

The COVID-19 Impact

CARES Act, SBA Loans, Perspective on Business Planning and HR Issues

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www.marvincpa.com

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Biography



Kevin P. O'Leary, CPA – Managing Director

Kevin began his career with Marvin and Company in 1999 and became a Director in 2010. He was named Managing Director effective January 1, 2019. Kevin has nearly 20 years experience in non-profit, manufacturing and ERISA plan audits as well as corporate and personal income tax. He is also involved in the Firm's tax department dealing with tax compliance, Form 990 issues and assisting non-profits in obtaining exempt status. Kevin also oversees the firm's business development and marketing initiative, which includes budgeting, marketing goals and scheduling of events and participation.

Outline

- A lot of things to cover and there hasn't been enough time for a thorough review.
- Trying to get the most pertinent information out as quickly as we can.
- Still waiting on additional clarification on some things.
- Visit our website and our pay attention to our newsletters and special alerts.
- Q&A will be summarized and released after webinar.

Extensions to file and pay

- **What the IRS's relief in Notice 2020-18 covers:**
 - Any person with a federal income tax return or payment due April 15, 2020, including individuals, trusts, estates, corporations, or any type of unincorporated business entity
 - Fiscal-year filers with returns and payments due April 15, 2020
 - First quarter estimated federal income tax payments
- **How to proceed with filing or paying tax under Notice 2020-18:**
 - No additional action is required for a taxpayer to receive the postponement from April 15, 2020, to July 15, 2020 for filing or making payments.
 - If an extension to file by October 15, 2020 is sought, an automatic extension (i.e., Form 4868 or 7004) **must be filed on or before July 15, 2020.**
 - Tax year 2019 liabilities must be properly estimated.
 - Any extended returns must then be filed on or before October 15, 2020.

Extensions to file and pay

- **What is not covered by Notice 2020-18?**
 - Any federal income tax returns or income tax payments due on dates other than April 15, 2020
 - Employment, excise, estate, and ~~gift taxes~~ (estate income taxes are extended to July 15th)
 - Information returns
 - **Second quarter estimated tax payments; they continue to be due June 15, 2020**
 - 2016 amended tax returns
 - Forms 4466, *Corporation Application for Quick Refund of Overpayment of Estimated Tax*
 - For calendar-year taxpayers, Forms 4466 are due April 15, 2020. The IRS reminds taxpayers that they may request refunds by filing their income tax return as well.
 - Estimated tax installment payments required to have been made for 2019
- Notice 2020-20 extended gift tax returns and GST returns to July 15th.

Extensions to file and pay

- **Additional information:**

- If 2019 tax returns have been filed but taxes remain owed, they need to be paid in full by July 15, 2020, to avoid penalties and interest
- Penalties and interest will begin to be assessed as of July 16, 2020, on any unpaid amount due
- If a payment is already scheduled to be debited on April 15, 2020, it will still be debited April 15, 2020.
- Payments may be canceled two days prior to scheduled payment date.
 - If it is needed prior, the payment can be canceled through IRS Direct Pay or EFTPS
 - If payment has been scheduled as part of filing the tax return, it can be revoked/canceled by calling U.S. Treasury Financial Agent at 888-353-4537
 - If payment is scheduled by credit or debit card, contact the card processor to cancel payment
- IRA contributions are now extended until July 15th
- HSA and MSA contributions are now extended until July 15th

Extensions to file and pay

- Additional information:
 - Website for complete Notice 2020-18
 - <https://www.irs.gov/pub/irs-drop/n-20-18.pdf>
 - IRS FAQ's about 2020-18 site
 - <https://www.irs.gov/newsroom/filing-and-payment-deadlines-questions-and-answers>

Extensions to file and pay

- New York State Department of Taxation and Finance Notice N-20-2 extends payments and filings similar to Federal 2020-18.
 - <https://www.tax.ny.gov/pdf/notices/n20-2.pdf>
 - <https://www.tax.ny.gov/press/alerts/nys-tax-response-to-covid-19.htm>
- New York extension is only for income tax
 - no other taxes at this time.

Extensions to file and pay

- The AICPA has released a website/document that displays the current status of every state's filing requirements.
- If it is difficult to determine where a state stands or if it is still on the “floor”, we recommend paying by April 15th or extending.
- <https://www.aicpa.org/content/dam/aicpa/advocacy/tax/downloadabledocuments/coronavirus-state-filing-relief.pdf>

Recovery Refund Checks

- The CARES Act provides eligible individuals with a refund check equal to \$1,200 (\$2,400 for joint filers) plus \$500 per qualifying child. The refund begins to phase out if the individual's adjusted gross income (AGI) exceeds \$75,000 (\$150,000 for joint filers and \$112,500 for head of household filers). The credit is completely phased out for individuals with no qualifying children if their AGI exceeds \$99,000 (\$198,000 for joint filers and \$136,500 for head of household filers).
 - You can file separately to see if you would benefit more from potential refund check, but most of the time the benefit to file jointly, from an income tax perspective, far outweighs the benefit of anything else.

Recovery Refund Checks

- The refund is determined based on the taxpayer's **2020** income tax return, but is advanced to taxpayers based on their 2018 or 2019 tax return, as appropriate. If an eligible individual's 2020 income is higher than the 2018 or 2019 income used to determine the rebate payment, the eligible individual ***will not be required*** to pay back any excess rebate. However, if the eligible individual's 2020 income is lower than the 2018 or 2019 income used to determine the rebate payment such that the individual should have received a larger rebate, the eligible individual will be able to claim an additional credit generally equal to the difference of what was refunded and any additional eligible amount when they file their 2020 income tax return.
 - Individuals who have not filed a tax return in 2018 or 2019 may still receive an automatic advance based on their social security benefit statements (Form SSA-1099) or social security equivalent benefit statement (Form RRB-1099). Other individuals may be required to file a return to receive any benefits.

Recovery Refund Checks

- Eligible individuals do not include nonresident aliens, individuals who may be claimed as a dependent on another person's return, estates, or trusts. Eligible individuals and qualifying children must all have a valid social security number. For married taxpayers who filed jointly with their most recent tax filings (2018 or 2019) but will file separately in 2020, each spouse will be deemed to have received one half of the credit.
- A qualifying child (i) is a child, stepchild, eligible foster child, brother, sister, stepbrother, or stepsister, or a descendent of any of them, (ii) under age 17, (iii) who has not provided more than half of their own support, (iv) who has lived with the taxpayer for more than half of the year, and (v) who has not filed a joint return (other than only for a claim for refund) with the individual's spouse for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

Impact on contributions

- **Above-the-line deductions:** Under the CARES Act, an eligible individual may take a qualified charitable contribution deduction of up to \$300 against their AGI in 2020. An eligible individual is any individual taxpayer who does not elect to itemize his or her deductions. A qualified charitable contribution is a charitable contribution (i) made in cash, (ii) for which a charitable contribution deduction is otherwise allowed, and (iii) that is made to certain publicly supported charities.
- **Modification of limitations on cash contributions:** Currently, individuals who make cash contributions to publicly supported charities are permitted a charitable contribution deduction of up to 60% of their AGI. Any such contributions in excess of the 60% AGI limitation may be carried forward as a charitable contribution in each of the five succeeding years. The CARES Act temporarily suspends the AGI limitation for qualifying cash contributions.

Retirement plan impact

- **Eligible** individuals can withdraw vested amounts up to \$100,000 from tax-qualified retirement plans during 2020 without a 10% early distribution penalty, and income inclusion can be spread over three years. Repayment of distributions during the next three years will be treated as tax-free rollovers of the distribution.
- The bill also makes it easier to borrow money from 401(k) accounts, raising the limit to \$100,000 from \$50,000 for the first 180 days after enactment, and the payment dates for any loans due the rest of 2020 would be extended for a year.
- Individuals do not have to take their 2020 required minimum distributions from their retirement funds. This avoids lost earnings power on the taxes due on distributions and maximizes the potential gain as the market recovers.

Student loans

- No payments needed until September 30, 2020 for Federal student loan programs.
- No interest accruing on loans through September 30.
- If Federal loan is in default no collections or garnishments through September 30.
- *Legislation was proposed about forgiving debt, but none of them passed.*

Some other items to think about

- Waiting on estimated tax payments. Interest rate is approximately 3%
- The choices you make, will most likely have tax implications.
- Selling stock – remember holding period benefits and wash sale rules.
- Estate planning, will and designated beneficiary.

Impacts on business

- Section 163(j) increased to 50% for 2019 and 2020. Partnerships aren't allowed to go back to 2019. Impacts companies with average gross receipts for three past tax years of \$26m and above.
- Companies can also use their 2019 tax EBIDTA as base year for calculating 2020 limitation.

Impacts on business

- NOL Carryback – TCJA of 2018 negated the ability to carryback NOL's, but the CARES act allows companies that generated losses in 2018, 2019 and 2020 to carryback 5 years and have an unlimited carryforward related to them and the 80% taxable income limitation is also waived for losses created during 2018, 2019 and 2020.

Impacts on business

- **Technical Correction to Qualified Improvement Property**
- The CARES Act contains a technical correction to a drafting error in the Tax Cuts and Jobs Act that required qualified improvement property (QIP) to be depreciated over 39 years, rendering such property ineligible for bonus depreciation.
- With the technical correction applying retroactively to 2018, QIP is now 15-year property and eligible for 100% bonus depreciation.
- Taxpayers that placed QIP into service in 2019 can claim 100% bonus depreciation prospectively on their 2019 return and should consider whether they can file Form 4466 to quickly recover overpayments of 2019 estimated taxes.

Impacts on business

- **Technical Correction to Qualified Improvement Property**
- As defined by Code Sec. 168(e)(6) and Reg. §1.168(b)-1(a)(5), qualified improvement property is broadly defined as an internal improvement to **nonresidential** real property, but does not include improvements related to elevators and escalators, the internal structural framework, or an enlargement of the building. The improvement must be placed in service after the date the improved building is first placed in service.
- The statutory TCJA language enacted by Congress, however, inadvertently failed to assign the 15-year recovery period. Without a technical correction qualified improvement property placed in service after 2017 is depreciated as 39-year nonresidential real property.

Impacts on business

- QIP and NOL – work with your accountant to scan prior year returns to see if anything qualified as QIP that you may now take bonus depreciation on and maybe you can accelerate some depreciation, generate an NOL and then carryback to free up cash flow. For partnerships and S Corps, it might take some work amending business and personal returns but the returns might be substantial.

Impacts on business

- **Payroll Tax Credit for Retaining Employees During COVID-19 Crisis:**

- An employer can claim a refundable payroll tax credit for 50 percent of wages paid during the Coronavirus (COVID-19) crisis if (1) business operations were suspended due to a COVID-19-related shut-down order, **or** (2) gross receipts declined by more than 50 percent as compared to the same quarter in the prior year. For eligible employers with 100 or fewer full-time employees, all employee wages qualify for this employee retention credit. For eligible employers with more than 100 full-time employees, only wages paid to employees when they are not providing services due to the COVID-19-related circumstances will qualify. The credit applies to the first \$10,000 of compensation (including health benefits) paid to an eligible employee from March 13, 2020, through December 31, 2020.
- Available all quarters of 2020 until a quarter exceeds 80% of gross receipts from that same quarter for 2019.

Impacts on business

- **Employer Tax Credits for Paid Sick Leave and Family Leave:**
- Eligible employers may receive a refundable payroll credit for required paid sick leave or family leave paid to an employee who cannot work due to coronavirus (COVID-19). The sick leave credit is for leave paid to an employee who is quarantined, has been advised to self-quarantine, has coronavirus symptoms and is seeking a medical diagnosis, or is caring for someone with coronavirus or for a child whose school or care facility is closed or whose care provider is unavailable. The family leave credit is for leave paid to an employee who is caring for a child whose school or care facility is closed, or whose care provider is unavailable. The credits have per-day and maximum dollar limits for each employee. The credits are available for wages paid for the period that begins on April 1, 2020, and ends on December 31, 2020.

Impacts on business

Employer Payroll Tax Payments Delayed

- Employers and self-employed individuals can defer payment of the **employer's share** of the Social Security tax that they otherwise are responsible for paying on wages or self-employment income. The deferral applies to affected taxes normally required to be paid from March 27, 2020, through December 31, 2020. The deferred tax must be paid over the following two years, with half to be paid by December 31, 2021, and the other half to be paid by December 31, 2022.

Paycheck Protection Program

Stimulus SBA Loan and Forgiveness Program (“Paycheck Protection Program”)

- As part of the new stimulus package, \$349 billion is earmarked to assist small businesses with loans. The loans will be administered through the SBA 7a loan program *via qualified commercial lenders* and pertain to companies that have seen business decline as a result of COVID-19. The objective is to help businesses impacted to ease payroll/overhead burden and bring back workers who may have already been laid off. The program can be retroactive to February 15, 2020, to help bring workers who may have already been laid off back onto payroll. The loan covers the period from February 15 to June 30, 2020.

Paycheck Protection Program

- Who qualifies?
 - Less than 500 **employees**
 - Must have been in business as of 2/15/2020 and had employees or independent contractors who received salary
 - 501(c)3 and 501(c)19 organizations only

Paycheck Protection Program

How is the Maximum Loan Calculated?

- The maximum loan is calculated based on the following calculation, if you were in business during 2/15/2019 – 6/30/2019:
 - Average total monthly payments for **payroll costs** incurred during the 1 year period before the date the loan was made (except that if applicant is seasonal employer, then average total monthly payments for payroll for the 12 week period of 2/15/2019 or 3/1/2019 and ending 6/30/2019)
 - Multiplied by 2.5 plus
 - The outstanding amount of a loan already made by 1/31/2020 from a previous program under the “Business Loans Program Account” SBA title V Act of 2020 or \$10,000,000

Paycheck Protection Program

- Payroll costs include:
 - Salary, wage, commissions
 - Cash tips or equivalent
 - Payment for vacation, family, medical or sick leave
 - Payment required for group health care benefits (including insurance premiums)
 - Retirement benefits paid
- Payroll costs don't include:
 - Compensation of anyone making more than \$100k
 - Payroll taxes
 - Compensation to someone whose principal place of residence is outside the US
 - Wages where credits were taken elsewhere

Paycheck Protection Program

- Calculation example with loan date 5/1/20:
 - 10 employees each making total of \$75,000
 - 5 owners each making \$125,000
- Total payroll costs = \$1,250,000/12
- Monthly payroll costs = \$104,167
- Multiply by 2.5x
- Available to receive = \$260,418

Paycheck Protection Program

- **What can money be spent on:**
 - Payroll costs (same definition as before)
 - Interest on mortgage obligations – not to include any prepayment of mortgage principal
 - Rent
 - Utilities
 - Interest on any debt occurred before covered period

Paycheck Protection Program

- If the loans are used only to fund the above detailed costs during an eight week period after the origination date of the loan, they would be **available** for conversion to grant/forgiveness. These loans are also considered non-recourse and guarantees have been waived. Any amounts not used for permitted costs are considered guaranteed by the owners of the businesses and paid back within 10 years using an interest rate of not more than 4% (repayment deferred 6-12 months).
- Under new guidance from CARES act the forgiveness of debt would be non-taxable

Paycheck Protection Program

- Two ways to lose “forgiveness”
 - Full time equivalents (FTE’s) decrease
 - Denominator can be:
 - Average FTEs per month from 2/15/2019 – 6/30/19 or
 - Average FTEs per month from 1/1/20 – 02/29/20
 - Different denominator for seasonal employers
 - Reduction of wages greater than 25%
- You must calculate under both methods.

Paycheck Protection Program

- Continuing on from slide 29:
 - Example #1: In the first 8 weeks after business received \$260,418 it spends \$200,000 on qualified costs. The \$200,000 will be forgiven and the \$60,418 will be termed out over 10 years at 4% interest with payments not started until 2021.
 - Also assumed in this example no terminations and no cuts to wages.

Paycheck Protection Program

- Continuing on from slide 29:
 - Example #2: In first 8 weeks after business received \$260,418, it spent the entire amount on qualified costs.
 - The average FTE count for the 8 week period beginning with the loan origination = 9
 - The average FTE count for the denominator we selected (slide 32) = 10
 - $\$260,418 \times .10 = \$26,042$ would not be forgiven and termed out (no prepayment penalty)

Paycheck Protection Program

- Continuing on from slide 29:
 - Example #3: In first 8 weeks after business received \$260,418 it spent the entire amount on qualified costs and FTE count stayed at 100%
 - 3 of the \$75k employees were reduced to \$45k (40% reduction)
 - $\$75,000 \times .25 = \$18,750$ (allowed to reduce under law)
 - $\$30,000 - \$18,750 = \$11,250$ not forgiven
 - $\$11,250 \times 3$ employees impacted greater than 25% = \$33,750
 - Total amount termed out over 10 years = \$33,750

Paycheck Protection Program

- Tips from a banker:
 - They received word that the banking regs should be availed Thursday April 2nd and then they have to put in their procedures.
 1. Start preparing now
 2. Reach out to your banker to let them know you are interested and pursuing
 3. Get your stuff together ASAP (see next slide)
 4. Work with your existing relationship
 5. No matter what bank asks for give it to them
 6. Patience – you must have it.

Paycheck Protection Program

Things you might need/want to start putting together:

1. Current personal financial statement
2. Latest available personal or business return
3. Latest internal 2019 year end financials
4. YTD internal 2020 financials
5. Spreadsheet with the following:
 - List of Full time employees w/ 8 weeks salary+payroll taxes
 - 2 months rent with copies of lease
 - 2 months mortgage interest w/ copy of loan payments
 - 2 months of utility costs with copy of payments
6. Lenders will ask for good faith certification.

Paycheck Protection Program

- Great video with Barry Melancon, President of AICPA
- <https://www.youtube.com/watch?v=-bhFvqPMWTE&feature=youtu.be>
- More information from SBA
- <https://www.sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources>

NYS Shared Work Program

- Employers can reduce time and supplement with Unemployment
- Won't equal previous total compensation but allows to keep skilled workers on board.
- Will increase your future UI rate
- <https://www.labor.ny.gov/formsdocs/ui/SW1.5.pdf>

Non-profits

- Much of what we talked about today also impacts non-profits, especially 501(c)3 organizations.
- Attached is an article from BDO on other issues that might impact NFP
- <https://www.bdo.com/blogs/nonprofit-standard/march-2020/coronavirus-strikes-nonprofits>

Non-profits

- Some 501(c) organizations can take advantage of the lessor credits but only 501(c)3 organizations can take advantage of the paycheck protection program
- Yesterday American Society of Association Executives requested \$25billion in relief for other non-profits especially entities like associations considering the amount of events that were cancelled.

Non-profits

- Another item hot off the press from OASAS yesterday dealing with potential FEMA funding for service providers.

http://sachspolicy.com/wp-content/uploads/2020/03/Notification_1029341.pdf

What's next

- Cash collections and projections
- What do the next 60 days look like
- Communication with employees throughout
- Discussion with attorney before layoffs
- Taking advantage of programs we discussed
- Constant communication with bank especially if there are covenants

What's next

- Remote efficiency studies and following up
- Keeping company morale up
- Consistent message from management
- If you have financial statements – get in touch with your accountant early in year
- Learn something from this!

Warning

- If you are researching items that we have discussed today or really any tax related items, please make sure you note the date it was written because these things are changing daily and sometimes the Fed and State don't agree on things.

HR side of things

- I'd like to let Myra Thorne our HR Manager talk a little bit about different types of benefits that are available at this time.
- Again we will document any questions and post them all to the website.
- There are already HR tools and publications posted on our website that will help.
- mmt@marvincpa.com

Biography



Myra M. Thorne, MBA, PHR – HR Manager

Myra joined Marvin and Company, P.C. as our Human Resources Manager in 2016. She earned a Master's in Business Administration and Bachelor's in Business Management from The College of Saint Rose, Albany, New York. She holds an HR Certification Institute Professional in Human Resources (PHR) and Six Sigma Quality Training. The Philippine native is fluent in Filipino, completed both a half and full marathon and competed in a Tough Mudder competition.

NYS Paid Leave for COVID-19

Paid Sick Leave

Under this bill, NY employers are required to offer paid sick leave to their employees who are unable to work due to COVID-19 qualifying reasons. *Employees are entitled to their regular pay and job protection for the duration of this leave.* The duration of the leave is contingent to the size of the employer.

- Employers with less than \$1M in net income in 2019 and under 10 New York employees are not required to provide paid sick leave. Employees in this category should apply for Paid Family Leave and Disability Benefits.
- Employers with over \$1M in net income in 2019 and under 10 New York employees must provide at least 5 days of paid sick leave.
- Most employers with under 100 New York employees are required to provide 5 days of job-protected paid sick leave.
- Public employers of any size with New York employees are required to provide 14 days of job-protected paid sick leave.
- Private employers with 100 or more New York employees are required to provide 14 days of job-protected paid sick leave.
- <https://paidfamilyleave.ny.gov/covid19>

NYS Paid Leave for COVID-19

NY Paid Family Leave

The NYS PFL benefits are available for workers who are unable to work because they are either caring for a family member who has COVID-19 or a minor child under quarantine. This benefit is to be used once the employer paid sick leave is exhausted.

- This benefit offers up to 10 weeks of partial wage replacement as well as job protection.
- PFL insurance benefits cover up to 60% of an employee's pay, a maximum of \$840.70 per week.
- The 7-day waiting period is waived for COVID-19 qualifying reasons.
- Employees may apply for disability benefits to match full wages.
- <https://paidfamilyleave.ny.gov/if-your-minor-dependent-child-quarantined>

NYS Paid Leave for COVID-19

Temporary Disability Insurance

Workers who contract COVID-19 and are unable to work because of it may qualify for temporary disability benefits.

- After receiving full PFL benefit, the employee may receive disability benefits to match their full wages up to a maximum weekly disability benefit of \$2,043.92, for a total of \$2,884.62 per week.
- The 7-day waiting period is waived for COVID-19 qualifying reasons.
- <http://www.wcb.ny.gov/content/main/DistrictOffices/MainPage.jsp>

NYS Paid Leave for COVID-19

NYS Unemployment Insurance

This benefit provides individuals who lose their employment up to 39 weeks of partial wage replacement benefits.

- The one week waiting period is waived for job losses in conjunction with a COVID-19 closure.
- The CARES Act expanded the qualification requirements to include workers who would not typically qualify for unemployment benefits.
- The CARES Act also approved up to an additional \$600/week until 7/31/2020. (Payments begin 4/5/2020).
- Consider the Shared Work Program previously discussed to help retain your employees.
- <https://www.labor.ny.gov/home/>.

NYS Paid Leave for COVID-19

Workers Compensation

This benefit is for individuals who cannot work because they were exposed or they contracted COVID-19 in the workplace.

- This benefit provides partial wage replacement and medical care to the affected individual.
- The worker is entitled to a maximum of \$934.11 per week in addition to the cost of medical care.
- <http://www.wcb.ny.gov/content/main/TheBoard/COVID-19-FAQ.jsp>

Follow up

- We will summarize questions into a FAQ document.
- We are continuously updating the Marvin website as well as our social media pages.

www.marvincpa.com



<https://www.facebook.com/marvincpa>



<http://www.linkedin.com/company/marvin-and-company-p.c>



<https://twitter.com/MarvinCoCPAs>

Thank you and stay healthy.

Thank you!

- Hopefully at some point soon we are all looking back at this and just happy it is behind us and somewhat back to normal, even if there is a new definition of normal.
- I'd like to thank everyone at Marvin for working through these crazy times and continuing to provide the best service we can to our clients while staying safe and healthy.

Special Thanks!

- Marvin has many medical practitioners as clients in all different fields and we thank them and all of our first responders for battling this day in and day out. Tax season is nothing compared to what they are dealing with on a daily basis, so thank you and please stay healthy and safe!

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