



*“Unequaled Personalized Service”*

March 30, 2020

With years of experience as a practicing attorney, one of my roles is to assist EBS clients with planning for and responding to sudden events that impact their individual lives or businesses. In my lifetime, I can think of no other event that has impacted as many families and businesses as the COVID-19 pandemic. A historic level of state and federal stimulus has been deployed in response. This summary is not legal advice, but rather it is intended to serve as a guide to the benefits that are not only available to you, but also to family members, friends, and employees who may be in need. Many of these programs have tax implications (positive or negative) that should be discussed with your tax professional.

**Federal Resources:**

**Families First Coronavirus Response Act (FFRCA):**

- Requires employers with less than 500 employees to provide up to two weeks of paid sick leave and expanded family and medical leave for qualifying reasons related to COVID-19
- The FFRCA is effective April 1, 2020 and applies to leave taken between April 1, 2020, and December 31, 2020
- An employee qualifies if he/she is unable to work or telework for any of the following qualifying reasons:
  1. Is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
  2. Has been advised by a health care provider to self-quarantine related to COVID-19;
  3. Is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
  4. Is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
  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
  6. Is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services

- Employers must post a poster that may be found at the following link:  
[https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA\\_Poster\\_WH1422\\_Non-Federal.pdf](https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf)
- Questions and Answers: <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>

### **Coronavirus Aid, Relief and Economic Security (CARES) Act:**

- **Paycheck Protection Program (PPP)**
  - Provides for loans intended to help businesses with fewer than 500 employees (includes non-profits and churches) make payroll (for employees earning less than \$100,000) and cover other expenses from February 15 through June 30, 2020
  - Maximum loan size is up to \$10 million based on a formula tied to payroll costs
    - In general, may borrow 250% of average monthly payroll, which includes compensation, health care premiums, retirement benefits, and payroll taxes
  - All or a portion of the loan may be forgiven if the proceeds are used for payroll, interest payments on mortgages, rent, and utilities
    - Forgiveness is based on the amount spent during an 8 week period and is further based on a comparison of spending in the current and prior year
    - Amount forgiven is not taxed as income
  - Loans do not require collateral or a personal guaranty and there are no payments for at least six months
  - Still eligible to apply for the PPP loan if received a Small Business Administration (SBA) bridge loan through the state
  - If received an Economic Injury Disaster Loan for COVID purposes after January 31, 2020, the business may refinance into a PPP loan
  - For information on how to apply as well as general questions and answers:  
[https://www.rubio.senate.gov/public/\\_cache/files/ac3081f6-14ae-4e6f-9197-172ede28badd/71AB6CB05A08E369E0D488A80B3874A5\\_faqs---paycheck-protection-program-faqs-for-small-businesses.pdf](https://www.rubio.senate.gov/public/_cache/files/ac3081f6-14ae-4e6f-9197-172ede28badd/71AB6CB05A08E369E0D488A80B3874A5_faqs---paycheck-protection-program-faqs-for-small-businesses.pdf)
- **Benefits for Individual Taxpayers:**
  - **Enhanced Unemployment Benefits**
    - Waiver of Waiting Period:
      - States that waive the one week waiting period will be fully reimbursed by the federal government for that week of benefits paid
    - Pandemic Unemployment Compensation:
      - Individuals receiving state unemployment benefits are eligible to receive an additional \$600 per week in emergency federal compensation through July 31, 2020



- May take \$300 partial above-the-line charitable contribution deduction whether taxpayer uses standard deduction or itemizes
  - For those who itemize:
    - Individuals: 60% of adjusted gross income limitation is suspended for 2020
    - Corporations: 10% limitation is increased to 25% of taxable income; Increases the limitation on deductions of food inventory from 15% to 25%
- **Retirement Account Distributions**
  - Waives the 10 percent early withdrawal penalty on qualified retirement account distributions up to \$100,000 made after January 1, 2020 for COVID-19 purposes
    - 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
    - To be eligible, the taxpayer must:
      - Be diagnosed with COVID or care for a spouse or dependent with COVID
      - Experienced adverse financial consequences from COVID such as being furloughed, quarantined, laid off, etc.
  - Waives Required Minimum Distribution rules for IRA accounts in calendar year 2020
    - Allows RMD's to be converted to a Roth IRA
- **Student Loan Payments**
  - Employer payments of student loans on behalf of employees are excluded from taxable income up to a maximum of \$5,250 annually
- **Benefits for Companies:**
  - **Refundable Payroll Tax Credit**
    - Employers are eligible for a 50% refundable payroll tax credit on wages paid up to \$10,000 during the crisis
      - Eligibility: Employers whose businesses were disrupted due to virus-related shutdowns and firms experiencing a decrease in gross receipts of 50% or more when compared to the same quarter last year
        - Firms with more than 100 employees: Credit is available for employees retained but not currently working
        - 100 or fewer employees: Credit is available for all employees retained but not currently working

- **Social Security Payroll Tax**
  - Employer-side Social Security payroll tax payments may be delayed until January 1, 2021, with 50% owed on December 31, 2021 and the other half owed on December 31, 2022
- **Net Operating Losses**
  - Firms may take net operating losses (NOLs) earned in 2018, 2019, or 2020 and carry back those losses five years
  - NOL limit of 80 percent of taxable income is also suspended, so firms may use NOLs they have to fully offset their taxable income
  - Modifies loss limitations for non-corporate taxpayers, including rules governing excess farm losses
- **Net Interest Deduction**
  - A company's ability to deduct interest paid on their tax returns has been expanded from 30% of earnings before interest, tax, depreciation, and amortization (EBITDA) to 50% of EBITDA for 2019 and 2020
- **Aviation Excise Tax**
  - Suspended until January 1, 2021
- **Additional Resources on CARES Act:**
  - Full text of the Bill  
<https://www.appropriations.senate.gov/imo/media/doc/FINAL%20FINAL%20CARES%20ACT.pdf>
  - Line by line summary of the Bill  
<https://www.appropriations.senate.gov/imo/media/doc/032520%20Title-By-Title%20Summary%20FINAL.pdf>
  - Senate Finance Committee Summary  
[https://www.finance.senate.gov/imo/media/doc/CARES%20Act%20Section-by-Section%20\(Tax,%20Unemployment%20Insurance\).pdf](https://www.finance.senate.gov/imo/media/doc/CARES%20Act%20Section-by-Section%20(Tax,%20Unemployment%20Insurance).pdf)

### **US SBA Loans:**

- Economic Injury Disaster Loans and SBA Express Bridge Loans are available
  - For information on SBA programs and to apply, see the following:  
<https://www.sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources>

### **Mortgage Deferral Assistance**

- Loans owned by Fannie Mae or Freddie Mac may be eligible for a deferment of monthly mortgage payments for a temporary period

- If approved, the borrower will not incur late fees, negative credit reporting, or foreclosure proceedings during the deferment period
- To apply, the borrower should contact their mortgage servicer as soon as possible if unable to make mortgage payments due to COVID-19

### **State of Ohio Resources:**

The State of Ohio has summarized a list of economic support resources available to individuals, businesses and non-profits: <https://coronavirus.ohio.gov/wps/portal/gov/covid-19/home/resources-for-economic-support>. Many of these benefits have been established through Executive Orders of the Governor and the Directors of Ohio Agencies. A summary of the benefits available is below.

- **Unemployment Compensation:**

- Expansion of Eligibility
  - Eligible persons include those requested by a medical professional, local health authority, or employer to be isolated or quarantined as a consequence of COVID-19 even if not actually diagnosed with COVID-19
- Waiver of Waiting Period to Apply
  - Individuals totally or partially unemployed, or who are participating in the SharedWork Ohio Program, will not be required to serve a waiting period before receiving unemployment insurance or SharedWork benefits
- Benefits Paid Not Charged to Employer
  - Any benefit paid on these unemployment claims shall not be charged to the account of the employer who otherwise would have been charged but instead shall be charged to the mutualized account, except reimbursing employers
- Waiver of Employee Requirement To Seek Work
  - Waiver of work search requirements shall include those individuals requested by a medical professional, local health authority or employer to be isolated or quarantined as a consequence of COVID-19 even if not actually diagnosed with COV-19
- Penalties for late reporting and payments will be waived for employers affected by COVID-19

- **Health Insurance Coverage:**

- Insurers must permit employers to continue covering employees under group policies even if the employee would otherwise become ineligible due to a decrease in hours worked per week

- Insurers are prohibited from increasing premium rates based on a group's decreased enrollment or participation due to COVID-19
- Insurers must give insureds the option of deferring premium payments coming due, interest free, for up to 60 calendar days from each original premium due date
- Continuation Coverage:
  - Twenty or more employees: as long as one person remains actively employed, eligible employees may elect to continue coverage under COBRA
  - Less than twenty employees: as long as one person remains actively employed and enrolled in the plan, eligible employees may elect to continue coverage under state continuation coverage for up to twelve months
- Special Coverage:
  - Employees who lose coverage are eligible for a special enrollment period to enroll in new coverage
  - Premium subsidies may be available for those purchasing plans on the federal exchange
  - For plans purchased outside the federal exchange, insurers shall waive normal special processing procedures and allow applicant to obtain coverage effective the day after the loss of employment
- **Ohio Bureau of Workers Compensation:**
  - Insurance premium installment payments for March, April and May are deferred until June 1, 2020
    - Deferral is automatic and no application is necessary

Assistance available to individuals and employers continues to evolve at a rapid pace. As is often the case, the regulations and interpretations that apply to the stimulus packages will struggle to keep up. The professionals at EBS will continue to keep abreast of the developments in the various stimulus packages as they unfold. Should you have questions, feel free to contact me and I would be happy to connect you to the appropriate resources.

Sincerely,

Matthew DiCicco  
Senior Vice President Wealth Management/General Counsel