employers lost 50 percent of the gross receipt compared to the same quarter in 2019. The amount of credit provided is dependent on the amount of full-time employees, as well as the status of the business. This credit, for wages between March 12, to January 1, 2020, is provided for the first \$10,000 of compensation paid to an eligible employee. The legislation allows for eligible employees to elect out of the provision.

### **Small Business Relief**

The relief package provides \$349 billion for small business forgivable loans due to the economic burdens of COVID-19. This funding allows the Small Business Administration (SBA) to provide loans equaling two and a half months of payroll, maxed at \$10 million. The loans are to be forgiven if they are used for payroll, interest on debt, rent, paid or medical leave, or utilities. Interest is capped at 4 percent, with that interest dependent on the size of the loan, and only loan principal being forgivable. The bill enacts many “good-faith” provisions to allocate the loans to the businesses who drastically need them as soon as possible. The bill would waive most of the SBA’s usual paperwork requirements and other prerequisites to speed release of the money. Borrowers making a good-faith statement are presumed eligible for the loans, which are limited to companies that have seen their business dry up or stop completely due to COVID-19. Most of the paperwork would come at the end where companies would need to prove they actually needed the loans and used them as intended when they apply for debt forgiveness. These loans will apply to all businesses who employ less than 500 workers per location, if a business has more than one location.

### **Unemployment**

The relief package creates a temporary Pandemic Unemployment Assistance program to provide unemployment payments to those who are self-employed, independent contractors, and are with limited work history, amongst others, and impacted by unemployment directly related to COVID-19. The legislation provides an additional \$600 weekly payment to each recipient for up to four months, and establishes that states will receive funding for the first week of unemployed pay if they choose to begin payments as soon as a worker becomes unemployed, rather than waiting one week before eligibility. The legislation also provides unemployment funding for an additional 13 weeks for those who remain unemployed after losing state unemployment benefits. The package further provides 100 percent compensation as a pro-rated unemployment benefit to employees if they are scheduled less working hours, rather than being laid off, as well as provides 50 percent of the cost that a state incurs due to this compensation. These compensation programs will receive \$100 million in funding to implement.

### **Paid Leave**

The legislation allows for paid leave due to COVID-19, if the paid leave took place since January 29, 2020. It declares that an employer shall not be required to pay more than \$200 per day and \$10,000 in aggregate for each employee for paid leave. Further, it specifies that an employer shall not be required to pay more than \$200 per day and \$2,000 in aggregate for each employee, when the employee is taking leave due to caring for an individual under quarantine by government or medical provider, caring for a child in place of a school or child care provider made unavailable due to COVID-19, or the employee is experiencing conditions specified by

the Secretary of Health and Human Services. The legislation declares that an employer shall not be required to pay more than \$511 per day and \$5110 in the aggregate for each employee, when the employee is taking leave due to a government quarantine order, the employee has been advised to self-quarantine by a health provider, or the employee is experiencing COVID-19 symptoms and is seeking medical help. Additionally, the package states that an eligible employee for paid leave means an employee who has been employed for at least 30 calendar days by the employers. For rehired employees, paid leave is included for those who were not laid off before March 1, had worked for the employer at least 30 days of the past 60, and was rehired by the employer. It outlines that advance payments may be used for providing sick leave to employees, maintaining payroll, meeting increased costs to obtain materials, making rent or mortgage payments, and repaying obligations that cannot be met due to revenue loss. The bill also specifies allowable uses of loan from the Paycheck Protection Program including payroll support, employee salaries, paid sick and medical leave, insurance premium, and mortgage, rent, and utility payments.

## Charitable Contributions

The relief package encourages those to contribute to charities and churches by allowing a deduction in up to \$300 of cash contributions. The legislation increases the limitations on deductions for charitable contributions for individuals by suspending the 50 percent of adjusted gross income limitation, and by increasing the 10 percent limitation to 25 percent of taxable income. The legislation further amends the limitation on deductions for contributions of food inventory by increasing the limitation from 15 to 25 percent.

## Checks for Individuals

All U.S. residents with adjusted gross income up to \$75,000 (\$150,000 married), who are not a dependent of another taxpayer and have a work-eligible social security number, are eligible for the full \$1,200 (\$2,400 married) rebate. In addition, they are eligible for an additional \$500 per child. This also applies to those who have no income, as well as those whose income comes entirely from non-taxable means-tested benefit programs, such as SSI benefits.

No action will be required of most Americans in order to receive a rebate check. IRS will use a taxpayer's 2019 tax return if filed, or the 2018 return, if not filed. This includes many low-income individuals who file a tax return in order to take advantage of the refundable Earned Income Tax Credit and Child Tax Credit. The rebate amount is reduced by \$5 for each \$100 that a taxpayer's income exceeds the phase-out threshold. The amount is completely phased-out for single filers with incomes exceeding \$99,000, \$146,500 for head of household filers with one child, and \$198,000 for joint filers with no children.

## Retirement Provisions

The legislation waives Required Minimum Distributions (RMD) rules pertaining to certain plans and IRA's for calendar year 2020, if it is a coronavirus-distribution. This provision will also waive the 10 percent early withdrawal penalties for distributions ranging up to \$100,000 from qualified retirement accounts if related to coronavirus, and if the withdrawal was ordered on or after January 1, 2020. This income will be subject to tax over three years, and these funds may be recontributed to an eligible retirement plan within three years. In order to qualify as a


COVID-19 distribution, you must be diagnosed with COVID-19, your spouse/dependent must be diagnosed, or you are dealing with the financial burdens of a quarantine through layoff, furlough, or loss of pay due to hours of work.

### **Moratorium on Evictions**

The relief package declares that once the legislation is enacted, there will be a 120-day period where landlords are prohibited from initiating action to reclaim the possession of a rental unit through eviction, and are prohibited from charging fees, penalties, or other charges to the tenant due to nonpayment of rent if the landlord's mortgage is insured, guaranteed, or assisted in any way by HUD, Fannie Mac, Freddie

Mac, vouchers, or the Violence Against Women Act of 1994.

### **Diagnostic Testing and Vaccine Insurance Coverage**

The stimulus package declares that all COVID-19 testing will be covered by private insurance plans without cost sharing. For testing with no cost to patients, it is required for an insurer to pay the rate specified from a contract, or if there is no contract, by a price set by the provider. In the event of a vaccine deployment, the legislation provides free coverage without cost-sharing of a vaccine within 15 days if the vaccine is in effect with an "A" or "B" rating from the Advisory Committee on Immunization Practices. 

# DykEMA



Mary Beth McGowan is a Government Policy Advisor who has been providing federal government relations services to Dykema's clients since 2008. Ms. McGowan consults a broad range of clients from local governments to nonprofit organizations to corporations on legislative and regulatory issues related to transportation, cybersecurity, electric power and energy, environmental policy, telecommunications, the appropriations process and federal budgetary matters.