



## CARES Act select transportation summary

April 8, 2020

On March 27, 2020, Congress finalized and the president signed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), which provides significant stimulus to the various transportation sectors of the economy. The following is a high-level overview of select transportation-related provisions included in the final bill. While some provisions impact each of the various transportation sectors, there are some modal specific provisions in the bill as well.

### **General provisions impacting all transportation modes**

The CARES Act provides several specific financial provisions of importance to the transportation sector of our economy. Specifically, the bill provides US\$500 billion in lending authority to the Department of the Treasury for distressed industries, including loans, loan guarantees, and grants as follows:

- *Loans and loan guarantees available to all modes of transportation*
  - US\$500 billion in loans, loan guarantees, and support for credit facilities for hard-hit industries, such as the airlines, auto industry, and other “eligible businesses.” This support will be provided as follows:
    - (1) US\$25 billion for passenger air carriers, certified Part 145 repair stations, and ticket agents
    - (2) US\$4 billion for cargo air carriers
    - (3) US\$17 billion for businesses critical to maintaining national security
    - (4) US\$454 billion for other businesses, states, and municipalities
  - Depending on the category into which an entity falls (i.e., (1) – (4) above), there are significant restrictions and conditions on the financial relief provided (e.g., restrictions on certain employee compensation; prohibition on dividends, capital distributions, and share buy-backs; must be a U.S. business; maintenance of certain employment levels).
  - A loan or loan guarantee cannot be provided to an eligible business in category (1), (2) or (3) above unless the government receives a warrant or equity interest in the eligible business (if it has securities traded on a national securities exchange) or the government receives a warrant or equity interest in, or a senior debt instrument

issued by, the eligible business (if it does not have securities traded on national securities exchange).

- *Business tax provisions available to all modes of transportation*
  - **Employee retention tax credit**, which would provide a credit for wages paid during the COVID-19 crisis, in the form of a 50 percent employee retention tax credit. The credit is available for employers subject to closures due to COVID-19, or whose gross receipts declined by at least 50 percent due to impacts of the virus.
  - **Payroll tax delay of two years**, allowing deferment of the employer-paid portion of social security taxes.
  - **Other tax benefits**, such as for net operating losses and interest expenses.
  - **Emergency unemployment compensation**, which would apply to any automotive industry workers impacted by layoffs during the COVID-19 crisis.

#### Aviation

- *Loans and loan guarantees*
  - Please see the general summary of the loan provisions described above.
  - On March 30, 2020, the Treasury Department issued “[Procedures and Minimum Requirements for Loans to Air Carriers and Eligible Businesses and National Security Businesses under the CARES Act](#),” which includes initial guidance to the airline industry. More information is expected soon.
- *Business tax provisions*: Please see general description of business tax provisions above.
- *Grants to air carriers*
  - US\$32 billion in financial assistance to be exclusively used for the continuation of employee wages, salaries, and benefits provided as follows:
    - US\$25 billion for passenger air carriers
    - US\$4 billion for cargo air carriers
    - US\$3 billion for passenger airline contractors
  - Similar restrictions apply that are applied to loans and loan guarantees.
  - Funding allocated in amounts equal to salaries and benefits reported by the air carrier and contractor for the period from April 1, 2019 through September 30, 2019.
  - On March 30, 2020, the Treasury Department issued “[Guidelines and Application Procedures for Payroll Support to Air Carriers and Contractors under the CARES Act](#),” which includes an application form.
- The guidelines provide that the initial deadline for applications was not later than 5:00 p.m. EDT on April 3, 2020 to receive approval as soon as possible. Applications received after that time/date will be considered, but may not receive approval as quickly. Applications received after 11:59 p.m. EDT on April 27, 2020, may not be considered, but the secretary of the

treasury may, in his discretion and subject to the availability of funds, consider such applications for approval.

- *Continuation of service requirement*
  - The secretary of the U.S. Department of Transportation (DOT) is authorized to require, to the extent reasonable and practicable, an air carrier receiving loans, loan guarantees, or grants to maintain scheduled air transportation service as the secretary deems necessary to ensure services to any point served by that carrier before March 1, 2020. In making such a determination, the secretary shall consider the air transportation needs of small and remote communities and the need to maintain well-functioning health care and pharmaceutical supply chains, including for medical devices and supplies. This authority shall terminate on March 1, 2022.
  - On March 31, 2020, the DOT issued a [show cause order](#) with its tentative views on the “continuation of air services” requirement, proposing therein that air carriers receiving financial assistance under the CARES Act maintain minimum air services on a nationwide basis with some exceptions such as all-cargo carriers.
- *Airport grants:* The CARES Act also provides US\$10 billion to the Federal Aviation Administration for “Grants-In-Aid for Airports” to prevent, prepare for, and respond to coronavirus, subject to conditions and limitations, and US\$56 million to the Essential Air Service program to maintain existing air service to rural communities.

#### **Rail and transit**

The CARES Act has several funding measures that are directly designed to benefit all modes—freight, passenger, and transit—of the rail industry.

- *Loans and loan guarantees available to transit agencies and other “eligible businesses” in the railroad industry:*
  - Please see the general summary of the loan provisions described above.
  - The secretary of treasury and all other actors, departments, or agencies or the federal government are prevented from conditioning the issuance of a loan on the implementation of measures to enter into negotiations with certified bargaining representative of any business eligible under the Railway Labor Act.
- *Business tax provisions:* Please see general description of business tax provisions above.
  - *Amtrak:* The CARES Act provides a total of nearly US\$1.02 billion in grants to Amtrak in order to prevent, prepare for, and respond to COVID-19, consisting of US\$492 million allocated to the Northeast Corridor and the remaining US\$526 million allocated to the national network. Additionally, the Act makes US\$239 million available to Amtrak to cover the costs of Fixing America’s Surface Transportation Act required payments for state-supported services.
- *Transit*
  - Congress has allocated US\$24.9 billion to the Federal Transit Administration for grants to transit agencies nationwide to prevent, prepare for, and respond to coronavirus, and thus ensure continued operation of these transit services.

- These funds are available to cover operating expenses for transit agencies related to the current public health emergency, including, but not limited to (1) operating costs to maintain services; (2) lost revenue; (3) purchase of personal protective equipment; and (4) paying administrative leave for operations personnel due to reduced service. Other operating expenses may also be eligible.
- The package includes US\$22.7 billion for large and small urban areas and US\$2.2 billion for rural areas. The US\$24.9 billion is awarded via formula, with a 100 percent federal share. The formula is based on FY 2020 allocations for urbanized area formula grants, non-urbanized area formula grants, state of good repair and high density and growing states.
- *Railroad unemployment insurance*
  - The CARES Act makes the following key changes to the Railroad Retirement Board (RRB) Railroad Unemployment Insurance Program:
    - Waives the seven-day waiting period for filing a sickness or unemployment claim with the RRB and provides US\$50 million to the RRB to cover the costs of providing these benefits.
    - Increases unemployment benefit with an additional US\$1,200 biweekly payment and provides US\$425 million to cover the costs of providing these additional benefits through July 31, 2020. This means that unemployed railroad workers will receive the same US\$600 per week enhanced benefit that would be received by unemployed non-railroad workers, through 31 July 2020.
    - Permits the RRB to utilize approximately US\$130 million of remaining American Recovery and Reinvestment Act funds to provide extended benefits an additional 13 weeks through December 31, 2020.
    - Allocates an additional US\$5 million to the RRB to cover additional administrative costs.
- *U.S. DOT operations; FRA safety and operations:* Congress has authorized US\$31.3 million to support activities undertaken by various DOT organizations including the Office of the Secretary, Federal Aviation Administration, Federal Motor Carrier Safety Administration, Federal Railroad Administration, and Maritime Administration to prevent, prepare for, and respond to coronavirus. The CARES Act also provides a US\$250,000 grant (available until September 30, 2021) to the Federal Railroad Administration Safety and Operations efforts to prevent, prepare for, and respond to coronavirus.
- *Offset for railroad retirement account funds:* The CARES Act allocates funds to the Social Security Equivalent Benefit Account established under section 15A(a) of the Railroad Retirement Act of 1974 in order to offset funds lost due to other provisions of the Act.

#### **Automotive**

The CARES Act does not include any provisions that directly or specifically address the automotive sector. However, its generally applicable provisions will be available to businesses, including those in the automotive industry. The general provisions include:

- *Government loans and loan guarantee provisions:* Please see the general summary of the loan provisions described above.
- *Business tax provisions:* Please see general description of business tax provisions above.

### **Trucking**

The CARES Act includes limited directives aimed specifically at the trucking industry.

- *Government loans and loan guarantee provisions:* Please see the general summary of the loan provisions described above.
- *Business tax provisions:* Please see general description of business tax provisions above.
- *Federal Highway Administration special permits:*
  - The Federal Highway Administration is directed to clarify that states can issue special permits for overweight vehicles and loads to allow for the free flow of critical relief supplies during the current coronavirus epidemic for the duration of the current fiscal year. This is consistent with other ongoing efforts by the DOT (through the Federal Motor Carrier Safety Administration) to issue emergency declarations which relax the hours of service requirements applicable to truck drivers that are supporting coronavirus relief efforts.
  - A number of states already have suspended their overweight truck permitting requirements in support of continuing relief efforts. The U.S. trucking industry has been lauded for its critical role in transportation supplies around the country, and is one of the transportation sectors not receiving direct federal grants or loans as a result of this crisis.

*Small Business Administration loans:* In addition to the general provisions described above, small trucking businesses (fewer than 500 employees) may be eligible for the Paycheck Protection Program, administered by the Small Business Administration. These loans are particularly attractive to eligible businesses as a portion of those loans may be forgiven if used to maintain employment within the business.

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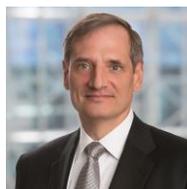
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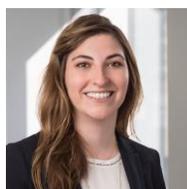
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