Economic Relief Options and HR Considerations for Employers and Employees In Light Of COVID-19 for

Presented by: Jeffrey B. Loeb, David Glod, J. Allen Holland and Frank N. Gaeta
Main forms of relief available:

1. Loans (forgivable PPP grant and traditional EIDL loans)
2. Payroll tax credit for employee retention
3. (For employees): sick and medical leave
4. (For employers): payroll tax credits for employee leave
5. Other notable provisions:
   a. Payroll tax holiday
   b. Charitable contributions
   c. Retirement funds
Paycheck Protection Program

- Loan is fully forgivable if used properly
- Available to businesses with under 500 employees (and certain other small business as defined by the SBA)
- Amount = average monthly payroll for last year \( \times 2.5 \)
  - Cash compensation capped at $100k per employee
  - Payroll excludes payments to independent contractors
  - Plus amount of any EIDL loan already received
  - Loan amount capped at $10 million
Paycheck Protection Program

- Permissible uses:
  - Payroll up to $100k per employee per year
  - Healthcare, mortgage, rent, utilities, interest on debt
- Forgiveness of amounts spent in first 8 weeks
  - Non-payroll limited to 25% of loan amount
  - Forgiveness reduction for employee/wage cuts
  - Forgiveness is not gross income
- Balance: 1.0% interest for 2 years
  - Payments deferred for 6 months; interest still accrues
Borrower must certify:
- The loan is needed to continue operations due to current economic conditions
- Funds will be used for permitted purposes
- Borrower is not seeking another PPP loan

Borrower calculates payroll costs and certifies eligibility
Economic Injury Disaster Loan

- Up to $2 million
- Working capital for expenses that CANNOT be met including payroll, sick leave, cost of materials, mortgage, rent, utilities
- 3.75% interest over 30 years
- More involved application/documentation process
- Up to $10,000 advance within 3 days
Employee Retention Tax Credit

- If not receiving a PPP loan, an employer can receive a payroll tax credit for 50% of the first $10,000 paid to each employee (i.e. maximum credit of $5k/employee)
- Applies to employers of any size:
  - Whose operation is fully or partially suspended due to government orders relating to COVID-19, OR
  - Whose gross receipts decline to less than 50% of those in the same quarter of the prior year
- Covered wages depend on number of employees in 2019
Families First Coronavirus Response Act: Paid Leave

- Covered employers: fewer than 500 employees
- Paid sick leave
- Paid family/medical leave
- Payments fully refundable through payroll tax credits
Families First Coronavirus Response Act: Paid Leave

Paid Sick Leave

- 80 hours of paid leave for full time employees
- For part-time employees, equivalent hours of 2 weeks’ work
- (1) Employee cannot work due to own condition
  - 100% of regular pay up to $511/day or $5,100 aggregate
- (2) Employee cannot work due to caring for another
  - ⅔ of regular pay up to $200/day or $2,000 aggregate
Families First Coronavirus Response Act: Paid Leave

Paid Family and Medical Leave (FMLA)

- Employee cannot work due to a need to care for a child
- Up to 12 weeks of leave in a 12-month period
  - First 10 days unpaid, then $\frac{2}{3}$ of regular pay
- Capped at $200/day or $10,000 aggregate
Employers cannot require employees to use other forms of paid leave before paid sick leave under the Act. The situation may be different for paid FMLA leave.

Employers must notify employees of rights under FFCRA.

DOL guidance:
- Employees on unpaid leave
- Employees whose hours have been reduced

Leave payments excluded payroll costs under CARES Act.
Other Provisions

- Payroll tax holiday until January 1, 2021
- Charitable contribution above-the-line deduction ($300)
- Retirement funds:
  - Suspension of required minimum distribution rules
  - Penalty-free coronavirus-related withdrawals up to $100,000
  - Increased amount of loans from retirement plans to the lesser of $100,000 or 100% of the individual’s accrued benefit
Moratorium on Residential Foreclosures

- Until at least May 17, 2020
- Servicers of “federally backed mortgage loans” cannot:
  - Initiate any foreclosure process
  - Move for a foreclosure judgment or order of sale
  - Execute a foreclosure-related eviction or sale
- Only applies to residential properties (1 to 4 units) that are not vacant or abandoned
Eviction Moratorium

● Until July 25, 2020
● Landlords cannot:
  ○ Bring eviction actions for nonpayment of rent or fees
  ○ Charge fees or penalties for nonpayment of rent
  ○ Require a tenant to vacate before 30 days after the notice to vacate
  ○ Issue a notice to vacate
● Applies to residential properties of any size with a federally backed mortgage loan