



Update: Tax Provisions of the CARES Act

On Monday, we issued a Client Alert (which can be found [here](#)) that addressed the interplay between the covered loan program and the payroll tax provisions of the Coronavirus Aid, Relief, and Emergency Security Act (the “CARES Act”) in which we described the CARES Act as suggesting “strongly, but not conclusively,” that deferring its deposit and payment of its share of employer payroll (i.e., social security) tax will not affect an employer’s right to receive a covered loan or to have that loan forgiven.

The Internal Revenue Service has issued a news release (which can be found [here](#)) that confirms our conclusion by expressly providing that an employer who has received a covered loan, which has not yet been forgiven, may defer deposit and payment of its share of social security tax that otherwise would be required to be made beginning on March 27, 2020, through the date the lender issues a decision to forgive the loan without incurring failure to deposit and failure to pay penalties. However, once an employer receives a decision from its lender that its covered loan is forgiven, the employer is no longer eligible to defer deposit and payment of its share of social security tax due after the date that decision is issued.

If you have any questions regarding tax provisions of the CARES Act, please contact [Barry Klingman](#) at (212) 873-1978 or baklingman@wbny.com.

Please view all of our CARES Act and COVID-19 updates [here](#)

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