How to Take Advantage of Coronavirus Relief Provisions --

The CARES Act

MARCH 30, 2020

Agenda

- Individuals
- Unemployment
- Business Tax Provisions
- Other Business Assistance
- Financing Options for Your Business

The “Coronavirus Aid, Relief, and Economic Security Act”

- The CARES Act (H.R. 748) is a $2.2 trillion economic stimulus package that is the third phase of the federal government’s emergency legislation
- The package passed the Senate on March 25th and the House on March 27th, and President Trump signed it into law the same day
- The CARES Act contains tax and non-tax provisions for individuals, businesses and the unemployed

The Families First Coronavirus Response Act

- Status of emergency legislation (as of March 30, 2020)

Phase 1	Phase 2	Phase 3
H.R. 6074: $8.3B measure signed into law March 6. Provides funding to develop vaccines and testing kits, additional state and local health department staffing and laboratory equipment needs, and federal aid for international containment.	H.R. 6201: $104B measure signed into law March 18. Provides paid sick and family leave (and offsetting employer payroll tax credits) for coronavirus and related care for others, food assistance, medical testing assistance, and additional unemployment benefits.	H.R. 748: Stimulus bill enacted March 27 to add approximately $2.2T in economic relief measures including: $350B in small business loans, $500B in direct cash payments to individuals in the form of a single $1,200 refund, a payroll tax holiday for the employer portion during 2020, and $500B in large business loans and investments.

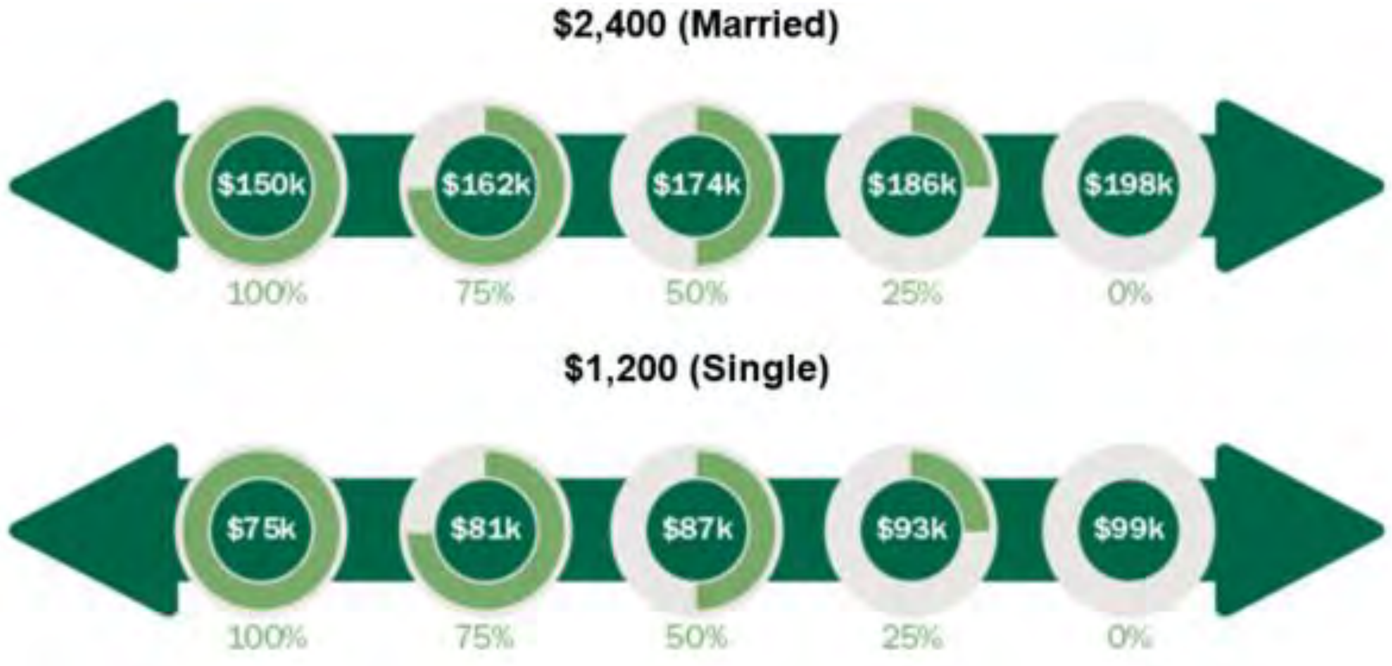
Individual Tax Provisions

Recovery Rebate Payments

- Headlining the CARES Act, a direct cash “recovery rebate” payment will be provided to individuals
- A one-time $1,200 cash payment for eligible individuals ($2,400 for married couples) will be provided, with additional cash payments of $500 per qualifying child
  - An individual is eligible for the full amount of the cash payment to the extent adjusted gross income (AGI) does not exceed $75,000 ($150,000 for married couples filing joint returns, and $112,500 for head of household filers)
  - The amount of the cash payment begins to phase out as AGI exceeds these levels
- The cash payment is phased out by $5 for each $100 that the taxpayer’s AGI exceeds the applicable threshold
  - Thus, if a married couple has 3 qualifying children, their total potential cash payment of $3,900 is phased out once their AGI exceeds $228,000

Recovery Rebate Payments (cont'd.)

- The following chart depicts the amount of cash payments that individuals will receive (assuming there are no qualifying children), given varying levels of AGI:



Recovery Rebate Payments (cont'd.)

- The cash payments will commence in the near term, with a desire by the Trump Administration to begin payments in as little as a few weeks
- The payments are structured as advance tax refunds for the 2020 tax year, nearly identical to the manner in which the 2008 stimulus payments were administered under President George W. Bush
  - The IRS will determine payment eligibility based on the most recent AGI data it has on file (2018 or 2019 tax filing)
  - Because the ultimate eligibility is with respect to 2020 AGI, a true-up may result when the 2020 tax return is filed, whereby an additional cash payment may be due (but in no case will the taxpayer have to give back any cash payment initially received)

Recovery Rebate Payments (cont'd.)

- To be eligible for a cash payment the taxpayer, and any qualifying children, must have a work-eligible social security number
- Some taxpayers otherwise not required to file may need to do so in order to receive their rebate checks
- Due to what appears to be a drafting error, individuals who are 17 or 18 years old are not qualifying children for purposes of the additional $500 payment, nor are they eligible for their own individual payments (if they could be claimed as a dependent by another taxpayer), because they must reach a minimum age of 19

Recovery Rebate Payments (cont'd.)

- A qualifying child (Section 24(c)) for purposes of the additional $500 payment is any of the following individuals:
  - The child of the taxpayer;
  - A descendant of the taxpayer's child; or
  - A brother, sister, stepbrother, or stepsister of the taxpayer, or a descendant of any such relative
- Any of these individuals must also satisfy all of the following criteria:
  - The individual has the same principal place of abode as the taxpayer for more than one-half of such taxable year;
  - This individual has not provided over one-half of such individual's own support for the calendar year in which the taxable year of the taxpayer begins;
  - The individual has not attained the age of 17; and
  - The individual has not filed a joint return (except for a claim of refund) with the individual's spouse for the tax year beginning in the calendar year in which the tax year of the taxpayer begins.

Retirement Plan Loans and Distributions

- The Act waives the 10% penalty on early withdrawals during 2020 from retirement plans (IRAs, etc.) up to $100,000 if:
  - The individual or their spouse or dependents are diagnosed with the coronavirus; or
  - The individual experiences financial difficulty as a result of:
    - Being quarantined, furloughed, or laid off;
    - Having work hours reduced; or
    - Being unable to work due to a lack of child care because of COVID-19, or due to closing or reducing hours of a business owned or operated by the individual because of COVID-19
- To the extent the withdrawal is taxable, the income tax can be paid ratably over the three years after the distribution
- The withdrawal will not be taxable if it is repaid over the three years after the distribution

Retirement Plan Loans and Distributions (cont'd.)

- The act doubles the current retirement plan loan limitations
- Participants can now take a retirement plan loan in the amount that is the lesser of:
  - $100,000, or
  - 100% of the vested account balance in the plan
- There is also a temporary waiver of the Required Minimum Distribution (RMD) rules
  - This waiver allows individuals to avoid making a RMDs in 2020

Other Changes

- Charitable Contributions
  - The CARES Act creates a new $300 above-the-line deduction for cash contributions to a qualifying charity
    - This provision allows a charitable deduction to those who don’t itemize
  - The Act also suspends for 2020 the limit on the individual charitable deduction, which is available to filers who itemize.
    - The deduction is limited to 60% of individual taxpayers’ AGI through 2025.
  - The deduction limit for contributions of food inventory is increased from 15% to 25% of AGI
- Student Loans
  - Loan Repayment: The measure would suspend student loan payments and interest accrual for three months.
    - The department could extend the suspension for an additional three months.
    - Each month for which payments are suspended would be treated as if on-time payments were made for purposes of federal loan forgiveness programs.
  - Employers can repay or give to employee to repay up to $5,250 of student loan debt through 2020

Individual Unemployment Provisions

Expansion of Unemployment Benefits

- The CARES Act provides for a massive expansion to unemployment benefits
- Unemployed workers will be eligible for federal unemployment benefits of $600 per week for four months
  - This amount is in addition to any state unemployment benefits
- Additionally, the benefit is extended to independent contractors, self-employed individuals, individuals with a limited work history, and furloughed workers
- Further, federal unemployment benefits will provide an additional 13 weeks of pay once a worker’s duration of state unemployment benefits expires
- The CARES Act also will fund 100% of the unemployment benefits for states that do not impose a 7-day waiting period

Expansion of Unemployment Benefits (cont'd.)

- The CARES Act provides for a new short-term compensation benefit
  - For private sector employers that reduce hours for employees in order to avert layoffs, funding will be provided for the difference between the reduced employer compensation and the unemployment compensation benefit
- Employees who receive wages under such a program will be eligible for pro-rated unemployment benefits

Business Tax Provisions

Employer Payroll Tax Holiday

- The CARES Act provides a payroll tax holiday that allows employers to defer the employer portion of their social security payroll tax liability (*i.e.*, 6.2% of wages), including an identical amount of self-employment tax for the self-employed, for the period:
  - Beginning March 27, 2020, and
  - Ending December 31, 2020
- Businesses taking advantage of this holiday must repay 50% of the amount deferred by the end of 2021, and the remaining 50% by the end of 2022
- The employee portion of social security taxes remains due and must be withheld (as well as any other portion of the self-employment tax for the self-employed)

Employee Retention Credit

- The CARES Act provides a new payroll tax credit to incentivize the retention of employees
- The credit is computed with respect to 50% of “qualified wages” paid by an “affected employer”
- Credit allowed against OASDI, or if greater, credit is refundable
- An affected employer is one whose operations were fully or partially suspended due to a COVID-19-related shutdown order, or whose gross receipts declined by more than 50 percent when compared to the same quarter in the prior year
- Qualified wages do not include those paid under the paid sick or paid family leave programs of the FFCRA “Phase 2” legislation, and are otherwise defined as follows:
  - For small employers (100 of fewer full-time employees), an amount equal to the first $10,000 of all compensation paid to the employee during the quarter for which operations were suspended or in which the company had a significant decline in gross receipts
  - For large employers, an amount equal to the first $10,000 of compensation, including healthcare benefits, paid to employees who are not working due to a coronavirus shutdown order
- The credit covers employee wages paid after March 12, 2020 and before January 1, 2021
- Employers are not eligible for the credit if a loan under the SBA Paycheck Protection Program for 7(a) loans is received

Retail Glitch Fix

- The CARES Act contains a fix for the "retail glitch"
  - The "retail glitch" resulted from a drafting error in the tax law commonly known as the Tax Cuts and Jobs Act (TCJA)
  - The law mistakenly repealed the 15-year depreciable class life for qualified improvement, retail and restaurant property, eliminating the ability to claim bonus depreciation on such property
- The CARES Act makes a technical correction to the TCJA to re-establish the 15-year depreciable class life for these assets, effective for property placed in service after September 27, 2017
- Assuming only one return has been filed that is subject to the corrected depreciation:
  - Taxpayers may consider filing an amended return to claim the additional depreciation, or
  - Taxpayers may request an automatic accounting method change under section 6.01 of Rev. Proc. 2019-43 to claim the additional depreciation in the immediately succeeding tax year
- Additional IRS guidance is anticipated regarding the accounting method change procedures to use, including those circumstances where more than one return has been filed

NOL Carryback Changes

- The CARES Act restores the ability on a temporary basis for businesses to carry back net operating losses to prior years
  - The TCJA previously eliminated the ability of businesses to carry back NOLs to prior years
  - Prior to the TCJA there was a 2 year NOL carryback period
- Under the CARES Act, businesses may carryback NOLs incurred in 2018-2020 for 5 years, and may fully offset income in the carryback years
  - Eliminates the TCJA limitation on deducting current NOLs to 80% of taxable income

NOL Carryback Changes (cont'd.)

- The revitalized NOL carryback rules may also bring relief to corporations with 2019 income tax payment liabilities due July 15
  - Applies when an NOL is anticipated in 2020 that will eliminate the 2019 income tax once the 2020 year closes and the 2020 NOL is carried back
- Corporations in this situation can request on Form 1138 an extension of time to pay the 2019 income tax due July 15, where the extension continues until the due date (including extensions) for the 2020 NOL year
  - The 2020 NOL ultimately must be carried back to the 2019 tax year in order to obtain the 2019 payment extension, so a 2020 NOL that is carried back to earlier tax years (*e.g.*, the 5-year carryback period under the CARES Act) will not allow for the desired payment extension with respect to the 2019 tax year
  - Form 1138 had been relegated to the proverbial dust bin as a result of the NOL changes under the TCJA, but the CARES Act makes is relevant once again

Excess Business Loss Limitation Suspended

- The CARES Act temporarily suspends the excess business loss limitation
  - Under the TCJA, non-corporate taxpayers cannot deduct trade or business losses in excess of $500,000 (for joint returns) or $250,000 (for single filers)
  - The disallowed losses must be carried forward as net operating losses
  - Under the TCJA, such trade or business losses are determined by aggregating net losses passed through from all partnership and S corporation holdings
- The CARES Act suspends the EBL rules retroactively for tax years beginning after December 31, 2017, and through tax years ending December 31, 2020
  - Amended returns will need to be evaluated to claim associated refunds

Excise Tax Holidays

- The CARES Act contains two temporary excise tax holidays
- The first is for aviation fuel excise taxes and is an additional measure beyond the loan programs to help the aviation industry
- The second is a temporary exemption from the excise tax on alcohol for all distilled spirits contained or used in hand sanitizer
  - This will likely help local alcohol brewers across the country, many of whom have switched to production of hand sanitizer as a response to reduced demand for alcoholic beverages and an increased demand for hand sanitizer

Business Interest Deductions Increased

- The CARES Act increases the amount of business interest that may be deducted
- The TCJA amended Section 163(j) to provide that the deduction for business interest is limited to 30% of the "adjusted taxable income" of the taxpayer, plus the taxpayer's amount of business interest income
  - Adjusted taxable income roughly is the equivalent of tax-basis EBITDA
- The 30% limitation under the TCJA is determined at the taxpayer level, not at the business level
  - However, the business interest attributable to certain businesses (such as a real property trade or business) is not subject to limitation, at the taxpayer's election
- The 30% limitation under the TCJA applies to all taxpayers (e.g., individuals, corporations, partnerships, trusts, etc.), unless the taxpayer is a "small" taxpayer
  - A small taxpayer generally is one that is not a "tax shelter" and that has a 3-year average of gross receipts that does not exceed $26 million (indexed for inflation)

Business Interest Deductions Increased (cont’d.)

- Under the CARES Act, the business interest limitation generally is increased from 30% of adjusted taxable income to 50% of adjusted taxable income, in the case of any tax year that begins in 2019 or in 2020
  - Taxpayers may elect out of this change, whereby the 30% limitation will instead remain for 2019 and 2020
- Under the CARES Act, taxpayers can use the 2019 calculation for adjusted taxable income to determine the business interest limitation for tax years beginning in 2020
  - Taxpayers may elect out of this provision

Business Interest Deductions Increased (cont'd.)

- The 50% limitation applies to all taxpayers, except partnerships that have a tax year that begins in 2019
  - For partnerships, the 30% limitation under the TCJA applies to a tax year that begins in 2019, and the 50% limitation under the CARES Act applies to a tax year that begins in 2020
- Partnerships likely are treated differently than other taxpayers in 2019 due to the complexity involved with the determination and reporting of section 163(j) amounts to partners, as well as the complexity involved with procedures to "amend" partnership returns under the Bipartisan Budget Act (i.e., new partnership audit rules)

Business Interest Deductions Increased (cont'd.)

- After a partnership determines its business interest limitation in 2019 using the 30% limitation, any "excess business interest" that the partnership cannot deduct currently is reported to its partners, who then consider their allocated shares of excess business interest in subsequent years for possible deduction
  - Under the CARES Act, because partnerships do not get the benefit of the 50% limitation in 2019, the allocated excess business interest to partners from 2019 is subject to special treatment
  - 50% of the allocated excess business interest to partners from 2019 is treated as paid or incurred by the partner for the first tax year beginning in 2020, and is not subject to further limitation under Section 163(j)
  - The other 50% of allocated excess business interest to partners from 2019 is treated as subject to the partner's Section 163(j) limitations under the "normal" TCJA rules
  - Partners may elect to not have this special treatment apply

Other Tax Law Changes

- Under the CARES Act, corporations will be able to obtain refunds of prior year corporate AMT credits faster
  - Instead of receiving these refundable credits ratably through 2021, corporations may now receive the entire refundable credit in 2019
  - Corporations can elect to file tentative refund claim for 2018
- Corporations also receive an increased charitable contribution limit for cash contributions from 10% to 25% of taxable income
- Forms and instructions for implementing the Emergency Sick Leave and Family Leave credits provided under FFCRA will be made available to employers
  - All penalties for any failure to deposit waived for 6.2% employer portion, but not 1.45% employer portion

Other Business Assistance Programs

Other Non-Tax Provisions

- The CARES Act provides additional funding for states, hospitals, and other programs
  - For hospitals this includes $100 billion to treat coronavirus patients, $1 billion for the Indian Health Service, and $49 billion for medical equipment
  - States will receive $142 billion to deal with the impacts of the virus
  - Tribal governments will receive $8 billion
  - Passenger airlines $25 billion in loans and additional $25 billion in grants

Other Non-Tax Provisions

- Health insurers would have to reimburse providers for all coronavirus testing and related visits based on the cash price that the provider lists online, unless they have a negotiated rate.
  - Testing providers that don’t list their prices online could be penalized a maximum of $300 per day
- Changes to high deductible plans
  - Telehealth services covered before a patient reaches the deductible for plan years beginning on or before Dec. 31, 2021
  - Allowing HSAs to be used for medicine without a prescription and for menstrual products

Employer Benefits Under Section 139

- Employers may choose to provide “qualified disaster relief” (QDR) payments to employees under Section 139
- Section 139 is available to all employers, regardless of the size of their workforce
  - It may be particularly of interest to “large” employers with greater than 500 employees, since those employers cannot participate in the enhanced paid sick or paid family leave programs under the Families First Act (Phase 2 legislation)
- QDR payments are tax-free to beneficiaries, and are deductible to the employer to the same extent they would be if the payments had been taxable to the beneficiaries
- A “qualified disaster” includes a federally declared disaster that warrants government assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act
  - President Trump made this declaration on March 13

Employer Benefits Under Section 139 (cont'd.)

- To the extent not compensated by insurance or other reimbursement, QDR payments include payments for personal, family, living, or funeral expenses
  - Examples of personal or living expenses include rent, water, utilities, homeowner's insurance, domestic services, and other personal property expenses
- QDR payments do not include payments in the nature of income replacement (lost wages, etc.)
  - Paid sick and paid family leave is not a QDR payment

Financing Options for Your Business

Responding to the COVID-19 Crisis

- Unlike the financial crisis a decade ago, all aspects of the economy are impacted by the COVID-19 crisis.
- The timeline of the crisis is not known and may result in most businesses being shut down or having restricted operations and revenues for weeks.
- Businesses need to make decisions now affecting their finances, customers, employees, and supply chain.
- The course of action for financing options will depend on the size of your business, industry, and assets.
- CBIZ has experts available to help your business navigate the challenges ahead.

Key Considerations for Your Business

1. Liquidity and cash
2. Troubled Debt Restructuring (TDRs) and loan modifications with your existing lenders
3. CARES Act – What is available for your business?
4. SBA loan programs
5. Middle market and big businesses (>500 employees)
6. Alternative financing options to businesses

Step 1 - Liquidity and Cash

- Businesses need to evaluate their current situation and cash burn rate.
- Drawing down lines of credit and other sources for cash?
- What has been the impact to your revenues?
- What are your fixed and variable expenses?
- How long will your cash reserves last?
- Prioritization of payments and your supply chain.
- Forecast and plan for expected case and worst case scenarios.

Step 2 – Troubled Debt Restructuring (TDR)

- Interagency guidance on financial institutions working with borrowers affected by the COVID-19 crisis includes:
  - Encouraging financial institutions to work prudently with borrowers who cannot make payments.
    - Available for borrowers who were current (less than 30 days past due) before the COVID-19 crisis began.
  - Short-term modifications (e.g. six months) for payment deferrals, fee waivers, extension of repayment terms, or other delays in payment that are insignificant.
  - Agency examiners will exercise judgment in reviewing modifications and not adversely risk rate these credits.

Step 3 – CARES Act

- The CARES Act covers many stakeholders. The items below are focused on small and middle market businesses.
  - Emergency Grants: The CARES Act provides $10 billion for grants of up to $10,000 to provide funds for operating costs.
  - Forgivable Loans: $350 billion for the Small Business Administration (SBA) to provide loans of up to $10 million.
  - Relief for Existing Loans: $17 billion to cover six months of payments for businesses with existing SBA loans.

Cares Act: Qualifying Businesses Include:

- Businesses with up to 500 employees or which meet the applicable size standard for the industry as provided by SBA's existing regulations.
- Businesses in the accommodation and food services industries with more than one physical location, but no more than 500 employees at each location.
- Nonprofit organizations.
- Eligible independent contractors and sole proprietors.

Key Points of CARES Act

- Loans will be available through SBA and Treasury approved banks, credit unions, and some nonbank lenders.
- Borrowers can borrower 2.5 times their monthly payroll expenses, up to $10 million.
- Applicable uses for the loan proceeds include: (1) qualified payroll costs; (2) rent; (3) utilities; and (4) interest on mortgage and other debt obligations.
- Loan forgiveness is available for funds used to pay 8 weeks of payroll and other qualified expenses.

Additional Key Points:

- Unlike traditional SBA 7(a) loans, no personal guarantee will be required to receive funds and no collateral needs to be pledged.
- Similarly, the CARES Act waives the requirement that a business show that it cannot obtain credit elsewhere.
- In lieu of these requirements, borrowers must certify that the loan is necessary due to the uncertainty of current economic conditions; that they will use the funds to retain workers, maintain payroll, or make lease, mortgage, and utility payments; and that they are not receiving duplicative funds for the same uses.
- Payments of principal, interest, and fees will be deferred for at least 6 months, but not more than 1 year. Interest rates are capped at 4%. The SBA will not collect any yearly or guarantee fees for the loan, and all prepayment penalties are waived. Terms of maximum maturity of 10 years.

Additional Key Points, continued:

- The SBA has no recourse against any borrower for non-payment of the loan, except where the borrower has used the loan proceeds for a non-allowable purpose.
- The maximum loan amount for an Express Loan is increased from $350,000 to $1 million.
- Prior to the extension of any loan under the Program, the Program Lender must evaluate the eligibility of each borrower that applies for a covered loan. Under the Program, a Program Lender must consider whether the applicant:
  - Was in operation on February 15, 2020, and
  - Had employees for whom the borrower paid salaries and payroll taxes, or paid independent contractors, as reported on a Form 1099-MISC.

Step 4 – SBA Loan Programs

- SBA 7a and 7b Loans - Maximum loan amount of $10 million to eligible businesses based upon formulas using payroll costs and other factors. Personal guarantees are waived in the covered period. Possible loan forgiveness if certain criteria is met.
- SBA 504 Loans – Maximum Loan amounts of $20+ million to businesses for hard assets such as equipment and improved real estate. Amortization terms of 10 years for equipment and between 20 to 25 years for real estate.

Step 5 – Middle Market and Big Businesses

- For businesses with over 500 employees, US Treasury – Exchange Stabilization Fund (ESF) will receive $500 billion to provide liquidity to eligible businesses, states, and municipalities incurred as a result of the Coronavirus by providing loans, loan guarantees, and other investments.
- Direct lending programs to specific industries such as airlines, cargo carriers, and national security interests.
- Lending through Federal Reserve programs and facilities for businesses under certain guidelines and restrictions.

Step 6 – Alternative Financing Options

- For those businesses with lendable assets there may be alternative types of financing available
  - Asset Based Lending – Financing of Accounts Receivable and Inventory
  - Factoring – Financing of Accounts Receivable
  - Equipment Loans – Financing of Equipment
  - Real Estate – Financing of Real Property
  - Hard Money Lending – Various lending options

Resources

The operating environment remains fluid and evolving.

For the latest coverage on COVID-19's impact on your business and assistance on how to navigate this landscape, visit our COVID-19 Resource Center.

To seek assistance with the multiple relief and funding sources accessible to you company, please visit our COVID-19 Loan & Capital Assistance page.

Today’s Speakers

Steve Henley
Senior Managing Director, CBIZ National Tax Office
770.858.4443 | shenley@cbiz.com

Bill Smith
Managing Director, CBIZ National Tax Office
301.961.1943 | billsmith@cbiz.com

Nate Smith
Director, CBIZ National Tax Office
727.572.1400 | nate.smith@cbiz.com

Jake McDonald
Director, CBIZ Credit Risk Advisory Services
610.862.2202 | jwmcdonald@cbiz.com