Re: The Coronavirus Aid, Relief, and Economic Security Act: What is Provided in it for the Flooring Retailer and Contractor.

Dear National Tile Contractor Association Members,

March 27, 2020, with the President's signature, the Coronavirus Aid, Relief, and Economic Security (CARES) Act became law. The 883-page Act is designed to help businesses stay afloat and to pay its employees during the coronavirus crisis. Accordingly, it provides for loans, tax relief, and other programs to assist businesses and individuals.

The Act includes several important provisions for small businesses: (1) An emergency, forgivable Small Business Act (SBA) "payroll" loan program; (2) an "Employment Retention Tax Credit" in lieu of a Payroll Protection loan; and (3) an emergency SBA grant of up to $10,000 for certain businesses. In addition, the Act includes several tax law changes that are likely to provide liquidity to members, amendments to the earlier passed Families First Coronavirus Response Act (FFCRA) to allow quicker payment of tax credit refunds, and available funding under government contracts for workers on sick or family leave.

To help members understand the support provided by the CARES Act, NTCA in conjunction with WFCA is providing a basic overview of the key provisions that are likely to impact flooring retailers and contractors. Further details will be provided in future updates, but NTCA wanted to provide members with this initial and crucial information.

1. Payroll Loan Program

The payroll loan program will provide 100% federally guaranteed loans to most small businesses in the country. All WFCA member companies with less than 500 employees, including sole proprietors, independent contractors, and self-employed individuals are eligible to receive a loan. The CARES Act lowers the loan requirements, waives most fees, and eliminates personal guarantees and collateral requisites. To qualify for the loan, a business must certify that it needs the loan to continue to operate.

The loans, which are designed to be entirely forgivable in most cases, can be used to pay the following business expenses: payroll costs (that include pay under $100,000 per person, health insurance premiums, paid leave and state and local taxes); interest on mortgage obligations (not to include any principal); rent; utilities; and interest on any other debt obligations incurred prior to February 15, 2020. The loans cannot be used to pay for the required sick and family leave wages covered by FFCRA. These costs are already covered by tax credits under FFCRA. The loans also cannot be used to compensate any employee whose principal residence is outside the U.S.

Companies can borrow up to 2.5 times the average monthly "payroll" costs incurred in the prior year up to $10 million with some exceptions. Importantly, the forgivable portion of the loan can be reduced if the number of employees and employee hours reduced between February 15, 2020 and June 30, 2020. For example, if a company received a payroll loan based on 10 employees, but only paid for an average of 8 employees, the amount of the loan forgive would be reduced to 80% (8 employees ÷10 employee=80%).

Businesses, including sole proprietors, independent contractors, and the self-employed, can immediately apply for a payroll loan. It is likely, however, that the SBA and lenders will offer online expedited processes. Waiting for these new processes may prove to expedite the loan in the long run.

2. Employment Retention Tax Credit

The CARES Act provides an alternative to the loan program for businesses to consider in the form of a refundable tax credit against the payroll taxes. Businesses can elect to take the Employment Retention Tax Credit only if they have not applied for a payroll loan from the SBA.

This credit is available to two groups of businesses: First, businesses who fully or partially suspend operations due to COVID-19: and second, businesses that can prove that they suffered a 50% or greater loss in gross receipts compared to the same quarter of the last calendar year. The law allows a tax credit of 50% of the wages paid to each employee, up to $5,000 per quarter per employee. For businesses with 100 or fewer employees, the credit would apply to all employees' wages. For businesses with more than 100 employees, the tax credit only applies to employees that are not working due to the COVID-19 crisis. The credit stops the quarter after the business has gross receipts greater than 80% of the same quarter in the previous calendar year. This tax credit expires entirely at the end of 2020.

The credit is initially applied to payroll taxes (Social Security and Medicare). Any credit that exceeds the payroll tax liability is refundable. In essence, the credit first applies to lower a business's payroll taxes and the rest can be claimed as a refund. Unfortunately, there is no expedited payment for the refund.

3. Emergency $10,000 Grant from SBA

The CARES Act also expanded the SBA's existing Emergency Economic Injury Disaster Loan (EIDL) grant program to include businesses with fewer than 500 employees, as well as sole proprietors and independent contractors. Like payroll loans, The Act lowers the loan requirements, waives most fees, and eliminates personal guarantees and collateral requirements

Additionally, under the expanded EIDL program, borrowers can access an immediate $10,000 grant to be paid within 3 days of applying for the loan. The grant funds do not have to be paid back to the SBA if the EIDL loan application is denied. The $10,000, however, will be deducted from the amount of the payroll loan forgiven if a business receives a payroll loan. For example, if a business receives a $50,000 payroll loan and a $10,000 EIDL emergency loan, only $40,000 of the payroll loan can be forgiven since the $10,000 has already been forgiven.

EIDL grants are not eligible for the loan forgiveness provisions offered to the payroll loan program, but companies can receive a loan from each program if funds are not used for the same purposes. However, if a business applied for an EIDL after January 30, 2020, it can be rolled into the payroll loans, and thus forgiven if used for the payroll loan purpose of paying payroll and business expenses identified above. This is an important provision that protects businesses that applied for EIDLs during the coronavirus crisis.

4. Tax Law Changes

The CARES Act provided a number of temporary and permanent tax law changes for businesses which include a payroll tax deferment, a technical fix to the “qualified improvement property” deduction, reinstatement of the Net Operating Loss Carryback, an expansion of the net interest deduction limitation, and an increase in net interest deduction allowed. The bill allows employers and self-employed individuals to defer payment of the employer share of Social Security tax until January 1, 2021. The employer must pay 50% of the total deferred taxes by December 31, 2021 and the remaining deferred amounts by December 31, 2022. There are also changes to retirement accounts, credit for prior year minimum tax liability, and net operating losses to allow a full offset of taxable income.

5. Changes to Families First Coronavirus Response Act

The CARES Act reiterates and codifies portions of the FFCRA. Most significantly, the CARES Act expands on this process of “advance refunding of credits” for employers required to provide paid sick and family leave because of quarantines, employee illness, and child and family care. The CARES Act provides for an advance payment of the tax credits due.

> In anticipation of the credit ... the credit may be advanced, according to forms and instructions provided by the Secretary [of the Treasury], up to an amount calculated … through the end of the most recent payroll period in the quarter.

Accordingly, employers may simply retain, as their FFCRA credit, otherwise-owed payroll taxes up to an amount equal to the costs they incurred in providing FFCRA leave up to the mandated caps. If retention of payroll taxes is insufficient to cover the costs of FFCRA leave, “employers can seek an expedited advance from the IRS by submitting a streamlined claim form” The form should be released shortly.

6. Government Contracts

The CARES Act also provides some relief for businesses with government contracts. The Act allows the contracting agency to modify the contract to add in the cost of providing paid leave to employees who cannot work because of closure or restriction on the sites covered by the contracts.

WFCA’s priority over the last ten days has been to provide our members with accurate and timely information on the ever-changing laws and orders that impact your businesses. The Association will continue to provide updates to members on the specificities of the above summarized loan programs. In the meantime, communicate please feel free to send your concerns or questions to directly to jeffw@jkingesq.com and mperkins@lobbyit.com.