

COVID-19: Relief Opportunities & Tax Updates for Employers

March 27, 2020



Overview of Relief Opportunities

1. Federal Tax Filing & Payment Deadline Extension
 - Extended federal tax filing and payment deadline to July 15th
 - Does not apply to other taxes (payroll, excise)
2. Families First Coronavirus Response Act (FFCRA)
 - Requires sick leave to be paid to impacted employees and caregivers
 - Payroll tax exemptions and credits for sick leave paid to impacted employees (begins April 2nd)
3. Workforce Reduction / Unemployment Benefits for Workers
 - Unemployment benefits for employees
 - State Shared Work Reduction Program
4. Funding & Cash Flow Opportunities
 - SBA Economic Injury Disaster Loan Program at 3.75%
 - Suspended business and residential evictions
 - Loan payment deferment and/or interest-only payments
5. Phase 3 of Coronavirus Stimulus Package (CARES Act)
 - The Coronavirus Aid, Relief and Economic Security (CARES) Act
 - Agreed to on March 27th
6. More to come as details are changing daily...

Tax Filing and Payment Updates

- The deadline for 2019 federal tax return filing and payment has been extended to July 15th
- The extension does not apply to all state tax filing and payment deadlines
 - KS and MO filing and payment deadline extended to July 15th
 - Does not apply to state sales and payroll taxes
 - <https://taxfoundation.org/state-responses-to-coronavirus-covid19/>
- The IRA and HSA contribution deadline has been extended to July 15th
- The extended payment deadline applies to Q1 2020 estimated taxes, but not Q2 (yet)
 - The Q1 estimated tax payment due date is now July 15th
 - The Q2 estimated tax payment due date remains June 15th
 - AICPA has issued a letter to the IRS requesting a waiver on all 2020 estimated tax payments through September 15th
 - Watch for states to follow federal

Families First Coronavirus Response Act (FFCRA)

- Requires employers with less than 500 employees to provide emergency paid sick leave to workers affected by COVID-19 and expands family and medical leave
 - The bill authorizes the Secretary of the Department of Labor to issue regulations to (1) exclude certain healthcare providers and emergency responders from the definition of eligible employee and (2) exempt small businesses with fewer than 50 employees when it would jeopardize the viability of the business as a going concern
 - Employees are eligible for up to two weeks of sick leave (full pay for self, 2/3 pay for family care) for illness, quarantine or school closures
 - Employees are eligible for up to 12 weeks of FMLA leave for school closures (10 days unpaid and then up to 10 weeks at 2/3 pay)
 - Emergency paid sick leave covers:
 - Employers with fewer than 500 employees
 - All employees no matter the length of employment (some exclusions may apply)
 - FMLA expansion covers:
 - Employers with fewer than 500 employees
 - Employees who have been employed for at least 30 calendar days
 - Employees who must care for children under the age of 18 in the event of school and place-of-care closures or if care provider is unavailable due to a public health emergency with respect to COVID-19

Families First Coronavirus Response Act (FFCRA) – Emergency Paid Sick Leave

- Paid sick leave will be based on employees' regular compensation, but is capped at a maximum 100% of wages up to \$511 per day (and a total of \$5,110) for employees
 - For part-time employees, paid sick time amounts to the average hours worked over a two-week period
- Ensures paid sick leave covers employees who are unable to telework due to one or more of the following conditions:
 - They are subject to a Federal, State, or local quarantine or isolation order (“isolation order”) related to COVID-19
 - They have been advised by a health care provider to self-quarantine due to concerns related to COVID-19
 - They are experiencing symptoms of COVID-19 and seeking a medical diagnosis

Families First Coronavirus Response Act (FFCRA) – Emergency Family & Medical Leave

- Emergency Family & Medical Leave Expansion
 - Employees caring for a minor child are entitled to 2/3 of their average earnings for up to 10 weeks
 - First 10 days unpaid the up to 10 weeks at 2/3 pay
 - Capped at \$200 per day and a total of \$10,000 per individual
 - Eligibility is limited to employees who are unable to work (onsite or remote) due to their child’s school/day care being closed
 - An employee working under quarantine or caring for a family member affected by COVID-19 isn’t considered “qualifying needs” for the expanded family & medical leave benefit

FFCRA Payroll Tax Credits

- Emergency paid sick leave mandated by FFCRA is exempt from Social Security taxes otherwise imposed on the employer
- Non-government employers will be entitled to a refundable federal employment tax credit for the entire amount that they pay in paid sick leave
- If you continue an employee's health plan coverage while the employee is on paid emergency sick leave under FFCRA, the credit is increased up to an amount which includes the employer's expense for the health plan coverage
- Payroll tax credits can be claimed on a quarterly basis, equal to 100% of the amount of sick leave wages paid
 - This credit is limited to \$511 a day (\$5,110 total) if taking time off to care for themselves & \$200 a day (\$2,000 total) if the sick leave is to care for someone with COVID-19 or a child whose school/day care was closed
- Employers must increase their gross income for the taxable year by the amount of payroll credit received on income tax filing

FFCRA Payroll Tax Credits (Continued)

- Credits for Sick & Family Leave for Self-Employed Individuals
 - Self-employed workers, independent contractors and gig economy workers can also claim a credit against their regular income taxes
 - This credit covers 100% of daily self-employment income or 67% if an individual is taking care of a child whose school/day care closed
 - The per-day amount is limited to the lesser of daily self-employment income or \$511 per day (\$200 if caring for a child)
 - The number of eligible days is limited to 10 if sick leave for themselves and 50 if related to family leave

KEY TAKEAWAY: THIS REQUIRES COORDINATION WITH YOUR PAYROLL PROVIDER AND TAX PREPARER

Unemployment Benefits

- Unemployment benefits may be available to any individual who is unemployed through no fault of their own
 - KS weekly benefit amount is 4.25% of the highest quarter wages from your base period (first four of the last five completed calendar quarters)
 - KS maximum weekly benefit is \$488, MO maximum weekly benefit is \$320
 - Federal CARES Act stimulus to supplement entitled amounts by \$600 for up to four months
- Unemployment insurance benefits may be available to individuals who are involuntarily unemployed as a result of COVID-19
- If an employee is ill because of the coronavirus and unable to work, they may be eligible for unemployment benefits
 - If the employer required the employee to stay home and did not offer telework, the employee might be eligible for benefits if they meet certain criteria
- Benefits are paid to employees weekly out of the state fund
- Employers pay into the state and federal funds quarterly through payroll tax filings
 - Employer state rate is updated annually based on the employer's actual history and potential risk of unemployment

State Shared Work Reduction Program

- You can apply for the Shared Work Unemployment Compensation Program (available in KS and MO) as an alternative to layoffs when faced with a reduction in available work affecting at least 10% of employees
- This allows for you to divide the available work among employees
- Shared Work requires that employee weekly hours be reduced by at least 20% but no more than 40%
 - The employee must:
 - Accept all normal work hours offered by the employee
 - Be able to work and be available for normal work hours
 - Be eligible for regular unemployment benefits
 - Example:
 - 20% of 40-hour work week = 8 hours
 - Employee would need to work and earn wages for 32 hours
 - $20\% \times \text{Weekly Benefit Amount} = \text{Unemployment Wages}$

SBA Economic Injury Disaster Loan Program

- Loans carry an interest rate of 3.75% for small businesses and 2.75% for nonprofits
- Loans can be used to cover accounts payable, debts, payroll and other bills up to a maximum of \$2M
- Loans can be offered with long-term repayments in order to keep payments affordable—up to a maximum of 30 years
- Businesses will apply for loans online and select “Economic Injury” as the reason for seeking assistance
 - Apply here: <https://www.sba.gov/disaster-assistance/coronavirus-covid-19#section-header-48>
- SBA offers disaster assistance via its customer service center
 - If you have questions, contact U.S. Small Business Administration via phone at 800.659. 2955 (TTY: 800.877.8339) or e-mail disastercustomerservice@sba.gov

Other Opportunities to Assist with Cash Flow

- Suspended business and residential evictions
 - KS through May 1st
 - KCMO through April 18th
- Loan payment deferment / interest-only payments
 - Business Loans
 - Student Loans
- Others...

Coronavirus Aid, Relief and Economic Security (CARES) Act

- \$350 billion for small businesses (fewer than 500 employees) impacted by the pandemic in the form of loans; some of those loans could be forgiven
- Direct checks to households in the middle class and in lower income levels
- Extended unemployment insurance program for laid-off workers that will allow for four months of full pay
 - Increase in the unemployment insurance benefit by \$600 per week
 - Applied to traditional workers for small and large businesses as well as those who are self-employed and workers in the gig economy
- Employer-side Social Security payroll tax payments may be delayed until January 1, 2021, with 50 percent owed on December 31, 2021 and the other half owed on December 31, 2022
- Establishes an Employee Retention payroll tax credit encourage employers to retain employees and maintain salary during the rest of 2020
 - The credit is equal to 50% of “qualified wages” paid to each employee up to \$10,000 per employee plus allocable health care costs
- Creates a \$300 above-the-line charitable contribution for filers
- Waives the 10% early withdrawal penalty on retirement account distributions for taxpayers facing virus-related economic challenges
 - Withdrawn amounts are taxable over three years, but taxpayers can recontribute the withdrawn funds into their retirement accounts for three years without affecting retirement account caps
- Waives RMD rules for certain retirement plans in calendar year 2020
- Additional (NOLs, Employer-paid Student Loan Repayment, QIP fix)

CARES Act: Paycheck Protection Loans

- \$350 billion allocated for Small Business Interruption Loans, which are meant to help small businesses (fewer than 500 employees) impacted by the pandemic and economic turndown make payroll and cover other expenses
 - The loans would be available during an emergency period ending June 30th and would be forgiven if the employer continued to pay workers for the duration of the crisis
 - Establishes that the borrower shall be eligible for 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
- Provides federally guaranteed loans available at community banks
- Notably, small businesses may take out loans up to \$10 million and cover employees making up to \$100,000 per year; loans taken for this purposes may be forgiven if the business does not lay off its employees
- In order to be eligible for a loan, a firm must maintain an average monthly number of employees during the covered period that is no less than the number it had before the crisis began

CARES Act: Paycheck Protection Loans (Continued)

The borrower needs to certify:

- That the uncertainty of current economic conditions makes the loan necessary to support the ongoing operations of the borrower
- That the funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments and utility payments
- That the borrower does not have an application for a loan under Section 7(a) for the same purpose and has not received another Section 7(a) loan for the same purpose from February 15, 2020 through December 31, 2020

CARES Act: Paycheck Protection Loans (Continued)

- Maximum Loan Amount is Lesser of:
 - The sum of:
 - (Average monthly payroll costs for the 1 year prior to the date on which the loan is made* 2.5), PLUS
 - Any outstanding disaster loan under Section 7(b)(2) of the SBA that was made after January 31, 2020 and refinanced into a 7(a) loan, and
 - \$10 million
- If you weren't in business from February 15, 2019 through June 30, 2019, take 2.5 multiplied by the average payroll costs from January 1, 2020 and ending February 29, 2020
- A seasonal employer determines average payroll by taking the 12-week period beginning February 15, 2019, or upon election, the period March 1, 2019 and ending June 30, 2019

CARES Act: Paycheck Protection Loans (Continued)

Payroll costs:

- Payments of compensation to employees for:
- Wages, commission, salary (not to exceed an annual rate of pay of \$100,000)
- For self-employed taxpayers: net earnings from self employment up to \$100,000
- Cash tips or equivalents
- Vacation, parental, family, medical or sick leave,
- Severance, separation pay, and any retirement benefit
- Group health care benefit pay including insurance premiums
- State or local tax on the compensation of employees

Not counted:

- Compensation above \$100,000 for any one employee (on an annualized basis)
- Payroll taxes
- Compensation for an employee whose principal place of residence is outside the US
- Qualified sick leave and family emergency leave wages

CARES Act: Paycheck Protection Loans (Continued)

- Forgiveness on a covered loan is equal to the sum of the following payroll costs incurred during the covered 8-week period compared to the previous year or time period, proportionate to maintaining employees and wages:
 - Payroll costs plus any payment of interest on any covered mortgage obligation (which shall not include any prepayment of or payment of principal on a covered mortgage obligation) plus any payment on any covered rent obligation + and any covered utility payment
- The amount forgiven will be reduced proportionally by any reduction in employees retained compared to the prior year and reduced by the reduction in pay of any employee beyond 25% of their prior year compensation
- To encourage employers to rehire any employees who have already been laid off due to the COVID-19 crisis, borrowers that re-hire workers previously laid off will not be penalized for having a reduced payroll at the beginning of the period

CARES Act: Paycheck Protection Loans (Continued)

The forgiveness amount will be reduced if you:

- Cut employees during the 8-week period
- Cut salary of some employees during the 8-week period
- Receive a \$10,000 advance under the disaster loan program

The amount eligible for forgiveness is reduced by multiplying the forgiveness amount by:

- The quotient obtained by dividing:
 - The average number of full-time equivalent employees of the borrower during the 8-week period from the date the loan originated, by
- Either:
 - The average number of full-time employees per month from February 15, 2019 through June 30, 2019, or
 - The average number of full-time employees per month from January 1, 2020 through February 29, 2020
- The forgiveness is also reduced by the total reduction in salary during the 8-week period of an employee earning less than \$100,000 (annualized) by more than 25% when compared to the most recent quarter before the 8-week period began

CARES Act: Paycheck Protection Loans (Continued)

- Application for forgiveness with decision to be made by lender within 60 days
- A borrower must apply for forgiveness, and the application must include:
 - Documentation verifying the number of full-time equivalent employees on payroll and pay rates for the periods:
 - The covered period (8 weeks after the loan was taken out)
 - February 15, 2019 –June 30, 2019
 - January 1, 2020 –February 29, 2020
 - February 15, 2019 –June 30, 2019 (for a seasonal employer)
 - February 15, 2020 through 30 days after the enactment of the CARES Act
 - Payroll tax filings
 - Documentation, including cancelled checks, verifying payments on mortgages, rent and utilities
 - A certification that the information is true and correct, and that the amount of forgiveness requested was used to retain employees.

EIDL Loan & Paycheck Protection Loan

- Borrowers may apply for Paycheck Protection Loans and other SBA financial assistance, including disaster loans
- However, you cannot use your Paycheck Protection Loan for the same purpose as your other SBA loan(s)
 - For example, if you use your Paycheck Protection Loan to cover payroll for the 8-week covered period, you cannot use a different SBA loan product for payroll for those same costs in that period, although you could use it for payroll not during that period or for different workers
- Disaster loan and \$10,000 grant recipients and those with 7(a) loans receiving a six-month subsidy may apply for and take out a Paycheck Protection Loan as long as there is no duplication in the uses of funds.
 - If so, the \$10,000 grant reduces the forgiveness amount.
- When would you choose the disaster loan?
 - You have significant non-payroll costs
 - Limited potential forgiveness due to layoffs
 - You prefer the more favorable terms (a 30-year period)

CARES Act: Employee Retention Credit

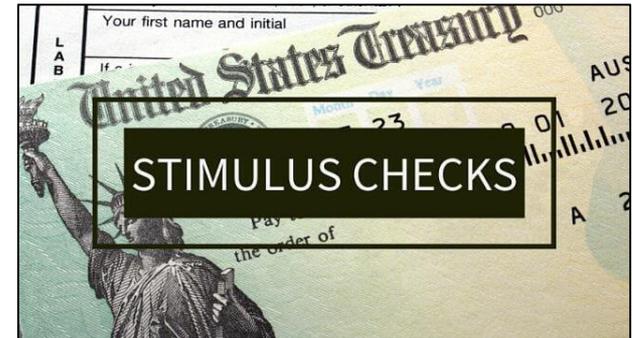
- **You cannot take this credit and get a Paycheck Protection Loan or Work Opportunity Credits**
- The provision provides a refundable payroll tax credit for 50 percent of wages paid by employers to employees during the COVID-19 crisis
- The credit is available to employers whose:
 - 1) operations were fully or partially suspended, due to a COVID-19-related shut-down order, or
 - 2) gross receipts declined by more than 50 percent when compared to the same quarter in the prior year.
- The credit is based on qualified wages paid to the employee
- For employers with greater than 100 full-time employees, qualified wages are wages paid to employees when they are not providing services due to the COVID-19-related circumstances described above
- For eligible employers with 100 or fewer full-time employees, all employee wages qualify for the credit, whether the employer is open for business or subject to a shut-down order.
- The credit is provided for the first \$10,000 of compensation, including health benefits, paid to an eligible employee
- The credit is provided for wages paid or incurred from March 13, 2020 through December 31, 2020

CARES Act: Payroll Tax Deferral

- Once you determine the net amount of payroll taxes actually owed after subtracting Employee Retention credits, Sick Pay credits, and FMLA credits in 2020:
 - The CARES Act allows you to defer the employer's 6.2% share of Social Security taxes incurred between the March 27 and December 31, 2020 until 2021 (50%) and 2022 (50%)
- However, you cannot defer payroll taxes if you have a Paycheck Protection Loan that is forgiven
- A self-employed taxpayer can defer 50% of self-employment tax until 2021 (25%) and 2022 (25%)
 - When the taxes come due in 2021 and 2022, the self-employed taxpayer will not have to make estimated payments against those deferred self-employment taxes

CARES Act: Stimulus Checks

- Individuals
 - \$1,200 payment
 - Phased out at income of \$75,000 - \$99,000
 - No payment if income over \$99,000
- Married Couples
 - \$2,400 payment
 - Phased out at income of \$150,000 - \$198,000
 - No payment if income over \$198,000
- Individuals and couples with children would be eligible for an additional \$500 per each child they have
- IRS will use a taxpayer's 2019 tax return if filed, or in the alternative their 2018 return
- When the taxpayer files their 2020 tax return, the advance payment will be "trued up" with the credit; but only in a taxpayer friendly direction
- Payment timing and details TBC



Summary: Relief Opportunities

Operational

- Deferment of Rent Payments
- Deferment of Loan Payments
- Proactive Communication with Customers, Vendors, Employees

Payroll

- FFCRA Payroll Tax Credits
- Workforce Reduction / Unemployment Benefits
- Payroll Tax Credits / Deferment Under CARES Act

Funding

- SBA Economic Injury Disaster Loan Program
- CARES Act Paycheck Protection Loan Program
- Stimulus Direct Payments

Helpful Links

Tax Policy Updates

- <https://taxfoundation.org/covid19/>

Missouri

- <https://labor.mo.gov/coronavirus>
- <https://labor.mo.gov/shared-work>

Kansas

- <https://www.dol.ks.gov/covid19response>
- <https://www.dol.ks.gov/employers/shared-work-program>
- <https://www.kansasemployer.gov/uitax/Tax/LayoffSelect.aspx>
- http://www.kdheks.gov/coronavirus/toolkit/Interim_Guidance_for_Businesses_and_Employers_to_Plan_and_Respond_to_COVID-19.pdf
- <https://www.kansascommerce.gov/covid-19-response/hospitality-industry-relief-emergency-hire-fund/>

SBA Small Business Disaster Relief

- <https://www.sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources>
- <https://www.sba.gov/disaster-assistance/coronavirus-covid-19#section-header-48>

Connect with us to learn more

If you have questions, be sure to reach out to our office. Our entire team is here help!

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