Summary of Financial Relief for Businesses

Payroll Tax Credits & Deferment (based on new federal law)

- *FFCRA Paid Leave* – Quarterly tax credit on your 6.2% Social Security payroll tax for 100% of Paid Sick Leave and Paid Childcare Leave payments under FFCRA.
- *Employee Retention Tax Credits* - *Eligible* employers get a quarterly payroll tax credit for 50% of qualifying wages, up to $10,000 *per eligible employee*.
    - Employer eligible if:
        - Fully or partially closed due to government order, OR
        - Total receipts decrease by 50% or more (compared to same quarter in 2019).
    - Employee Eligible if (compared to average number of employees in 2019):
        - Over 100 employees – count the wages paid to employees who did not work (layoff) during the quarter.
        - 100 or fewer employees – count wages paid to all employees during a closure & all wages paid during a quarter that had a sales decline.
- *Tax Deferment* – Businesses (even self-employed) may delay paying social security payroll taxes until January 1, 2021 and pay the balance over 2 years (50% on 12/31/2021 and 50% on 12/31/2022).

Loan Programs

- *Paycheck Protection Loan* – If fewer than 500 employees, can apply for SBA loan to cover operating expenses. Banks will process the loans. SBA must issue regulations/guidance within 30 days.
    - Loan Amount - up to 2.5 times average monthly Payroll Costs (based on last 12 months), up to $10M.
        - Payroll Costs = salaries, wages, commissions, paid time off, benefits, state & local payroll taxes; do not count paid leave under FFCRA.
    - Loan for wages, paid sick or family leave, group health plan costs, salaries (up to $100,000 annual equivalent), mortgage interest payments, rent, utilities and interest on other debt.
    - These expenses paid 8 weeks following loan date may be forgiven upon application:
        - Mortgage interest, rent and utilities; Payroll and payments on debt are forgiven if you retain employees and payroll levels (as of February 15, 2020) until June 30, 2020.
        - Loan forgiveness is reduced in proportion to the number of employees laid off or impacted by salary reductions (over 25%) during the 8 weeks following the loan date
    - Any remaining loan balance is repaid within 10 years with interest rate of 4% or less; no collateral.
    - All SBA 7(a) loan payments are deferred for 6-12 months (SBA guidance will be issued).
- *SBA Emergency EIDL Grants* – Emergency Advances are first-come, first-served until the $10B fund is gone. Loans are capped at $2M.
    - Eligible Employers: fewer than 500 employees and must be unable to pay normal operating expenses due to COVID-19. Applicant must sign certification of eligibility.
    - Emergency Advance up to $10,000 may be available within 3 days of loan application; Advance must be used for payroll, sick leave, and/or obligations like debt, rent and mortgages.
    - The Advance does not need to be repaid, even if the employer's EIDL loan application is denied.
    - The advanced amount reduces the amount that can be forgiven under the Paycheck Protection Plan.
- *Economic Stabilization Loans* – The CARES Act establishes direct lending programs for small/medium sized businesses. Must be U.S. businesses with significant operations and majority of employees located in the U.S.

    - Borrowers must agree to conditions that apply during the loan and for 1 year after:
        - Cannot buy back publicly-traded stock of company or affiliates;
        - Cannot pay dividends or make capital distributions.
    - *Mid-size Companies*: Loans to mid-size companies (500 to 10,000 employees) carry a maximum APR of 2%, and no principal or interest payments for the first 6 months. The borrower must certify:
        - Uncertainty of economic conditions makes the loan necessary to support ongoing operations of the business;
        - The funds will be used to retain at least 90% of the borrower's workforce, at full compensation and benefits, until September 30, 2020;
        - Business will restore at least 90% of the workforce (as of February 1, 2020) and restore all compensation to all employees within 4 months after public emergency declaration ends;
        - Business has not filed for bankruptcy;
        - Business will not outsource jobs during the loan and for 2 years after repayment; and
        - Business may not revoke existing collective bargaining agreements during loan and for 2 years after and will remain neutral in any union-organizing effort during loan.

Tax Rules that May Benefit Employers

- *CARES Act Amendments* – Temporary changes for tax treatment of certain expenses.
    - *Net Operating Losses* – You may take net operating losses earned the past three years (2018, 2019, and 2020) and carry back those losses five taxable years.
    - *Interest Deduction Limit Increased* – Temporarily increases the amount of deductible interest expense; limit increases from 30% to 50% of taxable income for 2019 and 2020.
    - *Qualified Improvement Property Deduction* – Immediately write off costs for improving facilities.

- *Existing Tax Rule - Employer Qualified Disaster Payments* – Because COVID-19 was declared a national emergency, employers may make tax-free payments to employees as qualified disaster payments, pursuant to Section 139 of the Internal Revenue Code (Code), and the payments are fully deductible by the employer.
    - Qualified disaster payments reimburse employees for necessary personal, family, living or funeral expenses incurred as a result of a disaster and not reimbursed by insurance.
    - For COVID-19, qualified expenses include cleaning supplies, childcare during school closings, work from home expenses, OTC medications and other unreimbursed health-related expenses.

The preceding is for informational purposes and is NOT intended as legal or tax advice. We recommend you consult with your accountant or tax attorney for advice on the tax implications of these new laws and how you can best utilize them during this time. For advice on the new state and federal employee leave laws, you should consult with an employment lawyer. There may be additional tax benefits available on a state or local level, making it critical that you discuss this with someone familiar with those programs.