BOMA International Advocacy

Provisions Included in the Coronavirus Aid, Relief, and Economic Security (CARES) Act

The CARES Act is an unprecedented spending and stimulus bill designed to address the economic devastation of the COVID-19 pandemic. The following guide represents BOMA International's initial analysis of the bill and the impacts it will have on commercial real estate, our members and our tenants.

Real Estate Interest & Business

- Fixes the qualified improvement property (QIP) error, allowing BOMA members, as well as restaurant and retail to fully expense tenant improvements.
    - Previously referred to as leasehold improvement, QIP had a 15-year depreciation period that, due to a drafting error in the 2017 tax bill, reverted to 39 years. This bill will allow for 100% expensing on tenant improvements until 2022 and is retroactive to 2018.
- Delays payroll tax payments for employers through the remainder of the year.
    - Employers would be able to delay the payment of their 2020 payroll taxes until 2021 and 2022.
- Allows for a business net operating loss carryback of 5 years for tax years 2018, 2019, 2020.
    - Prior to this bill, net operating losses (NOL) were subject to taxable-income limitations and could not be carried back to reduce income in a prior tax year. The provision also temporarily removes the taxable income limitation to allow an NOL to fully offset income.
- Provides a $5,000 refundable tax credit for retaining employees – not limited to small business.
    - 50% of up to $10,000 in wages if the business is fully or partially suspended due to orders from a governmental authority limiting commerce, travel or group meetings due to COVID-19, or gross receipts for the quarter are less than 50% of gross receipts in the same quarter in the prior year.
- Increases the amount of interest expense – from 30% to 50% – that businesses are allowed to deduct from their taxable income for 2019 and 2020.
    - This provision will allow certain businesses to increase liquidity with a reduced cost of capital.
- Allocates $454 billion in emergency lending to businesses, states and cities through the U.S. Treasury's Exchange Stabilization Fund.
    - Businesses can apply for loans if they have not otherwise received adequate economic relief in the form of other loans or loan guarantees from other sources in the CARES Act and alternative financing is not available.
    - Companies taking these specific loans must retain at least 90% of employees and not engage in stock buybacks for the duration of the loan plus one year.

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Small Businesses & Tenants

- Provides $357 billion in loans for small businesses–up to $10 million per business.
  - Payroll, rent and other related expenses for the next two months can be converted into a grant.
- Small Business Debt Forgiveness:
  - $17 billion is allocated for SBA existing loans forgiving immediate debt obligations for up to 6 months of payments.
- Allocated $10 billion for SBA emergency grants of up to $10,000 to provide immediate relief for small business operating costs.
  - The emergency grants provide a limited cash advance to cover such things as: paid sick leave to employees; maintaining payroll to retain employees during business disruptions or substantial slowdowns; meeting increased costs to obtain materials unavailable from the applicant's original source due to interrupted supply chains; making rent or mortgage payments; repaying obligations that cannot be due to revenue losses. If conditions are met, there is no obligation to repay.

Other Important Measures

- Increases the maximum unemployment benefit by $600 per week.
  - Allows for a $600 increase in the amount states would normally pay out in weekly unemployment benefits.
  - Ensures that most workers are protected whether they work for businesses small, medium or large, along with self-employed and workers in the gig economy.
- Issues direct cash payments for most Americans in the amount of $1,200 for individuals and $2,400 for married couples, plus an additional $500 per child.
  - The amounts will decrease for individual incomes over $75,000 and for joint incomes over $150,000, based on your adjusted gross income (AGI) from your 2019 return (2018 if you have not yet filed).
  - Income caps for receiving stimulus checks are $99,000 for individuals and $198,000 for married couples.

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