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CARES Act Modifies the Bankruptcy Code to Provide Enhanced Debt Relief to Small Businesses

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In order to address the needs of struggling businesses that have suffered from an increased debt load and a concomitant drop-off of cash flow due to governmental regulations, business closures and a general economic downturn as a result of the coronavirus (COVID-19) outbreak, the CARES Act implements a financial restructuring option available to businesses under the auspices of Chapter 11 of the Bankruptcy Code.

In determining whether a restructuring option is available, either inside or outside of a court proceeding, a frank discussion must be had to determine what efforts can be implemented to continue business operations, address liquidity and cash-flow issues, implement a means to right-size a struggling business and whether a financial restructuring, amendment, or forbearance is the appropriate course of action.

Should bankruptcy be the correct path, the CARES Act provides favorable bankruptcy protections available to businesses that includes an amendment to the recently passed Small Business Reorganization Act of 2019, which increases the bankruptcy eligibility threshold for businesses filing under new subchapter V of Chapter 11 of the Bankruptcy Code from \$2,725,625 of debt to \$7,500,000. The eligibility threshold will return to \$2,725,625 after one year from enactment of the CARES Act. In addition, the CARES Act amended the definition of “income” in the Bankruptcy Code for Chapters 7 and 13 individual cases to exclude coronavirus-related payments received from the federal government from being treated as “income” for purposes of filing bankruptcy; clarified that the calculation of disposable income for purposes of confirming a Chapter 13 plan excludes coronavirus-related payments; and permitted individuals currently in a Chapter 13 proceeding to seek a Chapter 13 plan payment modification if they are experiencing a material financial hardship due to the coronavirus pandemic, including extending their repayments for up to seven (7) years after their initial plan payment was due.

If you are interested and need assistance navigating the CARES Act or have any other bankruptcy or creditors’ rights related issue during this COVID-19 crisis, please contact [David H. Stein](#).

Attorney

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Practice

- Banking & Financial Services