



# COVID-19

WHAT EMPLOYERS NEED TO  
KNOW



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# REASONS FOR CONCERN

- FATALITY RATE MAY BE HIGHER THAN COMMON FLU
- TRANSMISSION RATE MAY BE HIGHER THAN COMMON FLU
- HOSPITALS IN AREAS WITH HIGH NUMBER OF COVID-19 CASES DO NOT HAVE THE STAFF, FACILITIES, EQUIPMENT AND OTHER RESOURCES TO TREAT COVID-19 PATIENTS AND OTHER PATIENTS
- VACCINES AND OTHER THERAPEUTICS ARE STILL IN TESTING PHASE
- CORONAVIRUS FOUND ON DIAMOND PRINCESS 17 DAYS AFTER ALL PASSENGERS AND CREW HAD DEPARTED

# FEDERAL GUIDANCE

- NO FEDERAL REQUIREMENT TO CEASE BUSINESS OPERATIONS
- CDC GUIDANCE
  - [HTTPS://WWW.CDC.GOV/CORONAVIRUS/2019-NCOV/COMMUNITY/GUIDANCE-BUSINESS-RESPONSE.HTML](https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html)
  - [HTTPS://WWW.CDC.GOV/CORONAVIRUS/2019-NCOV/PREPARE/DISINFECTING-BUILDING-FACILITY.HTML](https://www.cdc.gov/coronavirus/2019-ncov/prepare/disinfecting-building-facility.html)
- DOL GUIDANCE
  - [HTTPS://WWW.DOL.GOV/CORONAVIRUS](https://www.dol.gov/coronavirus)
- EEOC GUIDANCE
  - [HTTPS://WWW.EEOC.GOV/EEOC/NEWSROOM/WYSK/WYSK\\_ADA\\_REHABILITAION\\_ACT\\_CORONAVIRUS.CFM](https://www.eeoc.gov/eeoc/newsroom/wysk/wysk_ada_rehabilitaion_act_coronavir_us.cfm)



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## EMPLOYEE RIGHTS

### PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

The Families First Coronavirus Response Act (FFCRA or Act) requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

#### ▶ PAID LEAVE ENTITLEMENTS

Generally, employers covered under the Act must provide employees:

Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1-3 below, up to \$511 daily and \$5,110 total;
- $\frac{2}{3}$  for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
- Up to 12 weeks of paid sick leave and expanded family and medical leave paid at  $\frac{2}{3}$  for qualifying reason #5 below for up to \$200 daily and \$12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

#### ▶ ELIGIBLE EMPLOYEES

In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). *Employees who have been employed for at least 30 days prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.*

#### ▶ QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19

An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to telework, because the employee:

- |  |   |
|--|---|
| 1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19; | 5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or |
| 2. has been advised by a health care provider to self-quarantine related to COVID-19;          | 6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.                           |
| 3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;                       |   |

# STATE AND LOCAL ORDERS

- THE GOVERNOR OF EACH STATE HAS AUTHORITY TO DECLARE AN EMERGENCY AND MAY HAVE AUTHORITY TO ORDER EMPLOYERS TO TAKE CERTAIN ACTIONS, INCLUDING CLOSING BUSINESS OPERATIONS
- CERTAIN CITY AND COUNTY GOVERNMENT OFFICIALS ALSO MAY HAVE AUTHORITY TO DECLARE AN EMERGENCY AND TO ORDER EMPLOYERS TO TAKE CERTAIN ACTIONS, INCLUDING CLOSING BUSINESS OPERATIONS
- SOME STATE LAWS IMPOSE CRIMINAL SANCTIONS FOR VIOLATING EMERGENCY ORDERS



# PAID SICK TIME

- EFFECTIVE APRIL 1, 2020 THROUGH DECEMBER 31, 2020
- ALL EMPLOYERS WITH LESS THAN 500 EMPLOYEES
- ALL EMPLOYEES OF SUCH EMPLOYERS REGARDLESS OF PERIOD OF EMPLOYMENT
- DOL, BY REGULATION, MAY EXEMPT EMPLOYERS WITH LESS THAN 50 EMPLOYEES WHO MEET CERTAIN CRITERIA (E.G., LEAVE REQUIREMENTS JEOPARDIZE THE VIABILITY OF THE BUSINESS AS A GOING CONCERN) AND MAY EXCLUDE HEALTH CARE PROVIDERS AND EMERGENCY RESPONDERS FROM THE DEFINITION OF EMPLOYEE

# PAID SICK TIME (CONT.)

- TWO WEEKS OF PAID SICK LEAVE AT THE REGULAR RATE (UP TO \$511/DAY AND \$5110 IN THE AGGREGATE) FOR EACH EMPLOYEE'S
  - OWN COVID-19 RELATED GOVERNMENT ORDERED, OR HEALTH CARE PROVIDER RECOMMENDED, ISOLATION OR QUARANTINE
  - ABSENCE DUE TO SEEKING A MEDICAL DIAGNOSIS FOR COVID-19 SYMPTOMS.
- TWO WEEKS OF PAID SICK LEAVE AT 2/3 OF THE REGULAR RATE (UP TO \$200/DAY AND \$2000 IN THE AGGREGATE) IS AVAILABLE TO THE EMPLOYEE WHO IS CARING FOR
  - AN INDIVIDUAL WHO IS SUBJECT TO GOVERNMENT ORDERED, OR HEALTH CARE PROVIDER RECOMMENDED, ISOLATION OR QUARANTINE
  - THE SON OR DAUGHTER OF THE EMPLOYEE IF THE SCHOOL OR PLACE OF CARE HAS BEEN CLOSED, OR THE CHILD-CARE PROVIDER IS UNAVAILABLE, DUE TO COVID-19 PRECAUTIONS.

# PAID SICK TIME (CONT.)

- FULL TIME EMPLOYEES WOULD BE PAID FOR 80 HOURS AND PART-TIME EMPLOYEES WOULD BE PAID BASED UPON THEIR TYPICAL HOURS IN A 2-WEEK PERIOD.
- NO CARRYOVER OF THIS PAID SICK TIME
- EMPLOYER MUST NOT REQUIRE THE EMPLOYEE TO FIND A REPLACEMENT



# PAID SICK TIME (CONT.)

- PAID SICK LEAVE UNDER THIS PROVISION IS MADE AVAILABLE IN ADDITION TO ANY EXISTING PAID SICK LEAVE POLICIES OF THE EMPLOYER
- AN EMPLOYER MAY NOT REQUIRE THAT THE EMPLOYEE USE OTHER PAID LEAVE PROVIDED BY THE EMPLOYER DURING THIS PAID SICK TIME
- MODEL NOTICE IS AVAILABLE NOW AND SHOULD BE POSTED

# FMLA

- FMLA REMAINS THE SAME WITH A FEW ADDITIONS
- BEGINNING APRIL 1, 2020 AND CONTINUING THROUGH DECEMBER 31, 2020, AN EMPLOYEE CAN RECEIVE LEAVE TO CARE FOR A SON OR DAUGHTER OF THE EMPLOYEE WHO IS UNDER 18 YEARS OF AGE IF THE SCHOOL OR PLACE OF CARE HAS BEEN CLOSED, OR THE CHILD CARE PROVIDER IS UNAVAILABLE, BECAUSE OF A PUBLIC HEALTH EMERGENCY WITH RESPECT TO COVID-19 DECLARED BY A GOVERNMENTAL AUTHORITY ("QUALIFIED FAMILY LEAVE")

# FMLA (CONT.)

- QUALIFIED FAMILY LEAVE APPLIES ONLY TO EMPLOYERS WITH LESS THAN 500 EMPLOYEES
- QUALIFIED FAMILY LEAVE APPLIES ONLY TO EMPLOYEES WHO HAVE BEEN EMPLOYED FOR AT LEAST 30 DAYS
- DOL MAY EXEMPT EMPLOYERS WITH LESS THAN 50 EMPLOYEES WHO MEET CERTAIN CRITERIA IN FUTURE REGULATIONS (E.G., LEAVE REQUIREMENTS JEOPARDIZE THE VIABILITY OF THE BUSINESS AS A GOING CONCERN)



# FMLA (CONT.)

- THE FIRST 10 DAYS OF QUALIFIED FAMILY LEAVE CAN BE UNPAID, BUT THE EMPLOYEE MAY ELECT TO SUBSTITUTE ACCRUED VACATION LEAVE, PERSONAL LEAVE, OR MEDICAL OR SICK LEAVE FOR THIS UNPAID LEAVE
- AFTER THE FIRST 10 DAYS OF QUALIFIED FAMILY LEAVE, THE EMPLOYER MUST PROVIDE PAID LEAVE EQUAL TO 2/3 OF THE EMPLOYEE'S REGULAR RATE OF PAY TIMES THE NUMBER OF HOURS THE EMPLOYEE WOULD OTHERWISE BE SCHEDULED TO WORK
- THE PAID LEAVE FOR QUALIFIED FAMILY LEAVE SHALL NOT EXCEED \$200/DAY AND \$10,000 IN THE AGGREGATE
- PAID LEAVE IS AVAILABLE FOR REHIRED EMPLOYEES WHO WERE LAID OFF AFTER 3/1/2020 AND WORKED AT LEAST 30 DAYS OF THE LAST 60 CALENDAR DAYS PRIOR TO THE LAYOFF

# FMLA (CONT.)

- WITH RESPECT TO QUALIFIED FAMILY LEAVE, THE EMPLOYEE HAS THE OBLIGATION TO GIVE THE EMPLOYER SUCH NOTICE OF LEAVE AS IS PRACTICABLE
- THE JOB RESTORATION REQUIREMENT MAY NOT APPLY TO AN EMPLOYER WITH LESS THAN 25 EMPLOYEES IF CERTAIN CONDITIONS ARE SATISFIED
- EMPLOYEES CANNOT SUE AN EMPLOYER NOT OTHERWISE COVERED BY FMLA FOR VIOLATIONS, BUT THE GOVERNMENT CAN
- AN EMPLOYER OF A HEALTH CARE PROVIDER OR AN EMERGENCY RESPONDER MAY ELECT TO EXCLUDE SUCH EMPLOYEE FROM THESE BENEFITS

# PAYROLL TAX CREDIT—PAID SICK TIME

- CREDIT FOR EMPLOYER'S SHARE OF OASDI TAXES (6.2%) EQUAL TO 100% OF THE "QUALIFIED SICK LEAVE WAGES" PAID BY THE EMPLOYER DURING THE CALENDAR QUARTER
- UP TO \$511/DAY FOR 10 DAYS FOR EMPLOYEE WHO HAS:
  - A GOVERNMENTAL ISOLATION OR QUARANTINE ORDER RELATED TO COVID-19
  - A HEALTH CARE PROVIDER RECOMMENDATION TO SELF-QUARANTINE RELATED TO COVID-19 CONCERNS
  - SYMPTOMS OF COVID-19 AND IS SEEKING A MEDICAL DIAGNOSIS
- UP TO \$200/DAY FOR 10 DAYS FOR EMPLOYEE WHO IS:
  - CARING FOR AN INDIVIDUAL WHO IS SUBJECT TO A GOVERNMENTAL ORDER OR HEALTH CARE PROVIDER RECOMMENDATION RELATED TO COVID-19
  - CARING FOR A SON OR DAUGHTER OF SUCH EMPLOYEE BECAUSE THE SCHOOL OR PLACE OF CARE IS CLOSED, OR THE CHILD-CARE PROVIDER IS UNAVAILABLE, DUE TO COVID-19 PRECAUTIONS



# PAYROLL TAX CREDIT—FAMILY LEAVE

- CREDIT FOR EMPLOYER'S SHARE OF OASDI TAXES (6.2%) EQUAL TO 100% OF THE "QUALIFIED FAMILY LEAVE WAGES" PAID TO THE EMPLOYEE BY THE EMPLOYER DURING THE CALENDAR QUARTER BECAUSE THE EMPLOYEE IS CARING FOR A SON OR DAUGHTER OF SUCH EMPLOYEE BECAUSE THE SCHOOL OR PLACE OF CARE IS CLOSED, OR THE CHILD CARE PROVIDER IS UNAVAILABLE, DUE TO A PUBLIC HEALTH EMERGENCY WITH RESPECT TO COVID-19 DECLARED BY A GOVERNMENTAL AUTHORITY
- UP TO \$200/DAY AND \$10,000 IN THE AGGREGATE PER EMPLOYEE FOR ALL CALENDAR QUARTERS

# PAYROLL TAX CREDIT—GENERAL RULES

- CREDIT WILL NOT EXCEED TAX IMPOSED FOR THE CALENDAR QUARTER (REDUCED BY ANY OTHER CREDITS) ON THE WAGES PAID WITH RESPECT TO THE EMPLOYMENT OF ALL EMPLOYEES
- IF THE AMOUNT OF THE CREDIT EXCEEDS THE PRECEDING LIMITATION, THE EXCESS IS REFUNDABLE
- IRS MAY ALLOW FOR ADVANCE REFUNDING OF THE CREDIT BY REGULATION OR OTHER GUIDANCE

# PAYROLL TAX CREDIT—GENERAL RULES (CONT.)

- THE AMOUNT OF THE CREDIT CAN BE INCREASED BY “QUALIFIED HEALTH PLAN EXPENSES” ALLOCABLE TO THE “QUALIFIED SICK LEAVE WAGES/QUALIFIED FAMILY LEAVE WAGES” FOR WHICH THE CREDIT IS ALLOWED
- “QUALIFIED HEALTH PLAN EXPENSES” MEANS AMOUNTS PAID OR INCURRED BY THE EMPLOYER TO PROVIDE AND MAINTAIN A GROUP HEALTH PLAN, BUT ONLY TO THE EXTENT SUCH AMOUNTS ARE EXCLUDED FROM THE GROSS INCOME OF THE EMPLOYEES



# PAYROLL TAX CREDIT—GENERAL RULES (CONT.)

- EMPLOYER CAN ELECT TO NOT APPLY THE TAX CREDITS
- EMPLOYER NOT ALLOWED TO HAVE A DOUBLE BENEFIT
- AMOUNT OF CREDIT IS ADDED TO THE EMPLOYER'S GROSS INCOME FOR THE YEAR
- CERTAIN OTHER TAX CREDITS MAY BE REDUCED
- CREDIT AVAILABLE ONLY FOR WAGES PAID FROM A DATE SELECTED BY THE SECRETARY (BUT NO EARLIER THAN MARCH 18, 2020, NO LATER THAN APRIL 1, 2020) THROUGH DECEMBER 31, 2020

# PAYROLL TAX CREDIT—SHUTDOWN RELIEF

- CREDIT AGAINST EMPLOYER'S SHARE OF OASDI TAXES (6.2%) FOR EACH CALENDAR QUARTER EQUAL TO 50% OF THE QUALIFIED WAGES WITH RESPECT TO EACH EMPLOYEE OF AN ELIGIBLE EMPLOYER FOR SUCH CALENDAR QUARTER
- APPLIES ONLY TO QUALIFIED WAGES PAID AFTER MARCH 12, 2020, AND BEFORE JANUARY 1, 2021
- THE AMOUNT OF QUALIFIED WAGES WITH RESPECT TO ANY EMPLOYEE TAKEN INTO ACCOUNT BY THE EMPLOYER FOR ALL CALENDAR QUARTERS SHALL NOT EXCEED \$10,000
- CREDIT MAY NOT EXCEED THE OASDI TAXES PAID ON ALL EMPLOYEES FOR THE QUARTER
- IF THE AMOUNT OF THE CREDIT EXCEEDS THE OASDI TAXES PAID ON ALL EMPLOYEES FOR THE QUARTER, THE EXCESS IS REFUNDABLE

# PAYROLL TAX CREDIT—SHUTDOWN RELIEF (CONT.)

- “ELIGIBLE EMPLOYER” MEANS AN EMPLOYER WHO CONDUCTED BUSINESS DURING 2020 AND
  - WHO FULLY OR PARTIALLY SUSPENDED OPERATIONS DUE TO GOVERNMENTAL ORDERS DUE TO COVID-19 OR
  - WHOSE GROSS RECEIPTS ARE LESS THAN 50% OF GROSS RECEIPTS FOR THE SAME CALENDAR QUARTER IN THE PRIOR YEAR AND ENDING WITH THE CALENDAR QUARTER FOLLOWING THE CALENDAR QUARTER FOR WHICH GROSS RECEIPTS ARE GREATER THAN 80% OF GROSS RECEIPTS FOR THE SAME CALENDAR QUARTER IN THE PRIOR YEAR



# PAYROLL TAX CREDIT—SHUTDOWN RELIEF (CONT.)

- “QUALIFIED WAGES” MEANS
  - IF THE AVERAGE NUMBER OF EMPLOYEES DURING 2019 WAS GREATER THAN 100, WAGES PAID BY THE ELIGIBLE EMPLOYER WITH RESPECT TO WHICH AN EMPLOYEE IS NOT PROVIDING SERVICES DUE TO A COVID-19 ORDER OR DECLINE IN GROSS RECEIPTS
  - IF THE AVERAGE NUMBER OF EMPLOYEES DURING 2019 WAS NOT GREATER THAN 100,
    - WAGES PAID WITH RESPECT TO AN EMPLOYEE DURING ANY PERIOD INVOLVING A COVID-19 ORDER
    - WAGES PAID TO AN EMPLOYEE DURING SUCH QUARTER OF GROSS RECEIPTS DECLINE

# PAYROLL TAX CREDIT—SHUTDOWN RELIEF (CONT.)

- “QUALIFIED WAGES” INCLUDES “QUALIFIED HEALTH PLAN EXPENSES” ALLOCABLE TO THE “QUALIFIED WAGES” FOR WHICH THE CREDIT IS ALLOWED
- “QUALIFIED HEALTH PLAN EXPENSES” MEANS AMOUNTS PAID OR INCURRED BY THE EMPLOYER TO PROVIDE AND MAINTAIN A GROUP HEALTH PLAN, BUT ONLY TO THE EXTENT SUCH AMOUNTS ARE EXCLUDED FROM THE GROSS INCOME OF THE EMPLOYEES

# PAYROLL TAX CREDIT—SHUTDOWN RELIEF (CONT.)

- “QUALIFIED WAGES” DOES NOT INCLUDE
  - QUALIFIED SICK PAY WAGES OR QUALIFIED FAMILY LEAVE WAGES
  - FOR AN EMPLOYER WITH MORE THAN 100 EMPLOYEES, ANY AMOUNT IN EXCESS OF THE AMOUNT THE EMPLOYEE WOULD HAVE BEEN PAID FOR WORKING AN EQUIVALENT DURATION DURING THE 30 DAYS IMMEDIATELY PRECEDING SUCH PERIOD



# PAYROLL TAX CREDIT—SHUTDOWN RELIEF (CONT.)

- AN EMPLOYER MAY ELECT NOT TO HAVE THE CREDIT APPLY
- THE CREDIT IS NOT AVAILABLE IF THE EMPLOYER
  - CLAIMS A WORK OPPORTUNITY CREDIT WITH RESPECT TO THE EMPLOYEE
  - CLAIMS A CREDIT FOR PAID FAMILY AND MEDICAL LEAVE WITH RESPECT TO THE EMPLOYEE
- THE CREDIT IS NOT AVAILABLE IF THE EMPLOYER RECEIVES A SMALL BUSINESS INTERRUPTION LOAN

# DELAYED PAYMENT OF EMPLOYER SHARE

- EMPLOYER NOT REQUIRED TO PAY ITS SHARE OF OASDI TAX ON WAGES ACCRUED DURING 2020
- 50% PAID BY DECEMBER 31, 2021 AND REMAINING 50% PAID BY DECEMBER 31, 2022
- NOT AVAILABLE IF THE EMPLOYER BENEFITS FROM CERTAIN SBA LOAN FORGIVENESS

# LOAN AND GRANT PROGRAMS

- SMALL BUSINESS ADMINISTRATION (SBA) HAS SEVERAL EXISTING LOAN GUARANTEE AND GRANT PROGRAMS THAT ARE AVAILABLE TO AN EMPLOYER (BASED ON THE EMPLOYER'S NAICS CLASSIFICATION AND EITHER REVENUE OR NUMBER OF EMPLOYEES) FOR A LOAN MADE BY AN APPROVED SBA LENDER



# LOAN AND GRANT PROGRAMS, [CONT.]

- PAYCHECK PROTECTION PROGRAM (PPP)
  - FOR EMPLOYERS WITH LESS THAN 500 EMPLOYEES (OR THE APPLICABLE EMPLOYEE SIZE STANDARD FOR THE INDUSTRY, EXCEPT HOTELS AND RESTAURANTS WITH NO MORE THAN 500 EMPLOYEES PER PHYSICAL LOCATION) TO COVER PAYROLL, PAID SICK OR MEDICAL LEAVE, INSURANCE PREMIUMS, AND MORTGAGE, RENT, AND UTILITY PAYMENTS
  - MAXIMUM LOAN IS LESSER OF \$10,000,000 OR AVERAGE MONTHLY PAYMENTS FOR PAYROLL COSTS (SALARIES, LEAVE, INSURANCE, STATE/LOCAL TAX, PAYMENTS TO CERTAIN CONTRACTS, BUT EXCLUDING AN EMPLOYEE'S COMPENSATION IN EXCESS OF \$100,000) X 2.5

# LOAN AND GRANT PROGRAMS, [CONT.]

- LOAN FORGIVENESS EQUAL TO THE AMOUNT SPENT BY THE BORROWER DURING AN 8-WEEK PERIOD AFTER THE ORIGINATION DATE OF THE LOAN ON PAYROLL COSTS, INTEREST PAYMENT ON ANY MORTGAGE INCURRED PRIOR TO FEBRUARY 15, 2020, PAYMENT OF RENT ON ANY LEASE IN FORCE PRIOR TO FEBRUARY 15, 2020, AND PAYMENT ON ANY UTILITY FOR WHICH SERVICE BEGAN BEFORE FEBRUARY 15, 2020
- AMOUNT OF LOAN FORGIVENESS IS REDUCED BASED ON CERTAIN REDUCTIONS IN STAFFING OR EMPLOYEE COMPENSATION, BUT THE LOAN FORGIVENESS REDUCTION CAN BE AVOIDED IF THE REDUCTIONS IN STAFFING AND COMPENSATION ARE REVERSED BY 6/30/2020
- OTHER SBA LOAN PROGRAMS MAY NOT BE AVAILABLE IF THE EMPLOYER RECEIVES A PPP LOAN
- LOANS ARE 100% GUARANTEED THROUGH 12/31/2020

# LOAN AND GRANT PROGRAMS (CONT.)

- SBA ECONOMIC INJURY DISASTER LOANS (EIDL)
  - MAXIMUM LOAN LESSER OF \$2,000,000 OR 50% OF GROSS PROFIT SHOWN ON LAST YEAR'S TAX RETURN
  - INTEREST RATE 3.75% FOR 30 YEARS
  - FOR WORKING CAPITAL
  - PAYMENTS CAN BE DEFERRED UP TO 12 MONTHS
  - 20% OR MORE OWNERS PERSONALLY GUARANTEE REPAYMENT
  - AN EMPLOYER WHO ACCEPTS AN EIDL IS NOT ELIGIBLE FOR A PPP
  - OTHER REQUIREMENTS AND CONDITIONS



# LOAN AND GRANT PROGRAMS (CONT.)

- SUBSIDY FOR CERTAIN OTHER SBA LOANS
  - REQUIRES THE SBA TO PAY THE PRINCIPAL, INTEREST, AND ANY ASSOCIATED FEES THAT ARE OWED ON THE COVERED LOANS (EXISTING 7(A), 504, AND MICROLOAN PRODUCTS) FOR A 6-MONTH PERIOD STARTING ON THE NEXT PAYMENT DUE
  - LOANS THAT ARE ALREADY ON DEFERMENT WILL RECEIVE 6 MONTHS OF PAYMENT BY THE SBA BEGINNING WITH THE FIRST PAYMENT AFTER THE DEFERRAL PERIOD
  - LOANS MADE UP UNTIL SIX MONTHS AFTER ENACTMENT WILL ALSO RECEIVE A FULL 6 MONTHS OF LOAN PAYMENTS BY THE SBA.

# LOAN AND GRANT PROGRAMS (CONT.)

- CORONAVIRUS ECONOMIC STABILIZATION ACT LOAN PROGRAM
  - MANY REQUIREMENTS AND CONDITIONS
  - FOR SOME EMPLOYERS, REQUIREMENTS MAY INCLUDE REMAINING NEUTRAL DURING A UNION ORGANIZING CAMPAIGN, LIMITING STAFF REDUCTIONS, AND NOT OUTSOURCING OR OFFSHORING JOBS

# COBRA

- COBRA REMAINS THE SAME
- MOST HEALTH PLANS PROVIDE COVERAGE TO AN EMPLOYEE WHO IS WORKING 30 HOURS A WEEK
- COBRA APPLIES WHEN AN EMPLOYEE LOSES COVERAGE UNDER THE TERMS OF THE HEALTH PLAN DUE TO A REDUCTION IN HOURS OR TERMINATION OF EMPLOYMENT (IN ADDITION TO OTHER SITUATIONS)
- AN EMPLOYER SHOULD PROVIDE THE REQUIRED COBRA NOTICE WHEN AN EMPLOYEE LOSES COVERAGE
- AN EMPLOYER CAN CHOOSE TO PAY ALL OR PART OF THE COST OF COBRA COVERAGE OR CAN REQUIRE THE EMPLOYEE TO PAY ALL OR PART OF THE COST



# ERISA

- ERISA REMAINS THE SAME WITH A FEW CHANGES
- DOL NOW HAS AUTHORITY TO POSTPONE CERTAIN ERISA DEADLINES BECAUSE OF A PUBLIC HEALTH EMERGENCY
- THE DUE DATE FOR MINIMUM REQUIRED CONTRIBUTIONS TO A SINGLE EMPLOYER DEFINED BENEFIT PLAN HAS BEEN POSTPONED TO JANUARY 1, 2021, BUT THE EMPLOYER MUST PAY INTEREST

# WARN ACT

- WARN ACT REMAINS THE SAME—PLANT CLOSING AND MASS LAYOFF
- IF YOU LAYOFF EMPLOYEES AND EXPECT TO RECALL THEM WITHIN 6 MONTHS, NO NOTICE IS REQUIRED
- IF YOU LAYOFF EMPLOYEES AND DO NOT EXPECT TO RECALL THEM WITHIN 6 MONTHS, YOU ARE REQUIRED TO GIVE THEM 60 DAYS PRIOR WRITTEN NOTICE OF THE LAYOFF OR, IN AN UNFORESEEN BUSINESS CIRCUMSTANCE, AS MUCH NOTICE AS POSSIBLE
- AN EMPLOYER CAN BE LIABLE FOR BACKPAY, BENEFITS AND CIVIL PENALTY OF \$500/DAY
- SOME STATES HAVE PLANT CLOSING/LAYOFF LAWS TOO

# ADA

- AN EMPLOYER CAN INQUIRE ABOUT WHETHER THE EMPLOYEE HAS COVID-19 SYMPTOMS IF IT TREATS ALL EMPLOYEES IN THE SAME JOB CLASSIFICATION THE SAME
- AN EMPLOYER CAN TAKE AN EMPLOYEE'S TEMPERATURE IF IT TREATS ALL EMPLOYEES IN THE SAME JOB CLASSIFICATION THE SAME
- ALL INFORMATION OBTAINED SHOULD BE TREATED AS A CONFIDENTIAL MEDICAL RECORD



# OSHA

- GUIDANCE ON PREPARING WORKPLACES FOR COVID-19  
[HTTPS://WWW.OSHA.GOV/PUBLICATIONS/OSHA3990.PDF](https://www.osha.gov/publications/OSHA3990.pdf)
- OSHA'S GUIDANCE PROVIDES EMPLOYERS SOME COMMONSENSE STEPS, BUT THEY ARE NOT MANDATORY
  - IMPLEMENT BASIC INFECTION PREVENTION MEASURES – HAND WASHING, RESPIRATORY ETIQUETTE, TISSUES AND TRASH RECEPTACLES
  - CLEANING AND DISINFECTING SURFACES, EQUIPMENT, ETC
  - DEVELOP POLICIES AND PROCEDURES FOR PROMPT IDENTIFICATION OF SICK PEOPLE AND ISOLATION
  - ENGINEERING CONTROLS
  - ADMINISTRATIVE CONTROLS – SOCIAL DISTANCING, WORKING FROM HOME, ETC
  - PPE WHEN REQUIRED

# UNEMPLOYMENT COMPENSATION

- UNDER THE LAWS OF MOST STATES AN EMPLOYEE WHO SUFFERS A SIGNIFICANT REDUCTION IN HOURS OF WORK OR LAYOFF IS ELIGIBLE FOR UNEMPLOYMENT BENEFITS
- AN EMPLOYEE WHO IS RECEIVING PAID LEAVE BENEFITS GENERALLY WILL NOT BE ELIGIBLE FOR UNEMPLOYMENT BENEFITS
- A RECIPIENT OF UNEMPLOYMENT BENEFITS WILL RECEIVE AN ADDITIONAL \$600 PER WEEK FOR UP TO 4 MONTHS, WHICH WILL ENCOURAGE SOME POTENTIAL WORKERS TO STAY HOME
- AN INDIVIDUAL WHO REMAINS UNEMPLOYED AFTER STATE UNEMPLOYMENT BENEFITS ARE NO LONGER AVAILABLE MAY RECEIVE AN ADDITIONAL 13 WEEKS OF UNEMPLOYMENT BENEFITS THROUGH 12/31/2020

# WORKERS COMPENSATION

- AN EMPLOYEE MAY NOT BE ABLE TO PROVE THAT HE/SHE CONTRACTED COVID-19 AT WORK, SO WORKERS COMPENSATION COVERAGE MAY NOT APPLY AND THE EMPLOYER CAN AVOID LIABILITY
- IF AN EMPLOYEE CONTRACTED COVID-19 AT WORK, THE EXCLUSIVE REMEDY PROTECTION PROVIDED TO EMPLOYERS UNDER THE WORKERS COMPENSATION LAWS OF MOST STATES WILL LIMIT ANY POTENTIAL LIABILITY



# QUESTIONS

- HOW DO THE NEW LAWS AFFECT POSSIBLE JOINT EMPLOYMENT ISSUES?
- HOW DO THE NEW LAWS AFFECT AN EMPLOYEE WHO IS ON LEAVE ON THE EFFECTIVE DATE OF THE ACT?
- HOW DO THE NEW LAWS AFFECT AN EMPLOYEE WHO IS ON LONG-TERM OR SHORT-TERM LAY-OFF?
- HOW DO THE NEW LAWS AFFECT STATE OR LOCAL PAID LEAVE LAWS AND AN EMPLOYER'S EXISTING PAID LEAVE PLANS?



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