

As of March 27, 2020

## **Key Provisions of “COVID III”, the Coronavirus Aid, Relief, and Economic Security (CARES) Act**

### **Overview & Current State of Play**

On March 27, 2020, Congress passed a \$2 trillion COVID relief bill that is expected to be signed into law by President Trump. This marks the third piece of legislation Congress has passed related to the fallout from COVID-19. It is anticipated that Congress will begin work on a fourth piece of legislation providing further assistance with a focus on economic recovery.

The following summary details some of the key provisions to the fresh fruit and vegetable industry.

### **United States Department of Agriculture (USDA)** -- \$34.9 billion

*Emergency COVID-19 Funding* -- **\$9.5 billion** under emergency declaration to support agriculture industries impacted by COVID-19, including fruit and vegetable producers, livestock producers, and producer focused on local food systems.

*Agriculture Marketing Service* -- **\$45 million** to cover salary and expenses to offset the decrease in user fee revenue cause by business disruptions. This includes marketing, grading, and inspections services for fresh produce.

*Commodity Credit Corporation (CCC)* -- **\$14 billion** to replenish the CCC borrowing authority. Along with current CCC funding, which is at \$8.5 billion, this would allow USDA to utilize up to \$22.5 billion in CCC related activities such as Market Facilitation Payments and directing funds to Section 32 for produce purchases.

*Child Nutrition Programs* -- **\$8.8 billion** of broad authority to USDA to support programs like school meals, Child and Adult Care Feeding Program (CACFP), summer meals, and WIC, including increasing enrollment, food purchases and pilot projects.

*Supplemental Nutrition Assistance Program (SNAP)* -- **\$15.51 billion** to cover increase in participation due to unemployment.

*The Emergency Food Assistance Program (TEFAP)* -- **\$450 million** for the distribution of emergency food assistance through community partners, including food banks. Of this amount, \$250 million is to purchase commodities, and \$150 million is for costs associated with storing and distributing those commodities.

### **Internal Revenue Service (IRS)**

*Charitable Deductions* - Increases the limitations on deductions for charitable contributions for corporations and individuals who itemize.

- Increases the limitation on deductions for contributions of food inventory from 15% to 25%.
- For corporations, the 10% limitation is increased to 25% of taxable income.
- For individuals, the 50% of AGI limitation is suspended for 2020.

### **Small Business Administration (SBA)**

*Paycheck Protection Program* -- **\$350 billion** for new SBA 7(a) Loan Program for businesses with no more than 500 employees. If a business with a NAIC code beginning with “72” (primarily the food service, restaurant, and hospitality sector) has more than one location, allows for each location to apply for this program if they have less than 500 employees. Loans can be used for the following: payroll and benefits; mortgage interest payments (excluding principal and excluding pre-payments); rent; utilities; and interest payment on other debts. To learn more about this new SBA program use the following [link to our SBA summary document](#).

*Small Business Administration Economic Injury Disaster Loan Program (EIDL)* -- **\$562 million** in additional funding for EIDL available to businesses with no more than 500 employees, including emergency grants up to \$10,000 to cover emergency expenses directly related to COVID-19, such as paid sick leave for employees directly affected by COVID-19, payroll to retain employees during business disruptions or substantial slowdowns, meeting increased costs to supply the supply chain, and paying obligations that cannot be met due to lost revenue.

### **Department of Treasury**

*Loan Program for All Businesses (Middle Market), States, and Municipalities* – **\$500 Billion** through Department of Treasury to make loans, loan guarantees, and other investments to eligible businesses, States, and municipalities for losses related to coronavirus. \$454 billion will be available to “businesses not otherwise receiving adequate economic relief in loans and guarantees”. Most importantly, it requires the Treasury Secretary to provide financing to banks and other lenders to make direct loans to businesses with 500 to 10,000 employees at interest rates of not more than 2% and no interest or principal payments due within at least 6 months of loan origination. Guidance and implementation must be completed within 10 days of the Presidents’ signature. To learn more about this Middle Market Loan Program please follow [this link](#).

### **Department of Labor**

*Paid Sick Leave and Family Medical Leave* – Includes changes to Paid Sick Leave and Family and Medical Leave (from Families First Coronavirus Response Act “COVID I” which was signed into law on March 18, 2020. These include caps on family and medical leave at \$200 per day and \$10,000 aggregate along with caps on paid sick leave at \$511 per day and \$5,110 in aggregate. To learn about this issue, please use the following link to our [Paid Leave summary document](#).

### **Important Business Tax Provisions**

Business tax relief is provided as well, for all businesses, but greater benefits for small and medium sized businesses. The following provisions were included in the final measure:

- An employee retention tax credit for eligible employers whose business was fully or partially suspended during 2020 due to coronavirus shutdown orders or experienced a 50% loss in revenue.
- Delayed payment of employer payroll taxes for 2020, with 50% of the deferred tax amount due in 2021 and the remainder in 2022.
- The ability to carry back (and therefore monetize) net operating losses (NOLs) for 5 years. This is a reversal of the stricter policy change included in the 2017 Tax Cuts and Jobs Act or TCJA; the bill also makes a related technical correction.
- Accelerates and make refundable remaining corporate AMT credits.
- The ability to deduct more business debt (up to 50% of EBITDA, instead of 30%) under section 163(j) of the Internal Revenue Code (another TCJA policy reversal).
- A fix to ensure “qualified improvement property” investments can benefit from full expensing.
- An exception from the alcohol excise tax when the alcohol is used to make hand sanitizer.

**For additional information on COVID III broader provisions:**

[Senate Appropriations Committee \(Republicans\) Summary](#)

[Senate Appropriations Committee \(Democrats\) Summary](#)