



The CARES Act: A Summary for Technology and Life Sciences Companies

ALERTS

March 30, 2020

On March 27, 2020, the President signed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), a \$2 trillion stimulus package thought to be the largest in U.S. history. This is the third stimulus package adopted in the last month, and more may be in the works.

The following executive summary gives an overview of the provisions of the CARES Act that could most benefit technology and life sciences industries. We link to our other CARES Act alerts after the summary.

Executive Summary

Near-Term Relief

For companies

Provision	Effect	Limitations
Employee Retention Tax Credit	A company subject to closure due to COVID-19 orders or that experiences a significant decline in gross receipts may take a refundable tax credit against the 6.2 percent Social Security payroll tax in the amount of 50 percent of up to \$10,000 of	SBA PPP Loan recipients are ineligible for this credit (see below). Companies with more than 100 employees are eligible for the credit only for wages paid to employees who are not

	wages paid to an employee (giving a maximum credit of \$5,000 per employee) after March 12, 2020 and before January 1, 2021.	providing services due to closure or a significant decline in gross receipts.
Payroll Tax Deferral	A company may defer deposit and payment of the 6.2 percent Social Security payroll tax for the remainder of 2020 beginning March 27, 2020: 50 percent deferred until December 31, 2021, and the remaining 50 percent deferred until December 31, 2022.	Companies that have indebtedness forgiven under the SBA PPP (see below) or other comparable loans provided by newly participating financial institutions under the CARES Act will be ineligible for this deferral.
Net Operating Loss Relaxation	Temporarily relaxes certain limitations on the use and carryback of net operating losses (NOLs).	
For individuals		
Provision	Effect	Limitations
Unemployment Insurance Expansion	Temporarily expands eligibility and amount of unemployment insurance.	
Individual Tax Credits	Tax credit in 2020 of \$1,200 (\$2,400 for joint filers) and \$500 per child under the age of 17.	Credit is phased-out for taxpayers with adjusted gross incomes in excess of \$75,000, or \$112,500 for heads of households, and \$150,000 for joint filers.
Medium-Term Relief		
For companies		
Provision	Effect	Limitations
SBA Paycheck Protection Program (PPP) Loans	\$349 billion allocated for low interest, no-fee loans equal to the lesser of \$10 million and 2.5 times the borrower's monthly	Generally limited to "small business concerns" under a slightly modified version of existing SBA rules, and

	<p>U.S. payroll costs as measured over the prior 12 months made by lenders in the SBA's Section 7(a) loan program and other lenders approved by the SBA to qualifying small businesses; loans may be partially forgiven in certain circumstances.</p> <p>Recipients should apply with lenders approved by SBA to provide Section 7(a) loans.</p> <p>At present, companies that have engaged in or plan to pursue layoffs are not <i>per se</i> excluded from PPP, but changes in number of employees can impact the extent of the loan <i>forgiveness</i>, to be describe in a subsequent client alert.</p>	<p>affiliation aspects of those rules may make many startups that have received venture capital or other investments ineligible without additional relaxation of such rules.</p> <p>Companies that receive such loans are ineligible for employee retention tax credits, and companies that have such loans forgiven are ineligible for the payroll tax deferral described above.</p>
SBA Economic Injury Disaster Loans (EIDL)	<p>Expands existing SBA Economic Injury Disaster Loan (EIDL) program under Section 7(b)(2) and allocates \$10 billion for related SBA grants, whereby recipients can receive up to \$2 million in loans for working capital and ordinary expenditures, based on economic injury from COVID-19. Recipients should apply directly with the SBA.</p> <p>EIDL Applicants may eligible for Emergency IDL Grants up to \$10,000.</p>	Similar limitations as SBA PPP Loans, other than with respect to tax credits and deferral.
Economic Stabilization Measures	500 billion allocated for loans, loan guarantees, and other investments to support eligible businesses, states and municipalities, including	Because regulations regarding these programs are yet to be adopted, the details about these programs are currently unknown.

	<p>emergency relief for qualifying medium-size businesses (500 - 10,000 employees).</p>	<p>Borrowers under these programs may be subject to restrictions, such as restrictions related to equity buybacks, dividend payments, executive compensation, and workforce retention.</p>
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For more information regarding tax relief under the CARES Act, please see this alert.

For more information regarding the SBA's "small business concern" and related affiliation rules, please see this alert.

For more information regarding the loan programs under the CARES Act, please see this alert.

For more information regarding the Food and Drug Administration and Department of Health and Human Services aspects of the CARES Act, please see this alert.

Future Stimulus for the Energy Industry

Notably, the CARES Act did not include any energy industry specific provisions. Consideration of stimulus aimed at renewable energy industry, along with oil and gas and other energy sectors, has been pushed to a potential fourth stimulus package, which will not likely be debated before the U.S. Senate returns in late April. The renewables industry is generally advocating for optional direct payments in lieu of tax credits, extension of the investment and production tax credits for renewable projects, extension of safe harbor guidance to later dates, and extension of tax credits to stand alone energy storage assets. We will continue to monitor and analyze such stimulus measures and will report any significant developments.

Wilson Sonsini continues to monitor the global impact of COVID-19 on various industries. Wilson Sonsini's COVID-19 Client Advisory Resource is a collection of alerts, advisories, and programs—all of which are intended to help the management, boards of directors, and in-house counsel of our clients maintain key operational and business functions, despite pressing challenges related to the COVID-19 outbreak.

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